ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1844 C	1/3/2000	1/7/2000		AN ORD. AMENDING SECTION 15-304 OF THE LEAWOOD CITY CODE AND ADOPTING THE DIVISION II-CONSTRUCTION AND MATERIAL SPECIFICATIONS, SEWERS, SECTION 2600, STORM OF PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PUBLISHED BY KC CHAPTER OF APWA
1845 C	1/17/2000	1/18/2000		AN ORD. AMENDING ARTICLES 1, 1A, AND 2 OF CHAPTER XIII OF THE LEAWOOD CITY CODE RELATING TO STREETS AND SIDEWALKS
1846	1/17/2000	1/18/2000	N/A	AN ORD. WHEREBY THE CITY CONVEYS UNTO ITSELF A DEED OF DEDICATION, PERMANENT DRAINAGE EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT, REQUIRED FOR THE IMPROVEMENT OF 151ST STREET, METCALF TO NALL AVENUE
1847 C	2/7/2000	2/8/2000		AN ORD. REPEALING ORDINANCE NO. 1840C AND (RE)ADOPTING PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS" PREPARED AND PUBLISHED BY THE CITY OF LEAWOOD JANUARY 2000
1848	2/7/2000	2/8/2000	N/A	AN ORD. CALLING AN ELECTION TO BE HELD APRIL 4, 2000, TO VOTE ON PROPOSITION OF LEVYING A 1/8 OF ONE PERCENT (.125%) RETAILERS'S SALES TAX (in addition to the current 1% sales tax)
~~1849~~	~~2/22/2000~~			~~AN ORD. GRANTING AXON TELECOM THE RIGHT, PRIVILEGE OR FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN CONDUIT FACILITIES IN LEAWOOD~~
1849	2/22/2000	3/7/00	N/A	AN ORD.ACCEPTING 10 PERMANENT DRAINAGE EASEMENTS FOR ~~XXXX~~ SMAC PROJECT DB-04-017 (OVERHILL ROAD, ~~NORTH~~ ~~XXXXX~~ SOUTH TO 86TH ST.)
1850	2/22/2000	3/7/00	N/A	AN ORD. ACCEPTING 4 PERMANENT STORM SEWER EASEMENTS FOR THE 1999 STREET IMPROVEMENT PROGRAM
1851	3/6/2000	3/7 & 3/14/2000 eff. 5/6/2000		AN ORD. GRANTING AXON TELECOM THE RIGHT, PRIVILEGE OR FRANCHISE TO CONSTRUCT, OPERATE AND MAINTAIN CONDUIT FACILITIES IN LEAWOOD

ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1835	12/20/99	12/21/99	N/A	AN ORD. REZONING PROPERTY (GIBLIN COMMERCE CENTER) AT THE NORTHWEST CORNER OF 143RD & KENNETH RD. FROM AG TO CP-1 AND CP-2
1836 C	12/20/99	12/21/99 (eff. 1/1/2000)		AN ORD. REPEALING SECTION 9-118 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO A MUNICIPAL COURT FEE
1837 C	12/20/99	12/21/99		AN ORD. AMENDING SECTION 1-208 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO COMPENSATION FOR THE MAYOR AND COUNCILMEMBERS
1838	12/20/99	12/21/99	N/A	AN ORD. ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM MARK AND JANET HOWELL FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR AMBASSADOR CORPORATE MANOR
1839 C	1/3/2000	1/7/2000		AN ORD. ADDING A NEW ARTICLE 5 OF CHAPTER 15 OF THE LEAWOOD CITY CODE PERTAINING TO STORMWATER MANAGEMENT
1840 C	1/3/2000	1/7/2000		AN ORD. AMENDING SECTION 13-103 OF THE LEAWOOD CITY CODE AND ADOPTING PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS" PUBLISHED BY THE CITY OF LEAWOOD, JANUARY 2000
1841 C	1/3/2000	1/7/2000		AN ORD. AMENDING SECTION 15-301 OF THE LEAWOOD CITY CODE AND ADOPTING PUBLICATION KNOWN AS "HYDRAULIC PERFORMANCE OF SET BACK CURB INLETS" PREPARED BY MCENROE AND WADE, UNIVERSITY OF KANSAS, JULY 1998
1842 C	1/3/2000	1/7/2000		AN ORD. AMENDING SECTION 15-302 OF THE LEAWOOD CITY CODE AND ADOPTING DIVISION V-DESIGN CRITERIA, SECTION 5600 STORM DRAINAGE SYSTEMS FACILITIES OF PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PUBLISHED BY KC CHAPTER OF APWA
1843 C	1/3/2000	1/7/2000		AN ORD. AMENDING SECTION 15-303 OF THE LEAWOOD CITY CODE AND ADOPTING PUBLICATION KNOWN AS "PROTECTING WATER QUALITY, A FIELD GUIDE TO EROSION, SEDIMENT AND STORMWATER BEST MANAGEMENT PRACTICES FOR DEVELOPMENT SITES IN MO AND KS"

ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1824	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 137; STATE LINE RD., PHASE IV; $200,000
1825	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 144; MISSION RD., 103RD-I-435; $1,400,00
1826	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 148; CITY PARK DESIGN, PHASE 1; $200,000
1827	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 158; TRAFFIC SIGNALIZATION; $200,000
1828	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 168; MISSION RD. 83RD-95TH; $100,000
1829	11/1/99	11/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 171; MUNICIPAL POOL BATHHOUSE; $200,000
1830	11/15/99	11/16/99	N/A	AN ORD. ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM ACUFF RHODES GROUP FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR THE PAVILIONS OF LEAWOOD, 5TH PLAT
1831	11/15/99	11/16/99	N/A	AN ORD. ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM PULTE HOMES OF GREATER KANSAS FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT
1832	11/15/99	11/16/99	N/A	AN ORD. ACCEPTING 2 DEEDS FOR STREET PURPOSES FROM PULTE HOMES OF GREATER KANSAS CITY FOR TEMPORARY STREET CUL-DE-SACS AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT
1833	12/6/99	12/28/99	N/A	AN ORD. AMENDING SECTION 6-3 OF THE LEAWOOD DEVELOPMENT ORDINANCE RELATING TO NOTICE AND PUBLIC HEARING REQUIREMENTS
1834 C	12/6/99	12/7/99 (eff. 1/1/2000)		AN ORD. TO REGULATE THE USE OF PUBLIC RIGHT-OF-WAY BY ADOPTING ARTICLE 3 TO CHAPTER XIII OF THE CODE OF THE CITY OF LEAWOOD ENTITLED "USE AND EXCAVATION OF THE RIGHT-OF-WAY" AND REPEALING ORDINANCE NO. 1821C/CODE SECTIONS 13-1A02, 13-1A03 AND 13-202 THROUGH 13-214

ORD NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1813	8/16/99	8/24 & 8/31/99 eff. 10/16/99		AN ORD. GRANTING A FRANCHISE TO BROOKS FIBER COMMUNICATIONS
1814	8/16/99	8/24 & 8/31/99 eff. 10/16/99		AN ORD. GRANTING A FRANCHISE TO ACSI
1815	9/7/99	9/14/99	N/A	AN ORD. ACCEPTING 2 PERMANENT UTILITY EASEMENTS FROM BEDFORD COURT, L.L.C., FOR THE INSTALLATION OF UTILITY LINES, VILLAS OF IRON HORSE, 2ND PLAT, LOCATED AT APPROX. 152ND TERR. & NALL AVE.
1816	9/27/99	10/5/99	N/A	AN ORD. REZONING FROM AG TO RP-1 - Highlands Creek, southeast corner of 143rd & Nall
1817	9/27/99	10/5/99	N/A	AN ORD. REZONING FROM AG TO RP-A AND SD(C-R) - Mission Farms, approximately 105th & Mission Rd. (Saddle & Sirloin property)
1818	9/27/99	11/2/99	N/A	AN ORD. ACCEPTING DEED FOR STREET PURPOSES FROM NORMANDY PLACE SUBDIVISION - private streets to public
1819	9/27/99	11/2/99	N/A	AN ORD. ACCEPTING 12 PERMANENT DRAINAGE EASEMENTS FROM NORMANDY PLACE RESIDENTS AND HOMES ASSOCIATION - private streets to public
1820	10/4/99	10/12/99	N/A	(Special Use Provisions) AN ORD. AMENDING SECTION 4-3/OF THE "AMENDMENT TO THE LEAWOOD DEVELOPMENT ORDINANCE" - specifically relating to drive through bank facilities in office districts
1821 C	10/18/99	11/9/99 eff. 1/1/2000		ORDINANCE RELATING TO RIGHT-OF-WAY (companies using public right-of-way)
1822	10/18/99	11/2/99	N/A	ORDINANCE AMENDING SECTION 3-2 OF THE LEAWOOD DEVELOPMENT ORDINANCE RELATING TO SIDE YARD SETBACKS
1823	10/18/99	10/26/99	N/A	AN ORDINANCE AUTHORIZING ACQUISITION OF PRIVATE PROPERTY AND AUTHORIZING SURVEY AND DESCRIPTION OF LAND TO BE CONDEMNED - for SMAC project DB-04-017, 86th & Overhill Rd.

ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1800 C	5/17/99	5/18/99		AN ORD. ADOPTING THE 1998 EDITION OF THE "STANDARD TRAFFIC ORDINANCE"
1801 C	5/17/99	5/18/99		AN ORD. AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR VIOLATIONS OF LOCAL TRAFFIC REGULATIONS
1802 C	5/17/99	5/18/99		AN ORD. AMENDING SECTIONS 14-301 AND 14-302 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PARKING OF CERTAIN VEHICLES
1803	6/7/99	6/15/99	N/A	AN ORD. AMENDING SECTION 4-5 OF THE LEAWOOD DEVELOPMENT ORDINANCE SPECIFICALLY PROVIDING FOR CHANGES TO SIGN REGULATIONS
1804	6/21/99	6/22/99	N/A	AN ORD. REZONING PROPERTY (MISSION VIEW SECOND PLAT, 12000 MISSION RD.) FROM AG TO R-1.
1805	7/6/99	7/13/99	N/A	AN ORD. AMENDING SECTION 4-3 OF THE "AMENDMENT TO LEAWOOD DEVELOPMENT ORDINANCE"RELATING TO SPECIAL USE PROVISIONS (specifically sport court lighting)
1806	7/6/99	7/13/99	N/A	AN ORD. ACCEPTING 4 PERMANENT DRAINAGE EASEMENTS FOR CHRIST COMMUNITY CHURCH PROJECT AT APPROXIMATELY 143RD AND KENNETH RD.
1807	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING THE IMPROVEMENT OF LEE BLVD. BETWEEN 103RD STREET AND MISSION ROAD
1808	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING TEMPORARY NOTES;PROJECT 108; COLLEGE BLVD.; $2,100,000
1809	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING TEMPORARY NOTES; PROJECT 148; CITY PARK DESIGN, PHASE 1; $200,000
1810	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING TEMPORARY NOTES; PROJECT 151; FIRE STATION NO. 3; $500,000
1811	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING TEMPORARY NOTES; PROJECT 171; MUNICIPAL POOL BATHHOUSE; $300,000
1812	7/19/99	7/20/99	N/A	AN ORD. AUTHORIZING TEMPORARY NOTES; PROJECT 166; LEE BLVD., 103RD TO MISSION RD.; $200,000

ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1789	3/22/99	3/23/99	N/A	AN ORD. ADOPTING AMENDMENTS TO THE 1997 MASTER DEVELOPMENT PLAN MAP
1790 C	3/22/99	3/23/99		AN ORD. AMENDING SECTIONS 11-802, 11-804, and 11-806 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO LIGHTING NUISANCE
1791	3/22/99	3/23/99	N/A	AN ORD. WHEREBY THE CITY CONVEYS UNTO ITSELF A PERMANENT UTILITY EASEMENT FOR CONSTRUCTION OF A SANITARY SEWER SYSTEM ONTO PARK PROPERTY ALONG TOMAHAWK CREEK IN THE VICINITY OF 124TH TERR. & EAST OF NALL AVE.
1792	3/22/99	3/23/99	N/A	AN ORD. ADOPTING THE STATE LINE ROAD MAP AND AUTHORIZING THE MAYOR AND DIRECTOR OF PUBLIC WORKS TO EXECUTE AN OFFICIAL DRAWING PACKAGE LOCATING THE MISSOURI-KANSAS STATE LINE IN RELATION TO STATE LINE ROAD
1793	4/5/99	4/6/99	N/A	AN ORD. APPROVING THE ACQUISITION OF LAND FOR A PUBLIC WORKS FACILITY AT APPROX. 143RD & OVERBROOK
1794	5/3/99	5/4/99 & 5/11/99 eff. - 7/3/99		AN ORDINANCE GRANTING A FRANCHISE TO SOUTHWESTERN BELL TELEPHONE CO.
1795 C	5/3/99	5/4/99		AN ORD. AMENDING SECTION 12-101 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO MEMBERSHIP OF THE PARKS & RECREATION ADVISORY BOARD - ~~from~~ increased 5 to "up to 7" members
1796 C	5/17/99	5/25/99		AN ORD. AMENDING CHAPTER II OF THE CODE OF THE CITY OF LEAWOOD RELATING TO ANIMALS
1797 C	5/17/99	5/18/99		AN ORD. ADOPTING THE 1998 EDITION OF THE "UNIFORM PUBLIC OFFENSE CODE"
1798 C	5/17/99	5/18/99		AN ORD. AMENDING SECTION 11-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR LOCAL PUBLIC OFFENSE VIOLATIONS
1799 C	5/17/99	5/18/99		AN ORD. AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR DRUG OFFENSES

ORD. NO.	DATE PASSED	DATE PUBLISHED	"CODE OF '84" PAGES DISTR'D	SUBJECT
1779 C	2/16/99	2/23/99		AN ORD. REPEALING EXISTING SECTIONS OF ARTICLE 3 OF CHAPTER 16 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO THE BOARD OF ZONING APPEALS
1780	2/16/99	2/23/99	N/A	AN ORD. ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM ACUFF RHODES GROUP FOR DRAINAGE PURPOSES IN THE PAVILIONS OF LEAWOOD TO WHITEHORSE CONNECTION
1781	2/16/99	2/23/99	N/A	AN ORD. ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM THE JAMESON TRUST TO EXTEND THE CITY'S STORM DRAINAGE SYSTEM ONTO JAMESON PROPERTY ADJACENT TO WILSHIRE SUBDIVISION
1782	3/1/99	3/30/99	N/A	AN ORD. GRANTING A PERMANENT DRAINAGE EASEMENT FOR STORM SEWER CONSTRUCTION ON IRONHORSE GOLF COURSE (Mark Simpson's development - Village at Ironhorse)
1783	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 137; STATE LINE RD., PHASE IV; $200,000
1784	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 144; MISSION RD. IMPROVEMENTS, 103RD/I-435; $1,500,000
1785	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 148; CITY PARK DESIGN, PHASE 1; $200,000
1786	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 151; FIRE STATION NO. 3; $600,000
1787	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 158; TRAFFIC SIGNALIZATION; $200,000
1788	3/1/99	3/2/99	N/A	AN ORD. AUTHORIZING ISSUANCE OF TEMPORARY NOTES; PROJECT 171; MUNICIPAL POOL BATHHOUSE; $100,000

ORDINANCE NO. 1850

AN ORDINANCE ACCEPTING 4 STORM SEWER EASEMENTS REQUIRED FOR THE 1999 STREET IMPROVEMENT PROGRAM.

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

Section 1. That the City of Leawood hereby accepts 4 storm sewer easements more particularly designated and described, to wit:

From Robert E. and Wendy A. Claster: All that part of Lot 1220, LEAWOOD ESTATES LOTS 1180 THRU 1221, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 1220; thence East along the North line of said Lot 1220 a distance of 10.94 feet; thence East and Southeasterly along said North line of Lot 1220 and along a tangent curve to the right, having a central angle of 0°12'13" a radius of 2550.00 feet and an arc length of 9.06 feet; thence Southwest a distance of 33.67 feet to a point on the West line of said Lot 1220, said point being 27.10 feet south of the Northwest corner thereof; thence North along the West line of said Lot 1220 a distance of 27.10 feet to the POINT OF BEGINNING. Containing 271 square feet more or less.

From Richard L. and Gloria F. Graham (deceased): All that part of Lot 709, LEAWOOD, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Northeast corner of said Lot 709; thence West along the North line of said Lot 709 a distance of 8.01 feet; thence Southwest along a line that deflects 69°30'06" left of the previously described line a distance of 12.20 feet; thence Southeast along a line that deflects 90°00'00" to the left of the previously described line a distance of 7.5 feet to a point on the East line of said Lot 709; thence Northeast along the East line of said Lot 709 deflecting 90°00'00" to the left of the previously described line a distance of 15.00 feet to the POINT OF BEGINNING. Containing 102 square feet more or less.

From James R. and Teresa A. Makin: All that part of Lot 716, LEAWOOD, a subdivision in Johnson County, Kansas more particularly described as follows: Beginning at the Southwest corner of Lot 716; thence Northeast along the West line of said Lot 716 a distance of 24.95 feet; thence southeast along a line that deflects 90°00'00" to the right of the previously described line a distance of 10.00 feet; thence Southwest along a line that deflects 90°00'00" to the right of the previously described line a distance of 20.89 feet to a point on the South line of said Lot 716; thence West along the South line of said Lot 716 deflecting 67°53'20" to the right of the previously described line a distance of 10.79 feet to the POINT OF BEGINNING. Containing 229 square feet more or less.

From Colleen R. McManus-Kessler: All that part of Lot 717, LEAWOOD, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of Lot 717; thence Northeast along the East line of said Lot 717 a distance of 24.95 feet; thence Southwest along a line that deflects 90° 00'00" left of the previously described line a distance of 29.02 feet to a point on the South line of said Lot 717; thence East along a line that deflects 112° 06'40" left of the previously described line a distance of 10.79 feet to the POINT OF BEGINNING. Containing 270 square feet more or less.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of February, 2000.

Approved by the Mayor the 22nd day of February, 2000.

(SEAL)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
Patricia A. Bennett City Attorney

ORD1850

Publication Fees: $34.46

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061
(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1850--3/7/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
MARCH 8, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$34.46

ORDINANCE NO. 1850

First published in The Legal Record, Tuesday, March 7, 2000.

ORDINANCE NO. 1850

AN ORDINANCE ACCEPTING 4 STORM SEWER EASEMENTS REQUIRED FOR THE 1999 STREET IMPROVEMENT PROGRAM.

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

Section 1. That the City of Leawood hereby accepts 4 storm sewer easements more particularly designated and described, to wit:

From Robert E. and Wendy A. Claster: All that part of Lot 1220, LEAWOOD ESTATES LOTS 1180 THRU 1221, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 1220; thence East along the North line of said Lot 1220 a distance of 10.94 feet; thence East and Southeasterly along said North line of Lot 1220 and along a tangent curve to the right, having a central angle of 0°12'13" a radius of 2550.00 feet and an arc length of 9.06 feet; thence Southwest a distance of 33.67 feet to a point on the West line of said Lot 1220, said point being 27.10 feet south of the Northwest corner thereof; thence North along the West line of said Lot 1220 a distance of 27.10 feet to the POINT OF BEGINNING. Containing 271 square feet more or less.

From Richard L. and Gloria F. Graham (deceased): All that part of Lot 709, LEAWOOD, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Northeast corner of said Lot 709; thence West along the North line of said Lot 709 a distance of 8.01 feet; thence Southwest along a line that deflects 69°30'06" left of the previously described line a distance of 12.20 feet; thence Southeast along a line that deflects 90°00'00" to the left of the previously described line a distance of 7.5 feet to a point on the East line of said Lot 709; thence Northeast along the East line of said Lot 709 deflecting 90°00'00" to the left of the previously described line a distance of 15.00 feet to the POINT OF BEGINNING. Containing 102 square feet more or less.

From James R. and Teresa A. Makin: All that part of Lot 716, LEAWOOD, a subdivision in Johnson County, Kansas more particularly described as follows: Beginning at the Southwest corner of Lot 716; thence Northeast along the West line of said Lot 716 a distance of 24.95 feet; thence southeast along a line that deflects 90°00'00" to the right of the previously described line a distance of 10.00 feet; thence Southwest along a line that deflects 90°00'00" to the right of the previously described line a distance of 20.89 feet to a point on the South line of said Lot 716; thence West along the South line of said Lot 716 deflecting 67°53'20" to the right of the previously described line a distance of 10.79 feet to the POINT OF BEGINNING. Containing 229 square feet more or less.

From Colleen R. McManus-Kessler: All that part of Lot 717, LEAWOOD, a subdivision in Johnson County, Kansas, more particularly described as follows: Beginning at the Southeast corner of Lot 717; thence Northeast along the East line of said Lot 717 a distance of 24.95 feet; thence Southwest along a line that deflects 90°00'00" left of the previously described line a distance of 29.02 feet to a point on the South line of said Lot 717; thence East along a line that deflects 112°06'40" left of the previously described line a distance of 10.79 feet to the POINT OF BEGINNING. Containing 270 square feet more or less.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of February, 2000.

Approved by the Mayor the 22nd day of February, 2000.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

ORDINANCE NO. 1849

AN ORDINANCE ACCEPTING 10 PERMANENT DRAINAGE EASEMENTS REQUIRED FOR STORMWATER PROJECT, SMAC DB-04-017, OVERHILL ROAD, SOUTH TO 86TH STREET.

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

Section 1. That the City of Leawood hereby accepts 10 permanent drainage easements more particularly designated and described, to wit:

From James R. and Brenda M. Hess: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwesterly corner of Lot 826 as platted; thence N 33°37'07" W along the West line 27.19 feet; thence N 49°38'41" E, 135.88 feet to a point 10.00 feet East of the West line of Lot 825; thence S 33°35'55" E, 27.19 feet to the South line of Lot 825; thence S 49°38'41" W, 10.07 feet to the Southeasterly corner of Lot 826 as platted; thence continuing on the last course 125.80 feet to the Point of Beginning. Containing 3,669 square feet.

From E. David and Judith F. Wiseman: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwesterly corner of Lot 937; thence S 33°37'08" E, along the Northern line, 15.57 feet; thence the following courses S 40°50'02" W, 95.58 feet; N 49°09'58" W, 15.00 feet to the West line; N 40°50'02" E along the Westerly line, 99.75 feet to the Point of Beginning. Containing 1,465.0 square feet.

From Dan R. Meyer and Jennifer A. Galbraith: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926; thence S 10°03'55" W along the Easterly line of Lot 925, 31.39 feet; thence S 49°38'40" W, 201.50 feet to the platted right of way line of Overhill Road; thence N 33°37'07" W, 20.14 feet to the Southwesterly corner of said Lot; thence N 49°38'40" E along the Northwesterly line of said Lot, 223.33 feet to the Point of Beginning. Containing 4,248.5 square feet.

From Denise M. McNerney: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 824; thence N 33°37'09" W along the West line of said lot, 22.15 feet; thence N 49°38'49" E, 121.06 feet to the East line; thence S 33°35'59" E to the Southeast corner of said lot, 22.15 feet; thence S 49°38'49" W, 121.05 feet to the Point of Beginning. Containing 2,662.8 square feet.

From Roy H. and Peggy S. Silvey: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at a point 10.00 feet East of the Southwest corner of Lot 825 as platted and on the South line of said lot; thence N 33° 35'55" W, 27.19 feet; thence N 49° 38'39" E, 105.80 feet to the Easterly line of said Lot; thence S 33° 37'09" E, 27.19 feet; thence along the South line, S 49° 38'39" W, 105.80 feet to the Point of Beginning. Containing 2,856.9 square feet.

From John Peele and Linda K. Wade: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 822; thence N 14° 45'50" W, along the West line of said lot, 22.68 feet; thence the following three (3) courses; N 89° 20'03" E, 93.36 feet; S 64° 12'26" E, 59.08 feet; N 66° 21' 51" E, 41.20 feet to the East line of said lot; thence the following three (3) courses along the Easterly and Southerly lines of said lot; S 23° 38'09" E, 81.94 feet; N 64° 12'26" W, 142.94 feet; S 89° 20'03" W, 82.66 feet to the Point of Beginning. Containing 4,211 square feet.

From Kenneth and Virginia Byrns: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 823; thence N 33° 35'59" W along the West line, 22.00 feet; thence N 56° 50'04" E to the East line of said lot, 80.23 feet; thence S 14° 45'50" E, 23.19 feet to the Southeast corner of said lot; thence S 56° 50'04" W, 72.74 feet to the Point of Beginning. Containing 1,683.0 square feet.

From Earl A. and Ruth H. Anderson: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southeast corner of Lot 827; thence S 40° 50'02" W along the South line 99.75 feet; thence the following two (2) courses; N 49° 09'58" W, 40.00 feet N 40° 50'02" E, 110.88 feet to the West right of way line of Overhill Road; thence S 33° 37'07" E along said right of way 41.52 feet to the Point of Beginning. Containing 4,212.6 square feet.

From Harold L. and Marjorie M. Kalousek: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwest corner of Lot 926; thence along the North line of said lot N 49° 38'47" E, 83.82 feet; thence along the East line of said lot S 02° 57'36" E, 32.86 feet; thence S 49° 38'49" W, 95.45 feet to the West line of said lot; thence

along the West line N 10° 03'55" E, 40.97 feet to the Point of Beginning. The above contains 2,340.00 square feet.

From John E. and Joyce E. Abraham: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwest corner of Lot 929, thence the following two (2) courses along the North line of said lot; N 89° 20'03" E, 34.66 feet; S 64° 12'26" E, 142.94 feet; thence the following three (3) courses; S 25° 47'34" W, 17.00 feet; N 64° 12'26" W, 132.35 feet; S 89° 20'03" W, 34.12 feet to the West line of said Lot; thence N 7° 38'35" W along the West line 20.09 feet to the Point of Beginning. Containing 3,025.5 square feet.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of February, 2000.

Approved by the Mayor the 22nd day of February, 2000.

(S E A L)

Peggy A. Dunn
Peggy A. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
Patricia A. Bennett City Attorney

ORD1849

Publication Fees: $52.66

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061
(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1849--3/7/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
MARCH 8, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$52.66

ORDINANCE NO. 1849

First published in The Legal Record, Tuesday, March 7, 2000.

ORDINANCE NO. 1849

AN ORDINANCE ACCEPTING 10 PERMANENT DRAINAGE EASEMENTS REQUIRED FOR STORMWATER PROJECT, SMAC DB-04-017, OVERHILL ROAD, SOUTH TO 86TH STREET.

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

Section 1. That the City of Leawood hereby accepts 10 permanent drainage easements more particularly designated and described, to wit:

From James R. and Brenda M. Hess: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwesterly corner of Lot 826 as platted; thence N 33°37'07" W along the West line 27.19 feet; thence N 49°38'41" E, 135.88 feet to a point 10.00 feet East of the West line of Lot 825; thence S 33°35'55" E, 27.19 feet to the South line of Lot 825; thence S 49°38'41" W, 10.07 feet to the Southeasterly corner of Lot 826 as platted; thence continuing on the last course 125.80 feet to the Point of Beginning. Containing 3,669 square feet.

From E. David and Judith F. Wiseman: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwesterly corner of Lot 937; thence S 32°37'08" E, along the Northern line, 15.57 feet; thence the following courses S 40°50'02" W, 95.58 feet; N 49°09'58" W, 15.00 feet to the West line; N 40°50'02" E along the Westerly line, 99.75 feet to the Point of Beginning. Containing 1,465.0 square feet.

From Dan R. Meyer and Jennifer A. Galbraith: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926; thence S 10°03'55" W along the Easterly line of Lot 925, 31.39 feet; thence S 49°38'40" W, 201.50 feet to the platted right of way line of Overhill Road; thence N 33°37'07" W, 20.14 feet to the Southwesterly corner of said Lot; thence N 49°38'40" E along the Northwesterly line of said Lot, 223.33 feet to the Point of Beginning. Containing 4,248.5 square feet.

From Denise M. McNerney: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 824; thence N 33°37'09" W along the West line of said lot, 22.15 feet; thence N 49°38'49" E, 121.06 feet to the East line; thence S 33°35'59" E to the Southeast corner of said lot, 22.15 feet; thence S 49°38'49" W, 121.05 feet to the Point of Beginning. Containing 2,662.8 square feet.

From Roy H. and Peggy S. Silvey: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at a point 10.00 feet East of the Southwest corner of Lot 825 as platted and on the South line of said lot; thence N 33°35'55" W, 27.19 feet; thence N 49°38'39" E, 105.80 feet to the Easterly line of said Lot; thence S 33°37'09" E, 27.19 feet; thence along the South line, S 49°38'39" W, 105.80 feet to the Point of Beginning. Containing 2,856.9 square feet.

From John Peele and Linda K. Wade: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 822; thence N 14°45'50" W, along the West line of said lot, 22.68 feet; thence the following three (3) courses; N 89°20'03" E, 93.36 feet; S 64°12'26" E, 59.08 feet; N 66°21' 51" E, 41.20 feet to the East line of said lot; thence the following three (3) courses along the Easterly and Southerly lines of said lot; S 23°38'09" E, 81.94 feet; N 54°12'26" W, 142.94 feet; S 89°20'03" W, 82.66 feet to the Point of Beginning. Containing 4,211 square feet.

From Kenneth and Virginia Byrns: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southwest corner of Lot 823; thence N 33°35'59" W along the West line, 22.00 feet; thence N 56°50'04" E to the East line of said lot, 80.23 feet; thence S 14°45'50" E, 23.19 feet to the Southeast corner of said lot; thence S 56°50'04" W, 72.74 feet to the Point of Beginning. Containing 1,683.0 square feet.

From Earl A. and Ruth H. Anderson: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Southeast corner of Lot 827; thence S 40°50'02" W along the South line 99.75 feet; thence the following two (2) courses; N 49°09'58" W, 40.00 feet N 40°50'02" E, 110.88 feet to the West right of way line of Overhill Road; thence S 33°37'07" E along said right of way 41.52 feet to the Point of Beginning. Containing 4,212.6 square feet.

From Harold L. and Marjorie M. Kalousek: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwest corner of Lot 926; thence along the North line of said lot N 49°38'47" E, 83.82 feet; thence along the East line of said lot S 02°57'36" E, 32.86 feet; thence S 49°38'49" W, 95.45 feet to the West line of said lot; thence along the West line N 10°03'55" E, 40.97 feet to the Point of Beginning. The above contains 2,340.00 square feet.

From John E. and Joyce E. Abraham: All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows: Beginning at the Northwest corner of Lot 929, thence the following two (2) courses along the North line of said lot; N 89°20'03" E, 34.66 feet; S 64°12'26" E, 142.94 feet; thence the following three (3) courses; S 25°47'34" W, 27.00 feet; N 64°12'26" W, 132.35 feet; S 89°20'03" W, 34.12 feet to the West line of said Lot; thence N 7°38'35" W along the West line 20.09 feet to the Point of Beginning. Containing 3,025.5 square feet.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of February, 2000.

Approved by the Mayor the 22nd day of February, 2000.

(S E A L)

Peggy S. Dunn
Peggy S. Dunn, Mayor

Attest:

Martha Heizer
Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1848

AN ORDINANCE CALLING AN ELECTION TO BE HELD ON THE FOURTH DAY OF APRIL, 2000, FOR THE PURPOSE OF VOTING ON A PROPOSITION TO AUTHORIZE THE CITY OF LEAWOOD, KANSAS, TO LEVY A ONE-EIGHTH OF ONE PERCENT (.125%) CITY RETAILERS' SALES TAX, IN ADDITION TO THE ONE PERCENT (1.0%) CURRENTLY LEVIED, WITHIN THE CITY OF LEAWOOD, KANSAS, AND TO USE THE REVENUE FROM THE ADDITIONAL TAX TO FUND AN ACCELERATED RESIDENTIAL AND THOROUGHFARE STREET IMPROVEMENT PROGRAM AND TO MAKE STORMWATER IMPROVEMENTS WHEN SUCH IMPROVEMENTS ARE NOT OTHERWISE ELIGIBLE FOR FUNDS FROM OTHER GOVERNMENTAL ENTITIES, SUCH ADDITIONAL TAX TO TAKE EFFECT ON JULY 1, 2000 AND TO END JUNE 30, 2005.

WHEREAS, K.S.A. 12-187 et seq., as amended, authorizes certain cities, such as the City of Leawood, Kansas, to submit to the qualified electors of the City the proposition of levying a retailers' sales tax within the City, for the purpose of funding economic development initiatives, strategic planning initiatives or public infrastructure projects; and

WHEREAS, the tax must expire no later than five years from the date of imposition and shall be collected by the Kansas Department of Revenue with the revenue therefrom returned to the City; and

WHEREAS, the Governing Body of the City of Leawood, Kansas, has determined that additional revenue in the amount of approximately of at least Two Million, Four Hundred Thousand Dollars ($2,400,000) is needed for the purpose of funding the design, construction and inspection of the accelerated residential and thoroughfare street improvement program and to make the necessary improvements to stormwater drainage in the City when such improvements are not otherwise eligible for funding from other governmental sources; and

WHEREAS, it is in the best interest of the City to raise the additional revenues by a levy of a one-eighth of one percent (.125%) City Retailers' Sales Tax, in addition to the one percent (1.0%) currently levied, and to call an election for the authority to levy such additional tax which shall take effect on July 1, 2000 and which shall end on June 30, 2005.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION 1 An election is hereby called to be held in the manner prescribed by law on the fourth day of April, 2000, for the purpose of submitting to the qualified electors of the City of Leawood, Kansas, a special question to authorize the City of Leawood, Kansas, to levy a City Retailers' Sales Tax within the City of Leawood, Kansas in the amount of one-eighth of one percent (.125%), in addition to the one percent (1.0%) currently levied, to fund an accelerated residential and thoroughfare street improvement program and to fund stormwater improvement projects which are not otherwise eligible for funding from other governmental sources, such additional tax, if approved by a majority of the electors voting thereon, to take effect on July 1, 2000, and to end June 30, 2005.

SECTION 2 That at the election, the following special question shall be submitted:

> "Shall the City of Leawood, Kansas, be authorized to levy a one-eighth of one percent (.125%) City Retailers' Sales Tax, in addition to the one percent (1.0%) currently levied, within the City of Leawood, Kansas, and to use the revenue from the additional tax to fund an accelerated residential and thoroughfare street improvement program and to fund stormwater improvement projects which are not otherwise eligible for funding from other governmental sources, such additional tax to take effect on July 1, 2000, and to end June 30, 2005?"

SECTION 3 The election shall be conducted by the Johnson County Election Commissioner, and the City Clerk and the Johnson County Election Commissioner shall cause notice of the special question election to be published in accordance with K.S.A. 12-187, as amended, and K.S.A. 10-120.

SECTION 4 If approved by a majority of the electors voting therein, such tax shall be subject to all applicable state laws and administration rules and regulations of the Kansas Department of Revenue which shall be utilized to administer, enforce and collect such tax.

SECTION 5 This ordinance shall be in force and effect from and after its publication in an official City newspaper.

SECTION 6 Upon publication, the City Clerk is hereby directed to deliver a certified copy of this ordinance to the Johnson County Election Commissioner.

PASSED this 7th day of February, 2000 by the Governing Body of the City of Leawood, Kansas.

APPROVED by the Mayor of the City of Leawood, Kansas, this 7th day of February, 2000.

(S E A L)

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM

Patricia A. Bennett, City Attorney

ORD1848

Publication Fees: $38.94

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061
(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1848--2/8/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
FEBRUARY 9, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$38.94

ORDINANCE NO. 1848

First published in The Legal Record, Tuesday, February 8, 2000.

ORDINANCE NO. 1848

AN ORDINANCE CALLING AN ELECTION TO BE HELD ON THE FOURTH DAY OF APRIL, 2000, FOR THE PURPOSE OF VOTING ON A PROPOSITION TO AUTHORIZE THE CITY OF LEAWOOD, KANSAS, TO LEVY A ONE-EIGHTH OF ONE PERCENT (.125%) CITY RETAILERS' SALES TAX, IN ADDITION TO THE ONE PERCENT (1.0%) CURRENTLY LEVIED, WITHIN THE CITY OF LEAWOOD, KANSAS, AND TO USE THE REVENUE FROM THE ADDITIONAL TAX TO FUND AN ACCELERATED RESIDENTIAL AND THOROUGHFARE STREET IMPROVEMENT PROGRAM AND TO MAKE STORMWATER IMPROVEMENTS WHEN SUCH IMPROVEMENTS ARE NOT OTHERWISE ELIGIBLE FOR FUNDS FROM OTHER GOVERNMENTAL ENTITIES, SUCH ADDITIONAL TAX TO TAKE EFFECT ON JULY 1, 2000 AND TO END JUNE 30, 2005.

WHEREAS, K.S.A. 12-187 et seq., as amended, authorizes certain cities, such as the City of Leawood, Kansas, to submit to the qualified electors of the City the proposition of levying a retailers' sales tax within the City, for the purpose of funding economic development initiatives, strategic planning initiatives or public infrastructure projects; and

WHEREAS, the tax must expire no later than five years from the date of imposition and shall be collected by the Kansas Department of Revenue with the revenue therefrom returned to the City; and

WHEREAS, the Governing Body of the City of Leawood, Kansas, has determined that additional revenue in the amount of approximately of at least Two Million, Four Hundred Thousand Dollars ($2,400,000) is needed for the purpose of funding the design, construction and inspection of the accelerated residential and thoroughfare street improvement program and to make the necessary improvements to stormwater drainage in the City when such improvements are not otherwise eligible for funding from other governmental sources; and

WHEREAS, it is in the best interest of the City to raise the additional revenues by a levy of a one-eighth of one percent (.125%) City Retailers' Sales Tax, in addition to the one percent (1.0%) currently levied, and to call an election for the authority to levy such additional tax which shall take effect on July 1, 2000 and which shall end on June 30, 2005.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

SECTION 1 An election is hereby called to be held in the manner prescribed by law on the fourth day of April, 2000, for the purpose of submitting to the qualified electors of the City of Leawood, Kansas, a special question to authorize the City of Leawood, Kansas, to levy a City Retailers' Sales Tax within the City of Leawood, Kansas in the amount of one-eighth of one percent (.125%), in addition to the one percent (1.0%) currently levied, to fund an accelerated residential and thoroughfare street improvement program and to fund stormwater improvement projects which are not otherwise eligible for funding from other governmental sources, such additional tax, if approved by a majority of the electors voting thereon, to take effect on July 1, 2000, and to end June 30, 2005.

SECTION 2 That at the election, the following special question shall be submitted:

> "Shall the City of Leawood, Kansas, be authorized to levy a one-eighth of one percent (.125%) City Retailers' Sales Tax, in addition to the one percent (1.0%) currently levied, within the City of Leawood, Kansas, and to use the revenue from the additional tax to fund an accelerated residential and thoroughfare street improvement program and to fund stormwater improvement projects which are not otherwise eligible for funding from other governmental sources, such additional tax to take effect on July 1, 2000, and to end June 30, 2005?"

SECTION 3 The election shall be conducted by the Johnson County Election Commissioner, and the City Clerk and the Johnson County Election Commissioner shall cause notice of the special question election to be published in accordance with K.S.A. 12-187, as amended, and K.S.A. 10-120.

SECTION 4 If approved by a majority of the electors voting therein, such tax shall be subject to all applicable state laws and administration rules and regulations of the Kansas Department of Revenue which shall be utilized to administer, enforce and collect such tax.

SECTION 5 This ordinance shall be in force and effect from and after its publication in an official City newspaper.

SECTION 6 Upon publication, the City Clerk is hereby directed to deliver a certified copy of this ordinance to the Johnson County Election Commissioner.

PASSED this 7th day of February, 2000 by the Governing Body of the City of Leawood, Kansas.

APPROVED by the Mayor of the City of Leawood, Kansas, this 7th day of February, 2000.

(S E A L)

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1847 C

AN ORDINANCE REPEALING ORDINANCE NO. 1840C AND ADOPTING THAT PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS," PREPARED AND PUBLISHED BY THE CITY OF LEAWOOD, KANSAS, JANUARY 2000.

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

Section 1. Code Amended. That Section 13-102 of the Code of the City of Leawood is hereby amended to read as follows:

13-102. INCORPORATING SPECIFICATIONS AND STANDARDS. There is hereby incorporated by reference that certain publication known as "Public Improvement Construction Standards," prepared and published by the City of Leawood, January 2000. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1847C " 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2. Existing Ordinance Repealed. That existing Ordinance No. 1840C, passed by the City Council January 3, 2000, is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of February, 2000.

Approved by the Mayor the 7th day of February, 2000.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061
(913) 780-5790

ORD1847C

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1847C--2/8/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
FEBRUARY 9, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas
My appointment expires: August 21, 2003.

ORDINANCE NO. 1847 C

First published in The Legal Record, Tuesday, February 8, 2000.

ORDINANCE NO. 1847 C

AN ORDINANCE REPEALING ORDINANCE NO. 1840C AND ADOPTING THAT PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS," PREPARED AND PUBLISHED BY THE CITY OF LEAWOOD, KANSAS, JANUARY 2000.

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

Section 1. Code Amended. That Section 13-102 of the Code of the City of Leawood is hereby amended to read as follows:

13-102. INCORPORATING SPECIFICATIONS AND STANDARDS. There is hereby incorporated by reference that certain publication known as "Public Improvement Construction Standards," prepared and published by the City of Leawood, January 2000. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1847C " 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2. Existing Ordinance Repealed. That existing Ordinance No. 1840C, passed by the City Council January 3, 2000, is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of February, 2000.

Approved by the Mayor the 7th day of February, 2000.

(S E A L)

Peggy C. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

$18.32

ORDINANCE NO. 1846

AN ORDINANCE WHEREBY THE CITY CONVEYS UNTO ITSELF A DEED OF DEDICATION, PERMANENT DRAINAGE EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT, REQUIRED FOR THE IMPROVEMENT OF 151ST STREET, METCALF TO NALL AVENUE.

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

Section 1. That the City of Leawood, Kansas, hereby conveys unto itself a deed of dedication, a permanent drainage easement, and a temporary construction easement, hereinafter more particularly described, to wit:

Deed of Dedication. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet) to the true point of beginning; thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of said Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 127.506 meters (418.33 feet) to the Northeast corner of Lot 15, VILLAS OF IRON HORSE, according to the recorded plat thereof; thence S 87° 56'52" W, a distance of 18.288 meters (60.00 feet) to said West line of the Northwest Quarter; thence N 02° 03'08" W along said West line of the Northwest Quarter, a distance of 127.437 meters (418.10 feet) to the true point of beginning, EXCEPT that part previously dedicated for street purposes; said parcel of land containing 1,554.3 square meters (16,730 square feet), more or less.

Permanent Drainage Easement. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 16.428 meters (53.90 feet) to the true point of beginning; thence N 87° 56'52" E, a distance of 16.712 meters (54.83 feet); thence S 14° 38'50" W, a distance of 26.101 meters (85.63 feet); thence S 87° 56'52" W, a distance of 9.212 meters (30.22 feet) to said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence N 02° 03'08" W along said East line of the

West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 25.000 meters (82.02 feet) to the true point of beginning; said parcel of land containing 324.1 square meters (3,489 square feet), more or less.

Temporary Construction Easement. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 41.428 meters (135.92 feet) to the true point of beginning; thence N 87° 56'52" E, a distance of 9.212 meters (30.22 feet); thence N 14° 38'50" E, a distance of 4.698 meters (15.41 feet); thence S 80° 07'00" E, a distance of 6.286 meters (20.62 feet); thence S 25° 46'50" E, a distance of 19.881 meters (65.23 feet); thence S 14° 51'23" E, a distance of 22.561 meters (74.02 feet); thence S 87° 56'52" W, a distance of 25.000 meters (82.02 feet); thence S 41° 14'57" W, a distance of 6.870 meters (22.54 feet) to said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence N 02° 03'08" W along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 42.000 meters (137.79 feet) to the true point of beginning; said parcel of land containing 960.6 square meters (10,340 square feet), more or less

AND

All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the true point of beginning; thence S 02° 03'08" E, a distance of 16.428 meters (53.90 feet); thence N 87° 56'52" E, a distance of 12.712 meters (41.71 feet); thence N 02° 03'08" W, a distance of 16.476 meters (54.06 feet); thence S 87° 43'53" W, a distance of 12.712 meters (41.71 feet) to the true point of beginning; said parcel of land containing 209.1 square meters (2,251 square feet), more or less.

Section 2. That copies of said deed, permanent easement, and temporary easement are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of January, 2000.

Approved by the Mayor the 17th day of January, 2000.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1846

Publication Fees: $48.54

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1846--1/18/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
JANUARY 19, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$48.54

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1846

Publication Fees: $48.54

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1846--1/18/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
JANUARY 19, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$48.54

ORDINANCE NO. 1846

First published in The Legal Record, Tuesday, January 18, 2000.

ORDINANCE NO. 1846

AN ORDINANCE WHEREBY THE CITY CONVEYS UNTO ITSELF A DEED OF DEDICATION, PERMANENT DRAINAGE EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT, REQUIRED FOR THE IMPROVEMENT OF 151ST STREET, METCALF TO NALL AVENUE.

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

Section 1. That the City of Leawood, Kansas, hereby conveys unto itself a deed of dedication, a permanent drainage easement, and a temporary construction easement, hereinafter more particularly described, to wit:

Deed of Dedication. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet) to the true point of beginning; thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of said Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 127.506 meters (418.33 feet) to the Northeast corner of Lot 15, VILLAS OF IRON HORSE, according to the recorded plat thereof; thence S 87° 56'52" W, a distance of 18.288 meters (60.00 feet) to said West line of the Northwest Quarter; thence N 02° 03'08" W along said West line of the Northwest Quarter, a distance of 127.437 meters (418.10 feet) to the true point of beginning, EXCEPT that part previously dedicated for street purposes; said parcel of land containing 1,554.3 square meters (16,730 square feet), more or less.

Permanent Drainage Easement. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (259.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 16.428 meters (53.90 feet) to the true point of beginning; thence N 87° 56'52" E, a distance of 16.712 meters (54.83 feet); thence S 14° 38'50" W, a distance of 26.101 meters (85.63 feet); thence S 87° 56'52" W, a distance of 9.212 meters (30.22 feet) to said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence N 02° 03'08" W along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 25.000 meters (82.02 feet) to the true point of beginning; said parcel of land containing 324.1 square meters (3,489 square feet), more or less.

Temporary Construction Easement. All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence S 02° 03'08" E along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 41.428 meters (135.92 feet) to the true point of beginning; thence N 87° 56'52" E, a distance of 9.212 meters (30.22 feet); thence N 14° 38'50" E, a distance of 4.698 meters (15.41 feet); thence S 80° 07'00" E, a distance of 6.286 meters (20.62 feet); thence S 25° 46'50" E, a distance of 19.881 meters (65.23 feet); thence S 14° 51'23" E, a distance of 22.561 meters (74.02 feet); thence S 87° 56'52" W, a distance of 25.000 meters (82.02 feet); thence S 41° 14'57" W, a distance of 6.870 meters (22.54 feet) to said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter; thence N 02° 03'08" W along said East line of the West 18.288 meters (60.00 feet) of the Northwest Quarter, a distance of 42.000 meters (137.79 feet) to the true point of beginning; said parcel of land containing 960.6 square meters (10,340 square feet), more or less

AND

All that part of the Northwest Quarter of Section 9, Township 14 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, described as follows: Commencing at the Northwest corner of said Northwest Quarter; thence S 02° 03'08" E along the West line of said Northwest Quarter, a distance of 78.641 meters (258.01 feet); thence N 87° 43'53" E, a distance of 18.288 meters (60.00 feet) to the true point of beginning; thence S 02° 03'08" E, a distance of 16.428 meters (53.90 feet); thence N 87° 56'52" E, a distance of 12.712 meters (41.71 feet); thence N 02° 03'08" W, a distance of 16.476 meters (54.06 feet); thence S 87° 43'53" W, a distance of 12.712 meters (41.71 feet) to the true point of beginning; said parcel of land containing 209.1 square meters (2,251 square feet), more or less.

Section 2. That copies of said deed, permanent easement, and temporary easement are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of January, 2000.

Approved by the Mayor the 17th day of January, 2000.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

Patricia A. Bennett — City Attorney

ORDINANCE NO. 1845C

AN ORDINANCE TO AMEND ARTICLES 1, 1A, AND 2 OF CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "STREETS AND SIDEWALKS".

WHEREAS, the City has recently adopted a new Article 3 to Chapter XIII entitled "Use and Excavation of the Right-of-Way;" and

WHEREAS, as a result of the adoption of the new Article 3 the City finds that it is necessary to amend and revise Articles 1, 1A and 2 of Chapter XIII.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That articles 1, 1A, and 2 of Chapter XIII of the code of the City of Leawood are hereby repealed.

Section 2 That the code of the City of Leawood is hereby amended by adding a new article 1, 1A and 2 to Chapter XIII which read as follows:

CHAPTER XIII. STREETS AND SIDEWALKS

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, street lights, and other public right-of-way and 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.

13-102. ***(Reserved for incorporation of specifications and standards)***

13-103. **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.

13-104. **PERMIT FEES.** All permit fees shall be established by the city administrator in the following manner:

(a) The fees and/or deposits for any permit issued under the provisions of this chapter are as set forth in the City's Fee Schedule established and maintained by the city administrator.

(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.

13-105. **CUTTING, EXCAVATING OR TUNNELING OF PUBLIC RIGHT-OF-WAY.** 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, except for as provided by Article 3 of this Chapter re: the Use and Excavation of the Public Right-of-Way

13-106. **BUILDING MATERIALS IN PUBLIC RIGHT-OF-WAY.** Any person desiring to use the sidewalk, street or any other part of the public right-of-way for the temporary deposit of building material during the construction or repair of any building, or during the temporary use of the same 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, sidewalk and/or right-of-way 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 street, sidewalk and/or right-of-way 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 1/2 hour after sunset to 1/2 hour before sunrise to give warning to the drivers of vehicles.

13-107. **COMMERCIAL USE OF PUBLIC RIGHT-OF-WAY.** No person may use any portion of any sidewalk, street or any other part of the public 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.

13-108. **DANGEROUS OBJECTS IN PUBLIC RIGHT-OF-WAY.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any sidewalk, street, alley, public right-of-way 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.

13-109. **HARMFUL PRODUCTS IN PUBLIC RIGHT-OF-WAY.** It shall be unlawful for any person to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any sidewalk, street, alley, public right-of-way or other 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 the same.

ARTICLE 1A. SIDEWALKS

13-1A01. **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.

13-1A02. **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.

13-1A03. **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.

13-1A04. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be constructed 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.

13-1A05. **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.

13-1A06. **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.

13-1A07. **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.

13-1A08. **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.

13-1A09. **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 showcases, 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.

13-1A10. **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 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.

13-1A11. **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.

13-1A12. **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.

13-1A13. **SNOW AND ICE TO BE REMOVED.** It is hereby made the duty of the owner and/or the occupant of any lots abutting upon any sidewalks to cause all snow and ice to be removed from such sidewalks when deemed necessary in the interest of public safety.

13-1A14. **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.

ARTICLE 2. STREETS

13-201. **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.

13-202. **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.

13-203. **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.

13-204. **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.

13-205. **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.

13-206. **DUMPING PROHIBITED.** No person, firm or corporation shall dump or deposit or cause to be dumped or deposited any dirt gravel, rubbish, leaves or other debris including but not limited to lumber, paper, trash concrete or metal in any street, right-of-way, gutter, storm sewer, waterway or drainage way. Erosion of soil which flows onto any street, right-of-way, gutter, storm sewer, waterway or drainage way, from property before or during construction shall be considered as depositing dirt, gravel or other construction debris.

If upon inspection by the Chief Building Inspector, Director of Public Works or any of their designated representatives, it is determined that dirt, gravel, rubbish, leaves or other debris has been dumped or deposited in any street, right-of-way, gutter, storm sewer, waterway or drainage way in violation of the provisions of this Ordinance, he or she shall then notify the responsible permittee or permittees and give a four (4) hour period to make the affected area free and clear of said dirt, gravel or debris. If the city's representative cannot determine which permittee is responsible for cleaning the street's right-of-way, the developer of the land shall be given four (4) hours notice to make the affected area free of said dirt, gravel or debris. If within the four (4) hour period the said area is not clear, the Director of Public Works or his designate may authorize the city to take necessary action to clean up the said area and assess all charges at an established hourly rate, but in no case will the charges be less than two (2) hours for labor, materials and equipment.

The Director of Public Works shall provide a fee structure for charges to be assessed for cleanup required by this Ordinance. The permittee shall be given thirty (30) days to make payment to the city for any costs incurred to make cleanup. In the event the permittee does not make payment within the (30) days, all costs including administrative cost, will be assessed to the performance bond provided by Section 4-241.

Section 3. That this ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the Governing Body, the 17 day of January, 2000.

Peggy Dunn
Peggy Dunn, Mayor

ATTEST:

Martha Heizer
Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1845C

Publication Fees: $69.83

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1845C--1/18/00

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
JANUARY 19, 2000

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$69.83

ORDINANCE NO. 1845C

First published in The Legal Record, Tuesday, January 18, 2000.

ORDINANCE NO. 1845C

AN ORDINANCE TO AMEND ARTICLES 1, 1A, AND 2 OF CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "STREETS AND SIDEWALKS".

WHEREAS, the City has recently adopted a new Article 3 to Chapter XIII entitled "Use and Excavation of the Right-of-Way;" and

WHEREAS, as a result of the adoption of the new Article 3 the City finds that it is necessary to amend and revise Articles 1, 1A and 2 of Chapter XIII.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That articles 1, 1A, and 2 of Chapter XIII of the code of the City of Leawood are hereby repealed.

Section 2 That the code of the City of Leawood is hereby amended by adding a new article 1, 1A and 2 to Chapter XIII which read as follows:

CHAPTER XIII. STREETS AND SIDEWALKS

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, street lights, and other public right-of-way and 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.

13-102. ***(Reserved for incorporation of specifications and standards)***

13-103. **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 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. All information required by the permit must be completed prior to the approval and issuance of the permit.

13-104. **PERMIT FEES.** All permit fees shall be established by the city administrator in the following manner:

(a) The fees and/or deposits for any permit issued under the provisions of this chapter are as set forth in the City's Fee Schedule established and maintained by the city administrator.

(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.

13-105. **CUTTING, EXCAVATING OR TUNNELING OF PUBLIC RIGHT-OF-WAY.** 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, except for as provided by Article 3 of this Chapter re: the Use and Excavation of the Public Right-of-Way

13-106. **BUILDING MATERIALS IN PUBLIC RIGHT-OF-WAY.** Any person desiring to use the sidewalk, street or any other part of the public rights-of-way for the temporary deposit of building material during the construction or repair of any building, or during the temporary use of the same while excavating any cellar, shall apply to the director of public works for permission for such use.

13-1A01. thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law.

13-1A06. **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.

13-1A07. **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.

13-1A08. **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.

13-1A09. **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 showcases, 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.

13-1A10. **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 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.

13-1A11. **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.

13-1A12. **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.

13-1A13. **SNOW AND ICE TO BE REMOVED.** It is hereby made the duty of the owner and/or the occupant of any lots abutting upon any sidewalks to cause all snow and ice to be removed from such sidewalks when deemed necessary in the interest of public safety.

13-1A14. **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.

ARTICLE 2. STREETS

13-201. **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.

13-202. **BURNING IN STREETS.** It shall be unlawful for any person to make or cause to be made any

ORDINANCE NO. 1845C

First published in The Legal Record, Tuesday, January 18, 2000.

ORDINANCE NO. 1845C

AN ORDINANCE TO AMEND ARTICLES 1, 1A, AND 2 OF CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "STREETS AND SIDEWALKS".

WHEREAS, the City has recently adopted a new Article 3 to Chapter XIII entitled "Use and Excavation of the Right-of-Way;" and

WHEREAS, as a result of the adoption of the new Article 3 the City finds that it is necessary to amend and revise Articles 1, 1A and 2 of Chapter XIII.

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That articles 1, 1A, and 2 of Chapter XIII of the code of the City of Leawood are hereby repealed.

Section 2 That the code of the City of Leawood is hereby amended by adding a new article 1, 1A and 2 to Chapter XIII which read as follows:

CHAPTER XIII. STREETS AND SIDEWALKS

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, street lights, and other public right-of-way and 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.

13-102. ***(Reserved for incorporation of specifications and standards)***

13-103. **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.

13-104. **PERMIT FEES.** All permit fees shall be established by the city administrator in the following manner:

(a) The fees and/or deposits for any permit issued under the provisions of this chapter are as set forth in the City's Fee Schedule established and maintained by the city administrator.

(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.

13-105. **CUTTING, EXCAVATING OR TUNNELING OF PUBLIC RIGHT-OF-WAY.** 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, except for as provided by Article 3 of this Chapter re: the Use and Excavation of the Public Right-of-Way

13-106. **BUILDING MATERIALS IN PUBLIC RIGHT-OF-WAY.** Any person desiring to use the sidewalk, street or any other part of the public rights-of-way for the temporary deposit of building material during the construction or repair of any building, or during the temporary use of the same 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, sidewalk and/or right-of-way 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 street, sidewalk and/or right-of-way 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 1/2 hour after sunset to 1/2 hour before sunrise to give warning to the drivers of vehicles.

13-107. **COMMERCIAL USE OF PUBLIC RIGHT-OF-WAY.** No person may use any portion of any sidewalk, street or any other part of the public 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.

13-108. **DANGEROUS OBJECTS IN PUBLIC RIGHT-OF-WAY.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any sidewalk, street, alley, public right-of-way 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.

13-109. **HARMFUL PRODUCTS IN PUBLIC RIGHT-OF-WAY.** It shall be unlawful for any person to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any solids into or upon any sidewalk, street, alley, public right-of-way or other 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 the same.

ARTICLE 1A. SIDEWALKS

13-1A01. **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.

13-1A02. **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.

13-1A03. **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.

13-1A04. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be constructed 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.

13-1A05. **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.

13-1A06. **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.

13-1A07. **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.

13-1A08. **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.

13-1A09. **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 showcases 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.

13-1A10. **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 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.

13-1A11. **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.

13-1A12. **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.

13-1A13. **SNOW AND ICE TO BE REMOVED.** It is hereby made the duty of the owner and/or the occupant of any lots abutting upon any sidewalks to cause all snow and ice to be removed from such sidewalks when deemed necessary in the interest of public safety.

13-1A14. **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.

ARTICLE 2. STREETS

13-201. **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.

13-202. **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.

13-203. **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.

13-204. **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.

13-205. **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.

13-206. **DUMPING PROHIBITED.** No person, firm or corporation shall dump or deposit or cause to be dumped or deposited any dirt gravel, rubbish, leaves or other debris including but not limited to lumber, paper, trash concrete or metal in any street, right-of-way, gutter, storm sewer, waterway or drainage way. Erosion of soil which flows onto any street, right-of-way, gutter, storm sewer, waterway or drainage way, from property before or during construction shall be considered as depositing dirt, gravel or other construction debris.

If upon inspection by the Chief Building Inspector, Director of Public Works or any of their designated representatives, it is determined that dirt, gravel, rubbish, leaves or other debris has been dumped or deposited in any street, right-of-way, gutter, storm sewer, waterway or drainage way in violation of the provisions of this Ordinance, he or she shall then notify the responsible permittee or permittees and give a four (4) hour period to make the affected area free and clear of said dirt, gravel or debris. If the city's representative cannot determine which permittee is responsible for cleaning the street's right-of-way, the developer of the land shall be given four (4) hours notice to make the affected area free of said dirt, gravel or debris. If within the four (4) hour period the said area is not clear, the Director of Public Works or his designate may authorize the city to take necessary action to clean up the said area and assess all charges at an established hourly rate, but in no case will the charges be less than two (2) hours for labor, materials and equipment.

The Director of Public Works shall provide a fee structure for charges to be assessed for cleanup required by this Ordinance. The permittee shall be given thirty (30) days to make payment to the city for any costs incurred to make cleanup. In the event the permittee does not make payment within the (30) days, all costs including administrative cost, will be assessed to the performance bond provided by Section 4-241.

Section 3. That this ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the Governing Body, the 17 day of January, 2000.

(S E A L)

ATTEST:

Peggy Dunn, Mayor

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

First published in The Legal Record, Tuesday, January 18, 2000.

CITY OF LENEXA, KANSAS

NOTICE TO BIDDERS

ed bids for **Emergency Medical Vehicle, Type I Four-Wheel Drive** will be received by the of Lenexa, Kansas at the office of the City Clerk, Lenexa City Hall, 12350 West 87th Street way, Lenexa, Kansas 66285-4888, until 10:00 A.M. (local time) on Tuesday, March 14, 2000, hich time bids will be publicly opened and read aloud at the Lenexa City Hall. Any bid ved after the designated closing time will be returned unopened.

bids shall be submitted in sealed envelopes addressed to the CITY OF LENEXA, KANSAS, ENTION: CITY CLERK, and marked "Bid for : Emergency Medical Vehicle. Copies of fications, bidding documents and other Contract Documents are on file at the office of:

City of Lenexa Fire Department

9620 Pflumm

Lenexa KS 66215 913-888-6380

TRACTORS SHOULD READ AND BE FULLY FAMILIAR WITH ALL CONTRACT UMENTS INCLUDING ADDENDA BEFORE SUBMITTING A BID. IN SUBMITTING D, THE BIDDER WARRANTS THAT HE/SHE HAS READ THE CONTRACT UMENTS AND IS FULLY FAMILIAR *THEREWITH AND SHALL INCLUDE IN THEIR* A SUM TO COVER THE COST OF ALL ITEMS OF THE WORK INCLUDING VERY OF THE EQUIPMENT. DELIVERY SHALL BE AS INDICATED IN THE RUCTIONS TO BIDDERS.

ral, telegraphic, telephonic proposals or alterations will be considered. Facsimile issions will not be accepted.

west responsible bidder, as determined by the City, shall execute a Contract provided by the n the event the low bidder is unable to execute the Contract, for whatever reason, within the rovided in the Notice of Award, the City may annul the Notice of Award and the bid deposit forfeited and the City shall exercise its legal prerogatives, including, but not limited to, rment of its rights as to specific performance.

ty reserves the right to accept or reject any and all bids and to waive any technicalities or arities therein. Bids may be modified or withdrawn by written request of the bidder if such s are received in the office of the City Clerk, prior to the time and date for bid opening. der may withdraw his bid for a period of thirty (30) days after the date set for bid opening.

IDDERS AGREE THAT REJECTION SHALL CREATE NO LIABILITY ON THE OF THE CITY BECAUSE OF SUCH REJECTION, AND THE FILING OF ANY BID IN NSE TO THIS NOTICE SHALL CONSTITUTE AN AGREEMENT OF THE BIDDER ESE CONDITIONS.

1-12-2000 Sandra Howell

CITY CLERK, CITY OF LENEXA, KANSAS

TREASURER'S REPORT

First published in The Legal Record, Tuesday, January 18, 2000.

TREASURER'S REPORT

CITY OF MISSION, KANSAS

SEPTEMBER 30, 1999 - DECEMBER 31, 1999

Beg. Balance	Receipts	Disbursement	Ending Balance
$2,732,586.29	1,546,647.45	1,386,651.78	2,892,581.96
1,914,029.72	74,719.73	112,373.00	1,876,376.45
4,073,764.96	65,789.69	625,532.81	3,514,021.84
2,604.55	10,573.41	-	13,177.96
210,456.05	24,971.40	-	235,427.45
379,118.63	508,156.00	94,033.04	793,241.59
911,451.18	85,906.17	167,447.91	829,909.44
14,191.12	1,535.00	12,901.12	2,825.00
(100.00)	750.00	650.00	-
1,963.61	-	-	1,963.61
$ 10,240,066.11	$ 2,319,048.85	$2,399,589.66	10,159,525.30

olin, Treasurer

Sue A. Grosdidier, City Clerk

NOTICE

First published in The Legal Record, Tuesday, January 18, 2000.

The Board of Zoning Appeals meeting, regarding Zoning Appeal 00-01, scheduled for January 24, 2000, has been continued until February 7, 2000

Smoking Fight Puts Clou Over Wedding Celebratio

Charlotte and Donald Becker say their hopes for a perfect wedding day for their daughter were snuffed out by smoking restrictions at the party center where they had the reception.

The ban on smoking in the party center's banquet hall – imposed a week before the August nuptials of Dana Becker and Charles Johnson – meant that non-smoking guests were separated from smokers throughout the celebration, the Beckers said.

"We basically had two parties," Becker said Wednesday.

The couple were so upset they sued Vell's Party Center in Medina (Ohio) Municipal Court, alleging owner Vell Vasiljevich breached their contract when he banned smoking in his banquet hall.

A magistrate threw out the complaint Monday, ruling the Beckers did not prove they suffered economic damage. The Beckers say they plan to appeal.

"To begin with, we weren't going to rent a place that didn't allow smoking," said Becker, 50, who has smoked for 35 years. "It's a form of entertainment to me, like drinking or eating."

Vasiljevich said he did not breach the contract, which says the choice to allow smoking is "left to the customers who reserve the room." The local fire marshal ordered him to restrict smoking to a trance to the building because of a r tion in May at which a guest who was t oxygen became ill from smoke, he sa

Vasiljevich said Wednesday that the suit was frivolous. The Beckers "wan free wedding," he said.

But Mrs. Becker said the smoking caused many of the more than 200 g who attended the ceremonies to mis best parts of the reception.

Some smoking guests missed the b dance, which had to be held up so Do Becker could be brought in from the p ing lot, where he was also smoking.

Others missed the newlyweds cutting cake. Donald Becker did not see his son-in-law fling his daughter's garter to traditional throng of bachelors.

"One thing some people don't seem understand is when you're a smoker, need to smoke. It's an addiction," said M Becker, who quit smoking years ago.

But Magistrate Charles T. Lawrie that doesn't entitle the Beckers to dama

"As for the guests who were smokers missed important events that occurre the wedding reception," Lawrie said in dismissal of the case, "perhaps they sho have remembered why they were there have been paying attention."

Judge Who Ordered Stalker to Tak His Victim to Dinner Loses Job

Midvale, Utah, Justice Court Judge Dee W. Alldredge, who was reprimanded last year for ordering a stalker to take his victim to dinner, will not be reappointed to the post he has held for 16 years.

City officials decided against reappointing Alldredge following complaints about his judicial demeanor.

"In some cases, it was almost stylistic, (people) didn't feel like they were treated with dignity and respect," said City Administrator Lee King. "Very seldom did we get complaints about the actual outcome of the case. It was more that they felt they were treated poorly and that was the direction the mayor wanted to change."

The judge will leave his $51,000-a-year post at the end of his four-year term next month. Mayor JoAnn B. Seghini and the five-member council have appointed attorney David P. Brown to replace him.

Alldredge, 58, a former businessman and legislator, said Monday he was baffled by the mayor's decision.

"I was informed by a sealed letter on my desk that I was not going to be reappointed. I was never told face to face and I was never told why," he said. "You always have people

Alldredge said his goal on the just bench, which handles class B misdeme ors and lesser infractions, was to m defendants take responsibility. One way did that was through alternative sentenc such as making defendants determine w restitution they should pay.

It was one of those unorthodox senten that got him in trouble with the Judi Conduct Commission. Last June, the co mission publicly reprimanded him for dering a man with a long history of abus relations with his girlfriend, includin stalking conviction and who was unde protective order to stay away from her take the woman to a restaurant for dinn

Alldredge said the sentence was agre upon by the victim and the defendant, w he claimed were trying to mend their year relationship. The judge claimed woman had suggested the dinner. T woman denied it and said she was stunn by the order. She said she went with man to the restaurant, but left before eat because he became verbally abusive.

The commission said Alldredge bro judicial canon by ordering the defendant

ORDINANCE NO. 1844C

AN ORDINANCE AMENDING SECTION 15-304 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THE DIVISION II– CONSTRUCTION AND MATERIAL SPECIFICATIONS, SEWERS, SECTION 2600, STORM OF THAT PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PREPARED AND PUBLISHED BY THE KANSAS CITY METROPOLITAN CHAPTER OF THE AMERICAN PUBLIC WORKS ASSOCIATION, AND OMITTING AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFOR AND REPEALING EXISTING SECTION 15-304.

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

Section 1 Code Amended. Section 15-304 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-304 INCORPORATING CONSTRUCTION AND MATERIAL SPECIFICATIONS FOR STORM SEWERS.

(a) There is hereby incorporated by reference that certain "Division II - Construction and Material Specifications, Sewers, Section 2600, Storm Sewers" of that publication known as "Standard Specifications and Design Criteria" October 26, 1984, as amended through 1999, prepared and published by the Kansas City Metropolitan Chapter of the American Public Works Association, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1844C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

(b) Section 2602.2 (B), (C), (D), (E), (F), and (H) are hereby omitted.

Section 2 Repeal of Existing Section. That existing Section 15-304 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett

City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for One consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin

NOTARY PUBLIC

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

My Commission Expires 1/25/2000

Printer's Fee 21.08

Additional Copies $_____

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 1844C

AN ORDINANCE AMENDING SECTION 15-304 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THE DIVISION II– CONSTRUCTION AND MATERIAL SPECIFICATIONS, SEWERS, SECTION 2600, STORM OF THAT PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PREPARED AND PUBLISHED BY THE KANSAS CITY METROPOLITAN CHAPTER OF THE AMERICAN PUBLIC WORKS ASSOCIATION, AND OMITTING AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFOR AND REPEALING EXISTING SECTION 15-304.

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

Section 1 Code Amended. Section 15-304 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-304 INCORPORATING CONSTRUCTION AND MATERIAL SPECIFICATIONS FOR STORM SEWERS.

(a) There is hereby incorporated by reference that certain "Division II - Construction and Material Specifications, Sewers, Section 2600, Storm Sewers" of that publication known as "Standard Specifications and Design Criteria" October 26, 1984, as amended through 1999, prepared and published by the Kansas City Metropolitan Chapter of the American Public Works Association, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1844C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

(b) Section 2602.2 (B), (C), (D), (E), (F), and (H) are hereby omitted.

Section 2 Repeal of Existing Section. That existing Section 15-304 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

/s/ Patricia A. Bennett

Patricia A. Bennett

City Attorney.

(21603-1F-JC)

ORDINANCE NO. 1843C

AN ORDINANCE AMENDING SECTION 15-303 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "PROTECTING WATER QUALITY, A FIELD GUIDE TO EROSION, SEDIMENT AND STORMWATER BEST MANAGEMENT PRACTICES FOR DEVELOPMENT SITES IN MISSOURI AND KANSAS" AND AMENDMENTS THERETO, PREPARED AND PUBLISHED BY THE ST. CHARLES COUNTY SOIL & WATER CONSERVATION DISTRICT, AND THE DAM AND RESERVOIR SAFETY PROGRAM, DIVISION OF GEOLOGY AND LAND SURVEY IN THE MISSOURI DEPARTMENT OF NATURAL RESOURCES, SEPTEMBER 1998, AND REPEALING EXISTING SECTION 15-303.

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

Section 1 Code Amended. Section 15-303 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-303 INCORPORATING EROSION, SEDIMENT AND STORMWATER MANAGEMENT PRACTICES

There is hereby incorporated by reference that certain publication known as "Protecting Water Quality, A Field Guide to Erosion, Sediment and Stormwater Best Management Practices for Development Sites in Missouri and Kansas," and amendments thereto, prepared and published by the St. Charles County Soil & Water Conservation District, and The Dam and Reservoir Safety Program, Division of Geology and Land Survey in the Missouri Department of Natural, September 1998. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1843C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 15-303 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett

City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires 1/5/2000

Printer's Fee 21.59

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 18430

AN ORDINANCE AMENDING SECTION 15-303 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "PROTECTING WATER QUALITY, A FIELD GUIDE TO EROSION, SEDIMENT AND STORMWATER BEST MANAGEMENT PRACTICES FOR DEVELOPMENT SITES IN MISSOURI AND KANSAS" AND AMENDMENTS THERETO, PREPARED AND PUBLISHED BY. THE ST. CHARLES COUNTY SOIL & WATER CONSERVATION DISTRICT, AND THE DAM AND RESERVOIR SAFETY PROGRAM, DIVISION OF GEOLOGY AND LAND SURVEY IN THE MISSOURI DEPARTMENT OF NATURAL RESOURCES, SEPTEMBER 1998, AND REPEALING EXISTING SECTION 15-303.

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

Section 1 Code Amended. Section 15-303 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-303 INCORPORATING EROSION, SEDIMENT AND STORMWATER MANAGEMENT PRACTICES

There is hereby incorporated by reference that certain publication known as "Protecting Water Quality, A Field Guide to Erosion, Sediment and Stormwater Best Management Practices for Development Sites in Missouri and Kansas," and amendments thereto, prepared and published by the St. Charles County Soil & Water Conservation District, and The Dam and Reservoir Safety Program, Division of Geology and Land Survey in the Missouri Department of Natural, September 1998. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 18430" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 15-303 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

/s/ Patricia A. Bennett

Patricia A. Bennett

City Attorney

(21602-1F-JC)

ORDINANCE NO. 1842 C

AN ORDINANCE AMENDING SECTION 15-302 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING DIVISION V – DESIGN CRITERIA, SECTION 5600 STORM DRAINAGE SYSTEMS FACILITIES OF THAT PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PREPARED AND PUBLISHED BY THE KANSAS CITY METROPOLITAN CHAPTER OF THE AMERICAN PUBLIC WORKS ASSOCIATION, AND OMITTING AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFOR AND REPEALING EXISTING SECTION 15-302.

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

Section 1 Code Amended. Section 15-302 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-302 INCORPORATING DESIGN CRITERIA FOR STORM DRAINAGE SYSTEMS FACILITIES.

(a) There is hereby incorporated by reference that certain "Division V – Design Criteria, Section 5600 , Storm Drainage Systems Facilities" of that publication known as "Standard Specifications and Design Criteria" October 26, 1984, as amended through 1999, prepared and published by the Kansas City Metropolitan Chapter of the American Public Works Association, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Design Criteria for Storm Drainage Systems and Facilities (Division V – Section 5600) shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1842C " 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

(b) Section 5603.1B Capacity is hereby omitted from incorporation and shall be replaced by "Hydraulic Performance of Set Back Curb Inlets" prepared by Dr. Bruce M. McEnroe and Reuben P. Wade, Department of Civil and Environmental Engineering, University of Kansas, July 1998, which publication is incorporated by reference in ordinance number 1841C .

(c) Section 5607 is hereby omitted.

Section 2 Repeal of Existing Section. That existing Section 15-302 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett

City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin
NOTARY PUBLIC

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

My Commission Expires 1/25/2000

Printer's Fee 26.18

Additional Copies $_____

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 1842 C

AN ORDINANCE AMENDING SECTION 15-302 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING DIVISION V – DESIGN CRITERIA, SECTION 5600 STORM DRAINAGE SYSTEMS FACILITIES OF THAT PUBLICATION KNOWN AS "STANDARD SPECIFICATIONS AND DESIGN CRITERIA" OCTOBER 26, 1984, AS AMENDED THROUGH 1999, PREPARED AND PUBLISHED BY THE KANSAS CITY METROPOLITAN CHAPTER OF THE AMERICAN PUBLIC WORKS ASSOCIATION, AND OMITTING AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS THEREFOR AND REPEALING EXISTING SECTION 15-302.

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

Section 1 Code Amended. Section 15-302 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-302 INCORPORATING DESIGN CRITERIA FOR STORM DRAINAGE SYSTEMS FACILITIES.

(a) There is hereby incorporated by reference that certain "Division V – Design Criteria, Section 5600 , Storm Drainage Systems Facilities" of that publication known as "Standard Specifications and Design Criteria" October 26, 1984, as amended through 1999, prepared and published by the Kansas City Metropolitan Chapter of the American Public Works Association, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Design Criteria for Storm Drainage Systems and Facilities (Division V – Section 5600) shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1842C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

(b) Section 5603.1B Capacity is hereby omitted from incorporation and shall be replaced by "Hydraulic Performance of Set Back Curb Inlets" prepared by Dr. Bruce M. McEnroe and Reuben P. Wade, Department of Civil and Environmental Engineering, University of Kansas, July 1998, which publication is incorporated by reference in ordinance number 1841C .

(c) Section 5607 is hereby omitted.

Section 2 Repeal of Existing Section. That existing Section 15-302 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn

Peggy Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

/s/ Patricia A. Bennett

Patricia A. Bennett

City Attorney

(21604-1E-1C)

ORDINANCE NO. 1841 C

AN ORDINANCE AMENDING SECTION 15-301 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "HYDRAULIC PERFORMANCE OF SET BACK CURB INLETS" PREPARED BY DR. BRUCE M. MCENROE AND REUBEN P. WADE, PUBLISHED BY THE DEPARTMENT OF CIVIL ENGINEERING, UNIVERSITY OF KANSAS, JULY 1998, AND AMENDMENTS THERETO AND REPEALING EXISTING SECTION 15-301.

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

Section 1 Code Amended. Section 15-301 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-301 INCORPORATING HYDRAULIC PERFORMANCE OF SET BACK CURB INLETS

There is hereby incorporated by reference that certain publication known as "Hydraulic Performance of Set Back Curb Inlets," prepared by Dr. Bruce M. McEnroe and Reuben P. Wade, published by the Department of Civil Engineering, University of Kansas, July 1998, and amendments thereto. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1841C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 15-301 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett

City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires 1/25/2000

Printer's Fee 19.55

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 1841 C

AN ORDINANCE AMENDING SECTION 15-301 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "HYDRAULIC PERFORMANCE OF SET BACK CURB INLETS" PREPARED BY DR. BRUCE M. MCENROE AND REUBEN P. WADE, PUBLISHED BY THE DEPARTMENT OF CIVIL ENGINEERING, UNIVERSITY OF KANSAS, JULY 1998, AND AMENDMENTS THERETO AND REPEALING EXISTING SECTION 15-301.

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

Section 1 Code Amended. Section 15-301 of Article 3 of Chapter 15 ("Utilities") of the Code of the City of Leawood, is hereby amended to read as follows:

15-301 INCORPORATING HYDRAULIC PERFORMANCE OF SET BACK CURB INLETS

There is hereby incorporated by reference that certain publication known as "Hydraulic Performance of Set Back Curb Inlets," prepared by Dr. Bruce M. McEnroe and Reuben P. Wade, published by the Department of Civil Engineering, University of Kansas, July 1998, and amendments thereto. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1841C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 15-301 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

Peggy Dunn

Peggy Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

/s/ Patricia A. Bennett

Patricia A. Bennett

City Attorney

(21605-1F-JC)

ORDINANCE NO. 1840 C

AN ORDINANCE AMENDING SECTION 13-103 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS" PREPARED AND PUBLISHED BY THE CITY OF LEAWOOD, JANUARY 2000, AND REPEALING EXISTING SECTION 13-103.

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

Section 1 Code Amended. Section 13-103 of Article 1 of Chapter 13 ("Streets and Sidewalks") of the Code of the City of Leawood, is hereby amended to read as follows:

13-103 INCORPORATING SPECIFICATIONS AND STANDARDS.

There is hereby incorporated by reference that certain publication known as "Public Improvement Construction Standards," prepared and published by the City of Leawood, January 2000. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1840C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 13-103 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January 2000.

(S E A L)

Peggy Dunn

Peggy Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett

City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin
NOTARY PUBLIC

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

My Commission Expires 1/5/2000

Printer's Fee 18.02

Additional Copies $_____

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 1840 C

AN ORDINANCE AMENDING SECTION 13-103 OF THE CODE OF THE CITY OF LEAWOOD AND ADOPTING THAT PUBLICATION KNOWN AS "PUBLIC IMPROVEMENT CONSTRUCTION STANDARDS" PREPARED AND PUBLISHED BY THE CITY OF LEAWOOD, JANUARY 2000, AND REPEALING EXISTING SECTION 13-103.

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

Section 1 Code Amended. Section 13-103 of Article 1 of Chapter 13 ("Streets and Sidewalks") of the Code of the City of Leawood, is hereby amended to read as follows:

13-103 INCORPORATING SPECIFICATIONS AND STANDARDS.

There is hereby incorporated by reference that certain publication known as "Public Improvement Construction Standards," prepared and published by the City of Leawood, January 2000. No fewer than three copies of said publication shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1840C" 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; provided further, that the police department, police judge and all administrative departments of the city charged with the enforcement of this ordinance shall be supplied, at the cost of the city, such number of official copies of this publication similarly marked, as may be deemed expedient.

Section 2 Repeal of Existing Section. That existing Section 13-103 of the Code of the City of Leawood is hereby repealed.

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January 2000.

(S E A L)

Peggy Dunn

Peggy Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

/s/ Patricia A. Bennett

Patricia A. Bennett

City Attorney

(21606-1F-JC)

ORDINANCE NO. 1839 C

AN ORDINANCE ADDING A NEW ARTICLE 5 OF CHAPTER 15 OF THE CODE OF THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS, PERTAINING TO STORMWATER MANAGEMENT, ESTABLISHING A STORMWATER MANAGEMENT SYSTEM, INCLUDING PUBLIC AND PRIVATE RESPONSIBILITIES UNDER SUCH SYSTEM; ESTABLISHING A PROCEDURE FOR SUBMISSION, REVIEW AND APPROVAL OF STORMWATER RUNOFF MANAGEMENT PLANS; ESTABLISHING DESIGN CRITERIA AND PERFORMANCE STANDARDS; ESTABLISHING A PROCEDURE FOR SUBMISSION, REVIEW AND APPROVAL FOR GRADING AND EROSION AND SEDIMENTATION CONTROL PLANS; FURTHER ESTABLISHING REQUIREMENTS FOR BONDS, MAINTENANCE ASSURANCES, PERMITS, AN APPEALS PROCEDURE; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF SUCH CHAPTER; AND REPEALING SECTIONS 15-305, 15-306 AND 15-307.

BE IT ORDAINED by the Governing Body of the City of Leawood, Kansas:

SECTION 1

That a new Article 5, of Chapter 15 of the Code of the City of Leawood, Johnson County, Kansas, is hereby enacted to read as follows:

CHAPTER XV
ARTICLE 5
STORMWATER MANAGEMENT

Sections:

15-501 General Provisions
15-502 Applicability
15-503 Interpretation
15-504 Objectives
15-505 Relationship to other laws
15-506 Disclaimer to other laws
15-507 Severability
15-508 Conflict with Public and Private Provisions
15-509 Definitions
15-510 The Stormwater Management System
15-511 The Primary System
15-512 The Secondary System
15-513 Management Control
15-514 Management Practices
15-515 Public & Private Responsibility under the Stormwater Management System
15-516 Procedures for the Submission, Review, & Approval of Stormwater Drainage Study
15-517 Stormwater Drainage Study
15-518 Final Construction Plans
15-519 Design Criteria & Performance Standards
15-520 Performance Standards
15-521 Plans for Grading
15-522 Grading Plan for Development
15-523 Grading Plan for Single Family Lot

15-524 Minimum Grading Standard
15-525 Erosion and Sediment Control Regulations
15-526 Administration
15-527 Land Disturbance Permit
15-528 Exemptions
15-529 Land Disturbance Permit Application
15-530 Review for Compliance
15-531 Land Disturbance Fee
15-532 Coordination with other Permits
15-533 Duration of Permit
15-534 Suspension or Revocation of Permit
15-535 Installation of Control Measures
15-536 Maintenance of Control Measures
15-537 Sampling
15-538 Removal of Control Measures
15-539 Inspections Generally
15-540 Enforcement
15-541 Erosion & Sediment Control Standards
15-542 Grading, Erosion, & Sediment Control Site Plan Requirements
15-543 Work Schedule
15-544 Violations
15-545 Bonds, Maintenance Assurances, & Permits
15-546 Maintenance Bonds
15-547 Permits
15-548 Appeals
15-549 Damage or Altering Stormwater Management Facilities
15-550 Penalty for Violation-Action

15-501 GENERAL PROVISIONS

These regulations shall hereafter be known, cited and referred to as the "Stormwater Management Ordinance" of the City of Leawood, Kansas.

15-502 APPLICABILITY

The provisions of this ordinance shall extend and apply to all land within the corporate limits of the City.

15-503 INTERPRETATIONS

The provisions of this ordinance are intended to supplement existing zoning and land use ordinances of the City of Leawood. In their interpretations and application, the provisions herein shall be held to be the minimum requirements for the promotion of the public health, safety, protection of property and general welfare and where a conflict occurs the most stringent interpretation will apply.

15-504 OBJECTIVES

To promote the public health, safety, protection of property and general welfare of the citizens of Leawood, this "Stormwater Management Ordinance" is enacted for the general purpose of assuring the proper balance between use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as amended from time to time, are intended to reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding and erosion of soil through the following:

a. Establishment of a Stormwater Management System.
b. Definition and establishment of Stormwater Management Practice.
c. Establishment of methods and guidelines for attenuating or avoiding flooding and erosion within the City from cumulative effects of increased volume and peak discharge of surface water runoff.
d. Establishment of an appeal board to review disputed decisions of the Director of Public Works or Building Official and to resolve disputes regarding the interpretation and implementation of the provisions of this ordinance. The Board of Zoning Appeals (BZA) will hear disputes regarding interpretations of the Director of Public Works or Building Official as appropriate.

15-505 RELATIONSHIP TO OTHER LAWS

These regulations shall not be construed as abating any action now pending under, or by virtue of prior regulations or ordinances, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, by lawful action of the City, except as shall be expressly provided for in these regulations.

15-506 DISCLAIMER OF LIABILITY

The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any stormwater management structure or use of land. Nor shall the approval of a Stormwater Management Plan and the issuance of a permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or–natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

15-507 SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase in this chapter or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

15-508 CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS.

a. Public Provisions – These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any ordinance, rule or regulation or other provision of law, whichever provisions are more stringent such ordinance, rule or regulation or other provision of law shall control.
b. Private Provisions – These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, and no such easement, covenant or private agreement or restriction will change or alter the enforcement of this ordinance.

15-509 DEFINITIONS

For the purpose of this ordinance, the words and terms as used herein are defined to mean as set out in this chapter. Words used in the present tense include the future tense; words used in the masculine include the feminine; words used in the singular include the plural, and vice-versa; the word "building" includes the word "structure", the word, "person" includes corporation, partnership, and unincorporated association of persons; the term "used for" includes the meaning "designed for" or "intended for", and the word "shall" or the word "must" is mandatory. Words not defined shall be given their common and ordinary meaning.

Agricultural Crop Management Practices
Shall mean all land farming operations including plowing or tilling of land for the purpose of crop production or the harvesting of crops.

Appeal Board
The Board of Zoning Appeals of the City of Leawood, Kansas.

Applicant
Shall mean the person or other legal entity who owns the affected property or the person's or other legal entity's authorized agent who submits or is required to submit an application to the Building Official for a land disturbance permit.

Base Flood
The flood having a one percent probability of being equaled or exceeded in any given year, i.e., the one-hundred-year flood.

Bond
Performance and Maintenance Bond for the construction and maintenance of the final stormwater construction plans for a period of 2 years from the date of acceptance by the City. Any form of security for the completion or performance of a stormwater management plan or the maintenance of drainage improvements, including surety bond, or instrument of credit, or escrow deposit in an amount and form satisfactory to the Director of Finance.

Brook
A small natural stream of water.

Branch
A division related to a whole.

Building
Is any structure used or intended for supporting or sheltering any use or occupancy.

Building Official
Shall mean the Building Official of the City or the Building Official's authorized representative.

Building Permit

Shall mean any permit issued by the Building Official.

Channel

A watercourse of perceptible extent, either natural or improved, which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

City Engineer

This title where used in the APWA specifications and/or in this ordinance shall have the same meaning as the title "Director of Public Works".

Clearing

Shall mean any activity, which removes the vegetative ground cover including, but not limited to, root removal or topsoil removal or other forms of earth moving.

Construction Permit

A permit issued by the Director of Public Works subsequent to approval of final Stormwater Construction Plans.

Creek

A stream smaller than a river and larger than a brook.

Depression

A pressing down: lowering. A depressed area or part.

Detention

A stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.

Development

Development means any man-made change to improved or unimproved real property including the construction or reconstruction of buildings or structures; paving, excavation, grading, filling or similar operations; or the filing and recording of a subdivision plat.

Differential Runoff

Differential Runoff mean the volume and rate of flow of stormwater runoff discharge from a parcel of land or drainage area which is or will be greater than that volume or rate which pertained prior to the proposed development or redevelopment.

Director of Public Works

Shall mean the Director of Public Works of the City or authorized representative.

Drainageway

An area used for draining; through the act or process of draining; a means for draining.

Dry Bottom Basin

A natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff.

Earth Materials

Shall mean any rock, natural soil or combination thereof.

Easement

Authorization by a property owner for use by another party or parties of all or any portion of his/her land for a specified purpose.

Engineer

Shall mean a professional engineer licensed in the State of Kansas.

Erosion

Shall mean the wearing away of land by the action of wind, water, gravity, or a combination thereof.

Erosion and Sediment Control Plan

Shall mean a set of measures designed to control runoff and erosion, and to retain sediment on a particular site during pre-construction, construction, and after all permanent improvements have been erected or installed.

Erosion and Sediment Control Regulations

Shall mean Sections 15-525 through 15-544.

Erosion and Sediment Control Standards

Shall mean the erosion and sediment control design criteria and specifications adopted in writing by the Director of Public Works as part of the Storm Water Management Plan.

Excavate

Shall mean the mechanical removal of earth materials.

Fill

Shall mean the deposit or stockpiling of earth materials.

Floodplain

The land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a one-hundred–year flood, or as shown on the National Flood Insurance Program maps, or as designated by Johnson County, or by the City of Leawood, Kansas as a floodplain system where Leawood or the County is not under the national Flood Insurance Program.

Floodway

The channel of a watercourse and the adjacent land area that must be reserved in order to discharge a one-hundred-year flood without cumulatively increasing the water surface elevation more than one (1.0) foot.

Freeboard

A factor of safety expressed as the difference in elevation between the top of the detention basin dam and the design surface water elevation resulting from the storm for which the basin's required storage volume was determined.

Grading

Shall mean any excavating or filling of earth materials or any combination thereof.

Grading Plan

For grading plan refer to Sections 15-521 through 15-524.

Habitable Dwelling Unit

A dwelling unit intended for and suitable for human habitation.

Inspection

Shall mean the periodic field review of erosion and sediment control measures as defined in the erosion and sediment control plan for the purposes of determining compliance.

Land Disturbance/Land Disturbance Activity

Shall mean any activity that changes the physical conditions of landform, vegetation, and hydrology. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging, and storing of materials. Such activities do not include routine care of existing lawns including verti-cutting and aerating.

Land Disturbance Permit

Shall mean the land disturbance permit required for any grading, filling, clearing, and excavation land disturbance activity.

Land Fill

Shall mean any human activity depositing soil or other earth materials.

Lake

An inland body of standing water of considerable size.

Lot Lines

A common boundary or property line between adjacent property owners.

Nuisance Erosion and Sedimentation

Shall mean any land disturbance activity that causes erosion or sedimentation for a non-permitted activity less than 300 square feet in area when disturbed land remains unprotected for more than seven calendar days.

One Hundred Year Storm

A rainstorm having a one-percent probability of occurrence in any given year.

Permit

Written permission giving consent.

Permittee

A person, partnership, corporation or other legal entity whom a permit is granted.

Plat

A legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.

Pond

A small body of water.

Project

Any man-made change involving the construction, reconstruction, maintenance or improvement of real property, structures and/or grounds.

Public Owned Improvements

Improvements such as (but not limited to) concrete channel liner, improved channel, pipes of various sizes and materials, box culverts and miscellaneous other concrete structures all on pubic property or in a public easement.

Public Property

Property owned by the City or dedicated to the City.

Public Storm Drainage System

Any underground enclosed pipe system and/or improved channel that is on public property or within a public easement.

Rational Method

An empirical formula for calculating peak rates of stormwater runoff resulting from rainfall.

Reservoir

A place where something is kept in store; an artificial lake where water is collected as a water supply.

Sampling

Shall mean the procedures associated with the determination of settleable solids and may include suspended solids in a discharge sample of water.

Sediment

Shall mean any solid material, mineral or organic that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity as result of soil erosion.

Soil

Shall mean the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil Storage

Shall mean any human activity depositing soil or other earth materials for later use or disposal.

Stormwater Runoff

Water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

Stream

A body of water (as a river) flowing on the earth.

Structure

Is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Swale

A graded depression for the purpose to conveying overland flow from point to point.

Ten Year Storm

A rainstorm having a ten percent probability of occurrence in any given year.

These Regulations

Shall mean the Storm Water Management Ordinance in its entirety.

Timbering

Shall mean the act of cutting and removing trees without disturbing the root or adjacent vegetation.

Tributary Area

All of the area contributing stormwater runoff to a given point of consideration, both public and private.

Twenty-Five Year Storm

A rainstorm with a four percent probability of occurrence in any given year.

Vegetative Cover

Shall mean any grasses, shrubs, trees and other vegetation, which hold and stabilize soils.

Water Bodies

Shall mean surface waters including watercourse and wetlands.

Watercourse

Any stream, channel, creek, brook, branch, depression, reservoir, lake, pond, or drainage way in or into which stormwater runoff flows.

Wet Bottom Basin

A natural or artificial stormwater storage area, which is designed and maintained to contain stormwater runoff temporarily and to hold permanently an additional volume of water at a level below the discharge structure of the storage area.

Wetlands

Shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include the following surface waters of the state intentionally constructed from sites that are not wetlands: drainage ditches, grass-lined swales, and landscape amenities.

15-510 THE STORMWATER MANAGEMENT SYSTEM

This ordinance establishes the Stormwater Management system, which shall be composed of a primary system, a secondary system, management controls, and management practices. These regulations shall apply to the secondary system.

15-511 THE PRIMARY SYSTEM

The primary system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps as developed for the City of Leawood by the U.S. Department of Housing and Urban Development, Federal Insurance Administration. All components of the primary system shall be designed to handle the 100-year rainfall event.

15-512 THE SECONDARY SYSTEM

The secondary system shall consist of storm drainage facilities including, but not necessarily limited to, roadway curb and gutter, open channels, swales and enclosed conveyance systems both public and private that transport stormwater runoff to the primary system (regulatory floodplain). Secondary system facilities are those designed to accommodate runoff resulting from a storm with a given design frequency.

15-513 MANAGEMENT CONTROLS

Management controls are regulations applicable to the secondary system under the provisions of this ordinance. Such controls shall limit any activity, which will adversely affect hydraulic function of any storm drainage facilities, public or private, including, but not limited to, detention facilities, open channels, drainage swales, or enclosed stormwater conveyance systems.

Exceptions to the applicability of the use of management controls for new developments may be granted in the following situations:

a. *On land used and zoned for agricultural purposes where no change in grades over* that, which has existed historically, will take place.
b. Construction of any buildings or structures on a site, which has been previously, provided with stormwater management control facilities as part of a larger unit of development.

The Building Official shall refer all development plans and all building permit applications that may require a stormwater drainage study and subsequent permit to the Director of Public Works.

15-514 MANAGEMENT PRACTICES

The following practices may be utilized upon approval of the Director of Public Works. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth in this ordinance:

a. Storage- Runoff may be stored in temporary or permanent detention basins, or through rooftop or parking lot ponding, or percolation storage, or by other acceptable means. Where parking lot ponding is utilized appropriate signage posting the use of the parking lot for stormwater storage must be installed.

b. Open Channels- Maximum feasible use shall be made of existing drainage ways, open channels, and drainage swales that are designed and coordinated with design of building lots and streets.

c. Streets and Curbs- Streets, curbs, and gutters shall be an integral part of the stormwater runoff management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns and the location of curb inlets and site drainage and overflow swales shall be concurrently designed in accordance with the standards set forth in these regulations.

d. Enclosed Conveyance System- Enclosed conveyance systems consisting of inlets, conduits, and manholes shall be used to convey stormwater runoff for storms with a frequency of the 10-year event.

e. Other- The stormwater runoff management practices enumerated herein shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the Director of Public Works and which do not contravene the objectives of this Ordinance.

15-515 PUBLIC AND PRIVATE RESPONSIBILITIES UNDER THE STORMWATER MANAGEMENT SYSTEM

a. Public Responsibilities:

1. Administration: The administration of these regulations and enforcement of this ordinance shall be the responsibility of the Director of Public Works.

2. The Public Drainage system shall be defined as follows for new construction.

a. If a proposed drainage system, storm sewer line or improved channel, is a continuation of an existing City system, the system will be public and an applicant for plan approval will be required to dedicate necessary easements.

b. If a proposed drainage system, storm sewer line or improved channel, extends across private property under multiple private ownership before crossing public right-of-way the system will be public and an applicant for plan approval will be required to dedicate necessary easements.

c. If the grading of a swale is required for the conveyance of the 100-year flow, an applicant for plan approval will be required to dedicate necessary easements. The maintenance of overflow swales along property lines is the responsibility of the property owner.

3. Operation and Maintenance of Public Owned Facilities: The City's Department of Public Works shall be responsible for all maintenance of the public owned drainage system, either improved or unimproved, located on public right-of-way or city owned property. Maintenance of public owned drainage systems located on private property with public easements shall be limited to the public owned improvements such as concrete structures, pipe systems, and City improved channels. However, it shall be the responsibility of the property owner, occupant or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation including mowing, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required to maintain the free flow of stormwater.

b. Private Responsibilities:

1. Maintenance and operation of a private storm drainage system is the responsibility of the owner of the property.

2. Each developer or owner of land within the City has the responsibility to provide all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's or owner's property both during and after construction of such facilities.

3. Each developer or landowner has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility, which has not been accepted for maintenance by the City. Such responsibility is to run with the land and be transmitted to subsequent owners through appropriate covenants. This maintenance shall include, keeping such facilities free and clear of weeds, brush and vegetation, removal of debris or any other waste material that might impede or hinder the facilities intended use, erosion repair, and removal of silt and maintenance of structural facilities which have not been accepted for maintenance by the City.

4. Owners of detention basins and associated facilities upon completion of construction and on or before May 1 of each year, shall furnish certification by a professional engineer licensed in the State of Kansas that the detention basin has full storage capacity and that all associated facilities including inlet and outlet structures are fully functional.

5. Each property owner or resident adjacent to a natural drainage channel not maintained by the City shall maintain the free flow character by prompt removal of all debris, overgrowth or downed trees and limbs and unapproved structures. All property owners shall cooperate by overseeing their properties without encouragement of the City. In the event an Official Notice is issued by the City in accordance with City Codes and Ordinances, the property owner shall comply and may request the City's assistance as outlined herein.

6. City Assistance – The City may provide assistance through the Public Works Department to the property owner/residents when requested, by hauling and disposing of collected debris, downed tress and broken limbs. The property owner shall cooperate with the City by placing debris and tree limbs on the side of the street for collection by the Public Works Department.

7. Failure to Maintain – If the Director of Public Works determines that the owners, occupants or agents in charge of any lot piece or parcel of land on which a drainage control structure exists or abuts has failed to properly maintain such facility as previously set forth, then Director of Public Works shall notify the owners, occupants or agents in charge of the violation in writing. If the owners, occupants or agents in charge fail, neglect or refuse to comply with the requirements specified in the notice, within 10 days, the City Clerk shall issue notice requiring the owner or agent of the owner of the premises to repair, remove, and/or abate from the premises the thing or things therein described as a defect(s) and/or nuisance and perform the necessary remedial work within ten (10) days. The notice shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or it's designated representative. The notice shall be served by delivering a copy thereof to the owner or agent of such owner of the property or, if the owner or owner's agent cannot be located, then by mailing a notice by registered mail to the last known address of the owner or agent of the owner and by posting said notice in a conspicuous place on the property. If the owner or agent fails to comply with the requirement of the notice for a period longer than the ten day time period set forth above, then the city shall proceed to cause the necessary remedial work to be performed and thereby have the things described in the

notice repaired, removed, and/or abated from the lot or parcel of ground. The city shall give notice to the owner, occupant or agent by registered mail of the total cost of such repair, abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost of such repair, removal, and/or abatement is not paid within the thirty (30) day period, the cost shall be collected in the manner provided by appropriate legal action or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the City Clerk at the timing of certifying other city taxes to the county clerk shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

15-516 PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER DRAINAGE STUDY

No development shall increase the quantity and rates of stormwater emanating from said land areas except in accordance with an approved Stormwater Drainage Study as provided for in these regulations. A professional engineer licensed in the State of Kansas shall prepare the Stormwater Drainage Study. The Director of Public Works shall issue no public works permit or approve any construction plans prior to the approval of the Stormwater Drainage Study.

15-517 STORMWATER DRAINAGE STUDY

A Stormwater Drainage Study shall accompany all preliminary applications for land development submitted in accordance with the City's ordinances. This study shall contain the following information and data:

a. A site plan of suitable scale and contour interval showing topographical information of the land to be developed and adjoining land whose topography may affect the proposed layout or drainage patterns for the development.

b. A general plan of final contours of the site development shall also be shown, as shall all existing streams, waterways, channels, lakes and the extent of the established floodplain and date of flood plain map used.

c. A drainage map showing the location and calculated flow rates of all adjacent storm drainage facilities.

d. A hydraulic and hydrologic summary table showing the 10 and 100-year flows for ultimate development.

e. A general discussion of the type and characteristics of soils contained in the development area.

f. A discussion of the concepts to be considered in the development to handle anticipated stormwater runoff including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed development.

g. A preliminary plan of proposed storm drainage facilities including preliminary calculations of runoff to be handled by such facilities, basic information regarding the effects the proposed project will have on the receiving streams or channels for a distance as far downstream as the runoff will have a noticeable affect. The plan should also include the proposed routing of the 100-year runoff.

h. A discussion of the possible affects that the proposed development could have on downstream facilities and areas adjoining the development and proposed solutions.

Following the receipt of the Stormwater Drainage Study, a general review meeting shall be conducted with the Director of Public Works, representatives of the Developer, and the Developer's Engineer. The purpose of this review meeting shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed development on existing or future adjacent developments.

15-518 FINAL CONSTRUCTION PLANS

Following the review of the Stormwater Drainage Study and after the general approval of the study by the Director of Public Works, Final Construction Plans shall be prepared for each phase of the proposed project as each phase is developed. The submittal of the final plans shall coincide with application for final approval of the development and shall constitute a refinement of the concepts approved in the study. It is important to note that if a project is to be phased, the total area of the conceptual project is to be considered in all calculations and the facility shall be designed for each phase, which will be compatible with those of the total development plan.

Final Construction Plans for any development shall conform to all construction standards set forth in the City's ordinances, including those set forth in Section 15302 of the City's Code.

Final Construction Plans shall also include the following additional information unless specifically allowed to be excluded by the Director of Public Works during the preliminary review of the plans.

a. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of flood plains and calculated high water elevations, the shoreline of lakes, ponds swamps, and detention basins including their inflow and outflow structures, if any.
b. The location and flowline elevation of all existing sanitary and stormwater sewers which fall within the project limits and within a distance of 200 feet beyond the exterior boundaries of said project.

c. Detailed determination of runoff anticipated for the entire project site following project completion indicating volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volumes and rates, and summary of the criteria which have been used by the design engineer.

d. A layout of the proposed stormwater system including the location and size of all drainage structures, stormwater sewers, channel and channel sections, detention basins, and analyses regarding the effect said improvement will have upon the

receiving channel and its high water elevation. The layout shall also include 100-year flood elevations at lot corners along all open channels improved or natural, 100-year overflow swales and detention basins.

e. The slope, type, size, flow calculations and 10-year and 100-year energy grade line for all existing and proposed storm sewers and other waterways.

f. A grading and erosion and sediment control plan for the project site as described in Sections 15-521 through 15-524 and Sections 15-525 through 15-544 of this Ordinance.

g. For developments with lakes, the plan shall show the location of a silt basin and proposed access to the basin for periodic removal of silt and debris. The plans shall also show an alternate water supply to maintain the normal pool elevation and aeration for the lake.

h. A profile and one or more cross-sections of all existing and proposed channels or other open drainage facilities, showing existing conditions and the proposed changes thereto, together with the high water elevations expected from stormwater runoff under the controlled conditions called for by these regulations and the relationship of structures, streets, and other utilities to such channels.

The Director of Public Works shall review the Final Construction Plans. If it is determined according to current engineering practice that the proposed plan will provide control of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety and protection of property and general welfare, the Director of Public Works shall approve the plan or conditionally approve the plan, setting forth the conditions thereof. If approved, a permit for the construction shall be granted. If disapproved, the application and data shall be returned to the applicant for corrective action and resubmittal.

15-519 DESIGN CRITERIA AND PERFORMANCE STANDARDS

Unless otherwise approved by the Director of Public Works, the following rules shall govern the design of improvements with respect to managing stormwater runoff:

a. Development Design - Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of stormwater into the ground, and to preserve and utilize existing and planned streams, channels and detention basins, and include, whenever possible, streams, and floodplains within park and other public grounds.

b. Stormwater System Design - Unless otherwise provided by the Director of Public Works, the latest approved edition of the Standard Specifications and Design Criteria, Division II, Section 2600, Construction and Material Specifications, adopted April 1996, (except section 2602.2 B Corrugated Steel Pipe and Division V) and Section 5600, Storm Drainage Systems and Facilities, of the Standard Specifications and Design Criteria, adopted March 1991, prepared by the Kansas City Metropolitan Chapter American Public Works Association, or the latest edition as amended, which is by reference made a part hereof as though expressly rewritten and incorporated in

the ordinance, shall govern the design and construction of storm sewer systems within the City except as otherwise noted herein.

1. Curb Inlets – Section 5603.1 B Capacity, shall be replaced with the following: Inlet Capacity shall be determined by using "Hydraulic Performance of Set Back Curb Inlets', prepared by Dr. Bruce M. McEnroe and Reuben P. Wade, Department of Civil and Environmental Engineering, University of Kansas, July 1998 to allow for partial obstruction. Capacity for sizes not shown may be interpolated from the figures.

2. Plan Requirement – Section 5607: Section 5607, Plan Requirements, of the Standard Specifications and Design Criteria, adopted March 1991 or current edition, prepared by the Kansas City Metropolitan Chapter American Public Works Association, shall be deleted in its entirety. In its place the City's Public Improvement Construction Standards, Plan Preparation for Subdivision and Storm Drainage Plans of the City of Leawood shall be used.

c. Methods of Controlling Downstream Flooding- The Stormwater Drainage Study shall identify downstream flooding impacts of the proposed development. If the Stormwater Drainage Study indicates the proposed development will cause or increase downstream local flooding conditions during the design storm, provisions to minimize such flooding conditions shall be included in the design of storm drainage improvements and/or the temporary controlled detention of stormwater runoff and its regulated discharge to the down stream storm drainage system.

d. Downstream Improvements- Improvements to minimize downstream flooding conditions may include the construction of dams, dikes, levees, and floodwalls; culvert enlargements; and channel clearance and modification projects.

1. Detention Basins- All detention basins shall be designed in accordance with Chapter 5600, except that Section 5606.4 C Detention Basin Size and Section 5606.6 Computational Methods, shall be eliminated. All modeling of detention basins shall use either HEC-1 or the KU Penn State Runoff, (enhanced version PSRM Version 7) or subsequent editions.

2. Outlet Control Works- Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation. Size and hydraulic characteristics shall be such that all water in detention storage is released to the downstream storm drainage system within 24 hours after the end of the design rainfall.

e. Other Design Considerations- All stormwater detention basins shall be designed with the capability of passing a 100-year storm event from a fully developed watershed basin through the outlet works without causing failure of the embankment. It is not the intent of this requirement to entail any additional reduction of the peak runoff rate; but to assure the integrity and safety of the structure. All underground pipe systems to the detention basin shall tie directly into the outlet structure and not discharge directly into the basin unless waived by the Director of Public Works, in accordance with good engineering practices.

f. Appearance- Pipes, drainage structures, outlet works, or other necessary structural features such as a fence and a gate of detention basins shall be devised so as to be minimum in number and inconspicuous. Screening and/or landscaping shall be included and shall be in accordance with plans sealed by an Engineer.

15-520 PERFORMANCE STANDARDS

a. Stormwater Channel Location – Acceptable locations of storm water runoff channels in the design of a subdivision may included the following:

1. Channels are permitted as outlined in Chapter 5600 of the Standard *Specifications and Design Criteria adopted March 1991, prepared by the Kansas* City Metropolitan Chapter American Public Works Association or current edition.

2. Channels shall be centered on back lot lines or entirely within the rear yards of a single row of lots or parcels.

3. In each of the foregoing cases, if the improved channel is to be maintained by the City a drainage easement to facilitate access maintenance and design flow shall be provided and shown on the plat. No structures will be allowed to be constructed within or across stormwater channels.

4. Maintenance of such channels shall be the responsibility of adjoining property owners except as noted in Section 15-515 a3.

b. Stormwater Sewer Outfall – The storm sewer outfall shall be designed so as to provide adequate protection against downstream erosion and scouring. All pipe discharge shall be in the direction of the channel flow. The flow line of the pipe out fall shall be at the normal pool elevation or channel bottom if dry.

c. Lot Lines – Whenever the plans call for the grading of swales for the passage of floodwater, surface runoff, or stormwater along lot lines, the grading of all such lots shall be prescribed and established for the passage of waters. **No structure may be erected in these areas, which will obstruct the flow of stormwater.**

In addition, installation of fences and the planting of shrubbery or trees within the areas will not be permitted. Changes in the grade and contours of the floodwater or stormwater runoff channels or facilities will not be permitted unless approved in writing by the Director of Public Works.

d. Easements – Permanent easements for the detention and conveyance of stormwater, including easements for access to structures and facilities, shall be dedicated to the City at no additional cost for those structures maintained by the City.

e. Permits – A permit for projects including detention facilities may be granted by the Director of Public Works only after Final Construction Plans have been approved and all easements have been dedicated, accepted, and recorded, and all required maintenance assurances and required bonds have been executed.

15-521 PLANS FOR GRADING

Prior to the approval of the Final Construction Plans, a plan depicting proposed site grading within the development shall be submitted to the Building Official of the City of Leawood for review and approval.

15-522 GRADING PLAN FOR DEVELOPMENT

A professional engineer licensed in the State of Kansas shall prepare the grading plan. The contents of the plan shall include the following information:

a. Contours of existing grades at intervals of not more than 2 feet.

b. Location of all property lines, existing or proposed and lot and block number.

c. Elevation and location of nearest bench mark (U.S.G.S. datum).

d. Final grading contours drawn at sufficient intervals of not more than 2 feet to depict major subdivision drainage patterns. In addition, final grading spot elevations shall be shown for all corners of each lot. Such corner elevations shall be general in nature and upon written approval of the Director of Public Works may be revised at the time of plot plan submittal. Lot lines shall have a minimum of 2% slope.

e. 100-year floodplain limits with elevation. The plan should also note the date of the study and the panel number.

f. Easement and right-of-way information including drainage easements required for offsite drainageways.

g. 100-year flood elevations for all lots adjacent to 100-year Flood Plain, open channel or 100-year overflow swale.

h. Grading plan shall show the cross section of all 100-year overflow swales, slope, depth and capacity. Minimum slope shall be 2%.

i. Erosion and sediment control plan. Refer to Sections 15-541 and 15-542.

51-523 GRADING PLAN FOR SINGLE FAMILY LOT

Applications for building permits for new construction of single-family homes shall be accompanied by a specific grading plan for that lot. Such grading plan shall be incorporated into the plot plan and shall contain as a minimum, the following information:

a. Location of property lines, all easements, street address, and lot and block number.

b. Proposed location of structure.

c. Elevations of the top of foundation, proposed grade at principal structure corners and at lot corners.

d. Contours at 2-foot intervals. The grading of the lot should match the subdivision-grading plan. Grading plan should have a minimum 2% slope along property lines.

e. Location of 100-overflow swale. Grading plan shall show the grading of the swale. The plan should also note the cross section, slope, and depth of swale, 100-year water elevation and the low opening.

f. Where a swale is shown, the minimum low opening of the structure shall be one (1) foot above the 100-year flood elevation perpendicular to the swale.

g. Erosion and sediment control plan. Refer to Sections 15-541 and 15-542.

Additional information may be required by the Director of Public Works to assure protection of adjacent property.

15-524 MINIMUM GRADING STANDARD

The following minimum criteria for site grading shall apply to all applications for site grading:

a. Protective slopes around structures.
Downward slope from structure foundations to drainage swales.

1) Impervious surfaces shall be ¼ inch per foot (2%).

2) Pervious surfaces shall be 1 inch per foot (8.33%).

b. Lawn areas

1) Minimum gradient shall ¼ inch per foot (2%).

2) Maximum gradient shall not be greater than 3 horizontal to 1 vertical.

c. Driveways sloping toward buildings shall be graded in such a manner as to provide an intercepting swale draining away from the structure prior to its connection with the building. Subdivision plans should be designed in a manner to limit the number of or eliminate driveways sloping away from the street.

d. Erosion and sediment control plan. Refer to Sections 15-541 and 15-542.

In specific cases the use of gradients less than or greater than those specified may be required. Variance from these requirements may be allowed where justified and approved by the Director of Public Works, in accordance with good engineering practices.

15-525 EROSION AND SEDIMENT CONTROL REGULATIONS

Sections 15-525 through 15-544 shall be known as the Erosion and Sediment Control Regulations. The purpose of these standards is to promote and protect the public interest by

regulating land disturbance, land fill, and soil storage in connection with the clearing and grading of land for construction related or other purposes. It is also the purpose of these standards to encourage responsible development and minimize the cost to the development community as a result of these regulations.

These erosion control regulations establish administrative, implementation and enforcement procedures for the protection and enhancement of the water quality of watercourses, water bodies, and wetlands by controlling erosion, sedimentation, and related environmental damage caused by construction-related or other activities.

Neither these ordinances nor any administrative decision made hereunder exempts the applicant or any other person from other requirements of the City's ordinances, state and federal laws, or from procuring other required permits, or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the applicant or any person arising from the activity regulated by these ordinances.

15-526 ADMINISTRATION

The Building Official shall administer and enforce these erosion control standards. For such purposes, the Building Official shall have the powers of a law enforcement officer to issue written orders and take any other legal actions in the enforcement of these ordinances. The Building Official shall have the power to render interpretations of this these regulations and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of these regulations. When it is necessary to make an inspection or to enforce the provisions of these regulations, the Building Official may enter property involved.

15-527 LAND DISTURBANCE PERMIT

Unless exempted by Section 15-528, no person may perform land disturbing activities, including clearing, grading, excavating, filling, storing or disposing of soil and earth materials without first obtaining a land disturbance permit from the Building Official as set forth in these regulations.

15-528 EXEMPTIONS

Persons performing land disturbance activities that meet any of the criteria below are not required to apply for a land disturbance permit pursuant to this chapter:

a. **Land disturbances less than or equal to 300 square feet.** Land disturbances, other than those set forth in exemptions (b) through (e) of this subsection, impacting land less than or equal to 300 square feet in area; provided however, that persons performing such work on such parcels who are not otherwise exempt under exemptions (b) through (e) of this subsection, must comply with the Erosion and Sediment control standards promulgated pursuant to Section 15-541 if such land remains unprotected for more than seven calendar days.

b. **Land disturbance activities by city departments.** In those cases, the department is required to comply with the requirements of the Erosion and Sediment Control Standards.

c. **Home Gardens.** Home gardening operations including plowing or tilling of land for the purposes of growing flowers and/or vegetables, but not in excess of 300 square feet.

d. **Work to correct or remedy emergencies.** This includes situations that pose an immediate danger to life or property, or substantial flood or fire hazards.

e. Routine agricultural crop management practices.

15-529 LAND DISTURBANCE PERMIT APPLICATION

Any person requesting a land disturbance permit must submit an application to the Building Official. The application shall be submitted on a form promulgated by the Building Official and shall include the names, addresses, and telephone numbers of the developer/owner of the property, the contractors or subcontractors actually performing the land disturbing activity and their respective tasks, the engineer responsible for the preparation of the site map and grading plan, and the engineer responsible for preparation of the erosion and sediment control plan. In addition to the application form, the person shall submit the following items:

a. A site map, and clearing and grading plan that is in compliance with Sections 15-521 through 15-524 and Section 15-542, sealed by a professional engineer licensed in the State of Kansas.

b. An erosion and sediment control plan that is in compliance with Section 15-542.

c. Work schedule in compliance with Section 15-543.

d. Land disturbance permit fee.

e. Inspection schedule.

f. Security for performance of work as required under Article 15-545.

g. Any supplementary materials related to the land disturbance as required by the Building Official.

15-530 REVIEW FOR COMPLIANCE

Review for compliance will begin once all information requested in Section 15-529 has been submitted.

Land disturbance permits may be issued for each land disturbance phase of a specific site. The land disturbance permit when issued in phases shall be a separate permit for each land disturbance phase. The Building Official shall review the submitted documents for compliance with the City's regulations and adopted standards. After reviewing the documents, the Building

Official shall determine whether or not the documents submitted are in compliance with the City's regulations and adopted standards. If the Building Official finds that the documents are in compliance, the engineer who submitted the documents shall be advised in writing and may request a land disturbance permit in accordance with the requirements set forth in Section 15-529. If the Building Official finds that documents are not in compliance with the City's regulations and adopted standards, the Building Official shall advise the engineer in writing, which elements of the submitted documents are not in compliance. When documents are determined to be in compliance, the determination does not imply that the City is guaranteeing specific outcomes or is the City accepting any responsibility for the documents submitted.

15-531 LAND DISTURBANCE PERMIT FEE

Before issuance of a land disturbance permit as defined in this Section, the applicant shall pay a fee to cover the cost of administration, plan review and inspection services associated with the land disturbance permit. The fee for each permit shall be as set forth by the City Council from time to time.

15-532 COORDINATION WITH OTHER PERMITS

When a person is developing a site, and a land disturbance permit is required in accordance with Section 15-527, no construction permits shall be issued to make improvements on that site until the person has secured the land disturbance permit for the same site. The Building Official may simultaneously issue a land disturbance permit and a grading permit in accordance with a plan approved by Director of Public Works.

15-533 DURATION OF PERMIT

The land disturbance permit shall be valid from the time of issuance until the site is stabilized and erosion and sediment control measures are no longer necessary and the permit is terminated as provided herein, or until the permit is otherwise suspended or revoked as provided in these erosion control standards. The site will be considered stabilized when either perennial vegetation, pavement, buildings, or structures using permanent materials cover all areas that have been disturbed. In order to terminate the land disturbance permit, the applicant shall submit a request to terminate permit to the Building Official. The Building Official will then inspect the site and make a determination as to whether the permit can be terminated. The applicant will be notified in writing of the determination.

If the applicant sells the property before the termination of the land disturbance permit, the permit may be assigned to the new owner, if such assignment is approved in writing by the Building Official.

If the applicant sells any portion of the property before the termination of the land disturbance permit, the applicant will remain responsible for that portion until one of the following events occur:

a. The new owner of the property obtains a land disturbance permit.

b. The new owner of the property obtains or is required to obtain a building permit.

15-534 SUSPENSION OR REVOCATION OF PERMIT

If normal routine enforcement activities, as defined in Section 15-540, fail to correct any non-compliance issue, the Building Official shall follow the procedures outlined in this section before any action is taken against the security as provided under Section 15-539.

The Building Official shall suspend the land disturbance permit and issue a written stop work order, and the applicant shall cease all work on the site, except work necessary to remedy the cause of the suspension, upon notification of such suspension when:

a. Applicant fails to submit reports timely and in accordance with Sections 15-545 through 15-547

b. Inspection by the Building Official reveals the site is not in substantial compliance with the erosion and sediment control plan; or

c. Applicant fails to comply with an order to bring the site into compliance with the permit within time limits imposed by the Building Official; or

d. Applicant fails to pay any required permit fee.

The Building Official shall reinstate a suspended land disturbance permit upon the applicant's correction of the cause of the suspension.

The Building Official shall revoke the land disturbance permit and issue a stop work order if the applicant fails or refuses to cease work.

The Building Official may not reinstate a revoked permit.

15-535 INSTALLATION OF CONTROL MEASURES

The applicant shall notify the Building Official that all erosion and sediment control measures are installed in accordance with the erosion and sediment control plan and the City's adopted standards. The applicant shall not perform any land disturbance activities prior to approval from the Building Official that all erosion and sediment control measures are installed properly.

15-536 MAINTENANCE OF CONTROL MEASURES

The applicant shall at all times maintain all erosion and sediment control measures in good order and in compliance with the erosion and sediment control plan for the site and with the City's adopted standards, for the duration of the permit as defined in Section 15-533. In determining the Applicant's compliance with the erosion and sediment control plan for the site, the Building Official shall take into consideration any results the applicant has obtained through sampling.

15-537 SAMPLING

The applicant shall have the option of including a system of regular sampling by individuals approved to perform such sampling by the Building Official as a part of the applicant's Erosion and Sediment Control Plan. The Building Official may require sampling to determine the effectiveness of the erosion control plan or to obtain information to investigate complaints regarding the site. Sampling shall not be the only item reviewed to determine compliance with the erosion and sediment control plan for the site. The Building Official may also perform sampling.

15-538 REMOVAL OF CONTROL MEASURES

The applicant shall receive the Building Official's approval before any structural erosion and sediment control measure identified on the plans is removed or made ineffective. Removal of erosion and sediment control measures must be performed in the manner described in the erosion and sediment control plan and in accordance with the City's adopted standards. When determining whether an erosion and sediment control measures may be removed or made ineffective, the Building Official shall take into consideration testing results furnished by the applicant.

15-539 INSPECTIONS GENERALLY

It shall be the duty of the land disturbance permit holder to install, routinely inspect, and maintain effective erosion and sediment control measures as specified in the permit holder's approved erosion control plan. The applicant shall inspect the land disturbance site at least every fourteen (14) days or more frequently if required on the plan, and within twenty-four hours following each rainfall event of 1/2" or more within any twenty-four hour period. The Building Official shall also perform regular inspections of the land disturbance site to ensure compliance with the erosion and sediment control plan for the site and the City's adopted standards. Should it be found that required erosion and sedimentation control measures have not been installed properly, the Building Official may refuse any inspection requests for work requiring inspections until such time as the site complies with the requirements of this Article. Should it be found that the installed erosion and sediment control measures are ineffective or are not being maintained properly, the Building Official shall give notice to the permit holder. Subsequent inspections may be refused if the erosion and siltation control measures are ineffective, or not being maintained.

15-540 ENFORCEMENT

The Building Official shall handle enforcement through the normal routine activities that include receiving inspection reports from the applicant, inspecting the site, communicating, negotiating, and written warnings to the applicant to resolve issues of non-compliance. However, if these methods fail, the Building Official shall proceed with the methods as defined in Sections 15-533 15-534, 15-539, 15-545 and 15-550.

15-541 EROSION AND SEDIMENT CONTROL STANDARDS

The Director of Public Works shall adopt and maintain erosion and sediment control design criteria and performance standards and specifications to assist in the administration of the land disturbance program. The erosion and sediment control design criteria and specifications shall be based on, but not limited to the following principles:

a. Fitting the development to existing site conditions.

b. Minimizing the extent and duration of exposure.

c. Protecting areas to be disturbed from storm water runoff.

d. Stabilizing disturbed areas.

e. Keeping runoff velocities low.

f. Retaining sediment on the site.

g. Inspecting and maintaining control measures.

h. Containing performance measures and outcomes.

The property owner and/or applicant may request that differing standards be applied and such request shall be granted if, in the opinion of the Building Official or Director of Public Works, such different standards will provide the same protection provided by the City's standards.

15-542 GRADING, EROSION AND SEDIMENT CONTROL SITE PLAN REQUIREMENTS

The applicant shall submit an Erosion and Sediment Control Site Plan. The Plan shall include the following:

a. A description of how the plan will prevent all sediment from leaving the site.

b. Estimated duration of the permit as defined in Section 15-533.Existing and proposed topography of the site taken at not more than a two-foot contour interval over the entire site.

c. Contours extend a minimum of 100 feet off-site, or sufficient to show on/off-site drainage.

d. Site's property lines shown in true location with respect to the plan's topographic information.

e. Location and graphic representation of all existing and proposed natural and man-made drainage facilities.

f. Location, graphic representation and legend of soil types.

g. Location and graphic representation of proposed excavations and fills, of on-site storage of soil and other earthen material, and on-site disposal.

h. Location and legend of existing vegetation cover, the location and legend of vegetation cover to be left undisturbed.

i. Quantity of soil or earthen materials in cubic yards to be excavated, filled, stored, or otherwise utilized on-site.

j. Proposed sequence of excavation, filling, and soil or earthen material storage and disposal.

k. List of the measures undertaken to retain sediment from the site, including, but not limited to, designs and specifications for berms, and sediment detention basins, and a schedule for maintenance and upkeep.

l. A description of the surface runoff and erosion control measures to be implemented, including, but not limited to, types and method of applying mulches, location details and specifications for diverters, dikes and drains, and a schedule for their maintenance and upkeep.

m. A delineation and brief description of the vegetative measures to be used, including, but not limited to seeding methods, the type, location and extent of pre-existing undisturbed vegetation types and vegetation to remain and a schedule for maintenance and upkeep.

n. Alternative methods of stabilizing the site when either seeding was not performed in accordance with the schedule, or was performed and was not effective.

o. Plans to be prepared and sealed and dated by a profession engineer licensed in the State of Kansas.

15-543 WORK SCHEDULE

The Applicant shall submit a work schedule of construction activities for the development where the land disturbance activity is proposed. The work schedule shall provide, at minimum, the following information:

a. Proposed clearing and grading schedule.

b. Proposed schedule for installation of temporary and permanent erosion and sediment control measures.

c. Proposed schedule for all construction activity.

d. Estimated duration of land disturbance permit as defined in Section 15-533.

The applicant shall be allowed to modify the work schedule under this section in the event circumstances dictate such deviation and after the applicant has obtained approval from the Building Official.

15-544 VIOLATIONS

Any violation of Sections 15-525 through 15-543 shall be subject to the provisions of Section 15-550.

15-545 BONDS, MAINTENANCE ASSURANCES, AND PERMITS

Upon approval of the final Construction Plan, but before the issuance of a construction permit, the Director of Public Works shall require the applicant to post a performance bond, cash escrow, certified check, or other form of performance security acceptable to the Director of Finance for the amount of the work to be done pursuant to the approval of the Final Construction Plans for any facility or improvement to be dedicated to the public.

The Building Official shall require the applicant to provide security equal to the estimated cost to install and maintain the approved erosion and sediment control measures. The Building Official may take action against the security if the applicant fails to install or maintain the erosion and sediment control measures in accordance with the erosion and sediment control plan for the site and the City's adopted standards for the duration of the permit as defined in Section 15-533. The Building Official will provide the applicant with ten (10) days written notice before any action is taken against the security, and if during that ten (10) day period the applicant bring control measures into compliance with the Plan, no action shall be taken against the security.

15-546 MAINTENANCE BONDS

A two-year maintenance bond against defects in workmanship will be required by the City for any portion of the improvements dedicated for public maintenance.

15-547 PERMITS

Upon approval of the Final Construction Plans and Erosion and Sediment Control Plan and acceptance of the applicant's assurances of performance and maintenance as provided in these regulations, the Director of Public Works shall issue a permit for construction and the Building Official shall issue a Land Disturbance Permit.

15-548 APPEALS

Any person aggrieved by a decision of the Director of Public Works or Building Official in the enforcement of this ordinance shall have the right to appeal any such order, requirement, decision, or determination in accordance with the following procedures:

a. The aggrieved party may appeal the action of the Director of Public Works or Building Official to the Board of Zoning and Appeals by filling written notice within ten calendar days of the action. The Board of Zoning and Appeals shall consider any information offered by the aggrieved person bearing on the dispute and may

recommend an appropriate course of action; either reversal, modification, or confirmation. The Director of Public Works or Building Official shall be present at the hearing as appropriate, shall act on the recommendation in a manner consistent with his responsibilities under these regulations.

b. Any person aggrieved by any final decision of the Director of Public Works or Building Official following review by the Board of Zoning and Appeals may seek review by a court of competent jurisdiction in the manner provided by the laws of the State of Kansas.

15-549 DAMAGING OR ALTERING STORMWATER MANAGEMENT FACILITIES

No person, firm, association, partnership or corporation shall maliciously, willfully or negligently break, damage, destroy, deface, alter or tamper with any structure, appurtenance or facility which is a part of the municipal stormwater system or an approved stormwater management plan. 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 Director of Public Works may upon request grant written permission for an exception. Any violation of this section shall be subject to the provisions of Section 15-550.

15-550 PENALTY FOR VIOLATION-ACTION

The violation of any provision of this Ordinance is a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not less than Two Hundred Dollars ($200.00) nor more than Five Hundred Dollars ($500.00) The City of Leawood, Kansas, shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter and to abate nuisance maintained in violation thereof; and in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of the building, structure, or land. Each day of any violation of this chapter shall constitute a separate offense.

SECTION II

Existing sections 15-305, 15-306 and 15-307 are hereby repealed.

SECTION III

This Ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor and publication according to law.

PASSED by the Council this 3rd day of January, 2000.

Approved by the Mayor the 3rd day of January, 2000.

(S E A L)

CITY OF LEAWOOD

MAYOR PEGGY J. DUNN

ATTEST:

City Clerk, Martha Heizer

APPROVED AS TO FORM:

Patricia A. Bennett
City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of January, 2000, with subsequent publication being made on the following dates:

_____, 2000 _____, 2000

_____, 2000 _____, 2000

Georgiann Thacker

Subscribed and sworn to before me this 7th day of January, 2000

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires 1/5/2000

Printer's Fee 590.75

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

First published in The Johnson County Sun, Friday, January 7, 2000

ORDINANCE NO. 1839 C

AN ORDINANCE ADDING A NEW ARTICLE 5 OF CHAPTER 15 OF THE CODE OF THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS, PERTAINING TO STORMWATER MANAGEMENT, ESTABLISHING A STORMWATER MANAGEMENT SYSTEM, INCLUDING PUBLIC AND PRIVATE RESPONSIBILITIES UNDER SUCH SYSTEM; ESTABLISHING A PROCEDURE FOR SUBMISSION, REVIEW AND APPROVAL OF STORMWATER RUNOFF MANAGEMENT PLANS; ESTABLISHING DESIGN CRITERIA AND PERFORMANCE STANDARDS; ESTABLISHING A PROCEDURE FOR SUBMISSION, REVIEW AND APPROVAL FOR GRADING AND EROSION AND SEDIMENTATION CONTROL PLANS; FURTHER ESTABLISHING REQUIREMENTS FOR BONDS, MAINTENANCE ASSURANCES, PERMITS, AN APPEALS PROCEDURE; AND TO PROVIDE FOR PENALTIES FOR THE VIOLATION OF SUCH CHAPTER; AND REPEALING SECTIONS 15-305, 15-306 AND 15-307.

BE IT ORDAINED by the Governing Body of the City of Leawood, Kansas:

SECTION 1

That a new Article 5, of Chapter 15 of the Code of the City of Leawood, Johnson County, Kansas, is hereby enacted to read as follows:

CHAPTER XV
ARTICLE 5
STORMWATER MANAGEMENT

Sections:

15-501 General Provisions
15-502 Applicability
15-503 Interpretation
15-504 Objectives
15-505 Relationship to other laws
15-506 Disclaimer to other laws
15-507 Severability
15-508 Conflict with Public and Private Provisions
15-509 Definitions
15-510 The Stormwater Management System
15-511 The Primary System
15-512 The Secondary System
15-513 Management Control
15-514 Management Practices
15-515 Public & Private Responsibility under the Stormwater Management System
15-516 Procedures for the Submission, Review, & Approval of Stormwater Drainage Study
15-517 Stormwater Drainage Study
15-518 Final Construction Plans
15-519 Design Criteria & Performance Standards
15-520 Performance Standards
15-521 Plans for Grading
15-522 Grading Plan for Development
15-523 Grading Plan for Single Family Lot
15-524 Minimum Grading Standard
15-525 Erosion and Sediment Control Regulations
15-526 Administration
15-527 Land Disturbance Permit
15-528 Exemptions
15-529 Land Disturbance Permit Application
15-530 Review for Compliance
15-531 Land Disturbance Fee
15-532 Coordination with other Permits
15-533 Duration of Permit
15-534 Suspension or Revocation of Permit
15-535 Installation of Control Measures
15-536 Maintenance of Control Measures
15-537 Sampling
15-538 Removal of Control Measures
15-539 Inspections Generally
15-540 Enforcement
15-541 Erosion & Sediment Control Standards
15-542 Grading, Erosion, & Sediment Control Site Plan Requirements
15-543 Work Schedule
15-544 Violations
15-545 Bonds, Maintenance Assurances, & Permits
15-546 Maintenance Bonds
15-547 Permits
15-548 Appeals
15-549 Damage or Altering Stormwater Management Facilities
15-550 Penalty for Violation-Action

15-501 GENERAL PROVISIONS

These regulations shall hereafter be known, cited and referred to as the "Stormwater Management Ordinance" of the City of Leawood, Kansas.

15-502 APPLICABILITY

The provisions of this ordinance shall extend and apply to all land within the corporate limits of the City.

15-503 INTERPRETATIONS

The provisions of this ordinance are intended to supplement existing zoning and land use ordinances of the City of Leawood. In their interpretations and application, the provisions herein shall be held to be the minimum requirements for the promotion of the public health, safety, protection of property and general welfare and where a conflict occurs the most stringent interpretation will apply.

15-504 OBJECTIVES

To promote the public health, safety, protection of property and general welfare of the citizens of Leawood, this "Stormwater Management Ordinance" is enacted for the general purpose of assuring the proper balance between use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as amended from time to time, are intended to reduce property damage and to minimize the hazards of personal injury and loss of life due to flooding and erosion of soil through the following:

a. Establishment of a Stormwater Management System.
b. Definition and establishment of Stormwater Management Practice.
c. Establishment of methods and guidelines for attenuating or avoiding flooding and erosion within the City from cumulative effects of increased volume and peak discharge of surface water runoff.
d. Establishment of an appeal board to review disputed decisions of the Director of Public Works or Building Official and to resolve disputes regarding the interpretation and implementation of the provisions of this ordinance. The Board of Zoning Appeals (BZA) will hear disputes regarding interpretations of the Director of Public Works or Building Official as appropriate.

15-505 RELATIONSHIP TO OTHER LAWS

These regulations shall not be construed as abating any action now pending under, or by virtue of prior regulations or ordinances, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, by lawful action of the City, except as shall be expressly provided for in these regulations.

15-506 DISCLAIMER OF LIABILITY

The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any stormwater management structure or use of land. Nor shall the approval of a Stormwater Management Plan and the issuance of a permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

15-507 SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase in this chapter or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter.

15-508 CONFLICT WITH PUBLIC AND PRIVATE PROVISIONS.

a. Public Provisions – These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any ordinance, rule or regulation or other provision of law, whichever provisions are more stringent such ordinance, rule or regulation or other provision of law shall control.
b. Private Provisions – These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, and no such easement, covenant or private agreement or restriction will change or alter the enforcement of this ordinance.

15-509 DEFINITIONS

For the purpose of this ordinance, the words and terms as used herein are defined to mean as set out in this chapter. Words used in the present tense include the future tense; words used in the masculine include the feminine; words used in the singular include the plural, and vice-versa; the word "building" includes the word "structure", the word, "person" includes corporation, partnership, and unincorporated association of persons; the term "used for" includes the meaning "designed for" or "intended for", and the word "shall" or the word "must" is mandatory. Words not defined shall be given their common and ordinary meaning.

Agricultural Crop Management Practices
Shall mean all land farming operations including plowing or tilling of land for the purpose of crop production or the harvesting of crops.

Appeal Board
The Board of Zoning Appeals of the City of Leawood, Kansas.

Applicant
Shall mean the person or other legal entity who owns the affected property or the person's or other legal entity's authorized agent who submits or is required to submit an application to the Building Official for a land disturbance permit.

Base Flood
The flood having a one percent probability of being equaled or exceeded in any given year, i.e., the one-hundred-year flood.

Bond
Performance and Maintenance Bond for the construction and maintenance of the final stormwater construction plans for a period of 2 years from the date of acceptance by the City. Any form of security for the completion or performance of a stormwater management plan or the maintenance of drainage improvements, including surety bond, or instrument of credit, or escrow deposit in an amount and form satisfactory to the Director of Finance.

Brook
A small natural stream of water.

Branch
A division related to a whole.

Building
Is any structure used or intended for supporting or sheltering any use or occupancy.

Building Official
Shall mean the Building Official of the City or the Building Official's authorized representative.

Building Permit
Shall mean any permit issued by the Building Official.

Channel
A watercourse of perceptible extent, either natural or improved, which periodically or continuously contains moving water or which forms a connecting link between two bodies of water.

City Engineer
This title where used in the APWA specifications and/or in this ordinance shall have the same meaning as the title "Director of Public Works".

Clearing
Shall mean any activity, which removes the vegetative ground cover including, but not limited to, root removal or topsoil removal or other forms of earth moving.

Construction Permit
A permit issued by the Director of Public Works subsequent to approval of final Stormwater Construction Plans.

Creek
A stream smaller than a river and larger than a brook.

Depression
A pressing down: lowering. A depressed area or part.

Detention
A stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.

Development
Development means any man-made change to improved or unimproved real property including the construction or reconstruction of buildings or structures; paving, excavation, grading, filling or similar operations; or the filing and recording of a subdivision plat.

Differential Runoff
Differential Runoff mean the volume and rate of flow of stormwater runoff discharge from a parcel of land or drainage area which is or will be greater than that volume or rate which pertained prior to the proposed development or redevelopment.

Director of Public Works
Shall mean the Director of Public Works of the City or authorized representative.

Drainageway
An area used for draining; through the act or process of draining; a means for draining.

Dry Bottom Basin
A natural or artificial stormwater storage area which is designed and maintained for temporary containment of stormwater runoff.

Earth Materials
Shall mean any rock, natural soil or combination thereof.

Easement
Authorization by a property owner for use by another party or parties of all or any portion of his/her land for a specified purpose.

Engineer
Shall mean a professional engineer licensed in the State of Kansas.

Erosion
Shall mean the wearing away of land by the action of wind, water, gravity, or a combination thereof.

Erosion and Sediment Control Plan
Shall mean a set of measures designed to control runoff and erosion, and to retain sediment on a particular site during pre-construction, construction, and after all permanent improvements have been erected or installed.

Erosion and Sediment Control Regulations
Shall mean Sections 15-525 through 15-544.

Erosion and Sediment Control Standards
Shall mean the erosion and sediment control design criteria and specifications adopted in writing by the Director of Public Works as part of the Storm Water Management Plan.

Excavate
Shall mean the mechanical removal of earth materials.

Fill
Shall mean the deposit or stockpiling of earth materials.

Floodplain
The land area adjoining a river, stream, watercourse, or lake which is likely to be flooded in the event of a one-hundred-year flood, or as shown on the National Flood Insurance Program maps, or as designated by Johnson County, or by the City of Leawood, Kansas as a floodplain system where Leawood or the County is not under the national Flood Insurance Program.

Floodway
The channel of a watercourse and the adjacent land area that must be reserved in order to discharge a one-hundred-year flood without cumulatively increasing the water surface elevation more than one (1.0) foot.

Freeboard
A factor of safety expressed as the difference in elevation between the top of the detention basin dam and the design surface water elevation resulting from the storm for which the basin's required storage volume was determined.

Grading
Shall mean any excavating or filling of earth materials or any combination thereof.

Grading Plan
For grading plan refer to Sections 15-521 through 15-524.

Habitable Dwelling Unit
A dwelling unit intended for and suitable for human habitation.

Inspection
Shall mean the periodic field review of erosion and sediment control measures as defined in the erosion and sediment control plan for the purposes of determining compliance.

Land Disturbance/Land Disturbance Activity
Shall mean any activity that changes the physical conditions of landform, vegetation, and hydrology. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging, and storing of materials. Such activities do not include routine care of existing lawns including verti-cutting and aerating.

Land Disturbance Permit
Shall mean the land disturbance permit required for any grading, filling, clearing, and excavation land disturbance activity.

Land Fill
Shall mean any human activity depositing soil or other earth materials.

Lake
An inland body of standing water of considerable size.

Lot Lines
A common boundary or property line between adjacent property owners.

Nuisance Erosion and Sedimentation
Shall mean any land disturbance activity that causes erosion or sedimentation for a non-permitted activity less than 300 square feet in area when disturbed land remains unprotected for more than seven calendar days.

One Hundred Year Storm
A rainstorm having a one-percent probability of occurrence in any given year.

Permit
Written permission giving consent.

Permittee
A person, partnership, corporation or other legal entity whom a permit is granted.

Plat
A legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.

Pond
A small body of water.

Project
Any man-made change involving the construction, reconstruction, maintenance or improvement of real property, structures and/or grounds.

Public Owned Improvements
Improvements such as (but not limited to) concrete channel liner, improved channel, pipes of various sizes and materials, box culverts and miscellaneous other concrete structures all on pubic property or in a public easement.

Public Property
Property owned by the City or dedicated to the City.

Public Storm Drainage System
Any underground enclosed pipe system and/or improved channel that is on public property or within a public easement.

Rational Method
An empirical formula for calculating peak rates of stormwater runoff resulting from rainfall.

Reservoir
A place where something is kept in store; an artificial lake where water is collected as a water supply.

Sampling
Shall mean the procedures associated with the determination of settleable solids and may include suspended solids in a discharge sample of water.

Sediment
Shall mean any solid material, mineral or organic that has been deposited in water; is in suspension in water, is being transported or has been removed from its site of origin by wind, water, or gravity as result of soil erosion.

Soil
Shall mean the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.

Soil Storage
Shall mean any human activity depositing soil or other earth materials for later use or disposal.

Stormwater Runoff
Water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

Stream
A body of water (as a river) flowing on the earth.

Structure
Is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Swale
A graded depression for the purpose to conveying overland flow from point to point.

Ten Year Storm
A rainstorm having a ten percent probability of occurrence in any given year.

These Regulations
Shall mean the Storm Water Management Ordinance in its entirety.

Timbering
Shall mean the act of cutting and removing trees without disturbing the root or adjacent vegetation.

Tributary Area
All of the area contributing stormwater runoff to a given point of consideration, both public and private.

Twenty-Five Year Storm
A rainstorm with a four percent probability of occurrence in any given year.

Vegetative Cover
Shall mean any grasses, shrubs, trees and other vegetation, which hold and stabilize soils.

Water Bodies
Shall mean surface waters including watercourse and wetlands.

Watercourse
Any stream, channel, creek, brook, branch, depression, reservoir, lake, pond, or drainage way in or into which stormwater runoff flows.

Wet Bottom Basin
A natural or artificial stormwater storage area, which is designed and maintained to contain stormwater runoff temporarily and to hold permanently an additional volume of water at a level below the discharge structure of the storage area.

Wetlands
Shall mean those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. This does not include the following surface waters of the state intentionally constructed from sites that are not wetlands: drainage ditches, grass-lined swales, and landscape amenities.

15-510 THE STORMWATER MANAGEMENT SYSTEM

This ordinance establishes the Stormwater Management system, which shall be composed of a primary system, a secondary system, management controls, and management practices. These regulations shall apply to the secondary system.

15-511 THE PRIMARY SYSTEM

The primary system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps as developed for the City of Leawood by the U.S. Department of Housing and Urban Development, Federal Insurance Administration. All components of the primary system shall be designed to handle the 100-year rainfall event.

15-512 THE SECONDARY SYSTEM

The secondary system shall consist of storm drainage facilities including, but not necessarily limited to, roadway curb and gutter, open channels, swales and enclosed conveyance systems both public and private that transport stormwater runoff to the primary system (regulatory floodplain). Secondary system facilities are those designed to accommodate runoff resulting from a storm with a given design frequency.

15-513 MANAGEMENT CONTROLS

Management controls are regulations applicable to the secondary system under the provisions of this ordinance. Such controls shall limit any activity, which will adversely affect hydraulic function of any storm drainage facilities, public or private, including, but not limited to, detention facilities, open channels, drainage swales, or enclosed stormwater conveyance systems.

Exceptions to the applicability of the use of management controls for new developments may be granted in the following situations:

a. On land used and zoned for agricultural purposes where no change in grades over that, which has existed historically, will take place.
b. Construction of any buildings or structures on a site, which has been previously, provided with stormwater management control facilities as part of a larger unit of development.

The Building Official shall refer all development plans and all building permit applications that may require a stormwater drainage study and subsequent permit to the Director of Public Works.

15-514 MANAGEMENT PRACTICES

The following practices may be utilized upon approval of the Director of Public Works. Use of these methods shall be fully in accordance with the design criteria and performance standards as set forth in this ordinance:

a. Storage- Runoff may be stored in temporary or permanent detention basins, or through rooftop or parking lot ponding, or percolation storage, or by other acceptable means. Where parking lot ponding is utilized appropriate signage posting the use of the parking lot for stormwater storage must be installed.

b. Open Channels- Maximum feasible use shall be made of existing drainage ways, open channels, and drainage swales that are designed and coordinated with design of building lots and streets.

c. Streets and Curbs- Streets, curbs, and gutters shall be an integral part of the stormwater runoff management system. To the maximum extent possible, drainage systems, street layout and grades, lot patterns and the location of curb inlets and site drainage and overflow swales shall be concurrently designed in accordance with the standards set forth in these regulations.

d. Enclosed Conveyance System- Enclosed conveyance systems consisting of inlets, conduits, and manholes shall be used to convey stormwater runoff for storms with a frequency of the 10-year event.

e. Other- The stormwater runoff management practices enumerated herein shall not constitute an exclusive listing of available management practices. Other generally accepted practices and methods may be utilized where approved by the Director of Public Works and which do not contravene the objectives of this Ordinance.

15-515 PUBLIC AND PRIVATE RESPONSIBILITIES UNDER THE STORMWATER MANAGEMENT SYSTEM

a. Public Responsibilities:

1. Administration: The administration of these regulations and enforcement of this ordinance shall be the responsibility of the Director of Public Works.

2. The Public Drainage system shall be defined as follows for new construction.

a. If a proposed drainage system, storm sewer line or improved channel, is a continuation of an existing City system, the system will be public and an applicant for plan approval will be required to dedicate necessary easements.

b. If a proposed drainage system, storm sewer line or improved channel, extends across private property under multiple private ownership before crossing public right-of-way the system will be public and an applicant for plan approval will be required to dedicate necessary easements.

c. If the grading of a swale is required for the conveyance of the 100-year flow, an applicant for plan approval will be required to dedicate necessary easements. The maintenance of overflow swales along property lines is the responsibility of the property owner.

3. Operation and Maintenance of Public Owned Facilities: The City's Department of Public Works shall be responsible for all maintenance of the public owned drainage system, either improved or unimproved, located on public right-of-way or city owned property. Maintenance of public owned drainage systems located on private property with public easements shall be limited to the public owned improvements such as concrete structures, pipe systems, and City improved channels. However, it shall be the responsibility of the property owner, occupant or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation including mowing, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required to maintain the free flow of stormwater.

b. Private Responsibilities:

1. Maintenance and operation of a private storm drainage system is the responsibility of the owner of the property.

2. Each developer or owner of land within the City has the responsibility to provide all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's or owner's property both during and after construction of such facilities.

3. Each developer or landowner has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility, which has not been accepted for maintenance by the City. Such responsibility is to run with the land and be transmitted to subsequent owners through appropriate covenants. This maintenance shall include, keeping such facilities free and clear of weeds, brush and vegetation, removal of debris or any other waste material that might impede or hinder the facilities intended use, erosion repair, and removal of silt and maintenance of structural facilities which have not been accepted for maintenance by the City.

4. Owners of detention basins and associated facilities upon completion of construction and on or before May 1 of each year, shall furnish certification by a professional engineer licensed in the State of Kansas that the detention basin has full storage capacity and that all associated facilities including inlet and outlet structures are fully functional.

5. Each property owner or resident adjacent to a natural drainage channel not maintained by the City shall maintain the free flow character by prompt removal of all debris, overgrowth or downed trees and limbs and unapproved structures. All property owners shall cooperate by overseeing their properties without encouragement of the City. In the event an Official Notice is issued by the City in accordance with City Codes and Ordinances, the property owner shall comply and may request the City's assistance as outlined herein.

6. City Assistance – The City may provide assistance through the Public Works Department to the property owner/residents when requested, by hauling and disposing of collected debris, downed tress and broken limbs. The property owner shall cooperate with the City by placing debris and tree limbs on the side of the street for collection by the Public Works Department.

7. Failure to Maintain – If the Director of Public Works determines that the owners, occupants or agents in charge of any lot piece or parcel of land on which a drainage control structure exists or abuts has failed to properly maintain such facility as previously set forth, then Director of Public Works shall notify the owners, occupants or agents in charge of the violation in writing. If the owners, occupants or agents in charge fail, neglect or refuse to comply with the requirements specified in the notice, within 10 days, the City Clerk shall issue notice requiring the owner or agent of the owner of the premises to repair, remove, and/or abate from the premises the thing or things therein described as a defect(s) and/or nuisance and perform the necessary remedial work within ten (10) days. The notice shall state that before the expiration of the waiting period, the recipient thereof may request a hearing before the governing body or it's designated representative. The notice shall be served by delivering a copy thereof to the owner or agent of such owner of the property or, if the owner or owner's agent cannot be located, then by mailing a notice by registered mail to the last known address of the owner or agent of the owner and by posting said notice in a conspicuous place on the property. If the owner or agent fails to comply with the requirement of the notice for a period longer than the ten day time period set forth above, then the city shall proceed to cause the necessary remedial work to be performed and thereby have the things described in the notice repaired, removed, and/or abated from the lot or parcel of ground. The city shall give notice to the owner, occupant or agent by registered mail of the total cost of such repair, abatement or removal incurred by the city. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost of such repair, removal, and/or abatement is not paid within the thirty (30) day period, the cost shall be collected in the manner provided by appropriate legal action or shall be assessed and charged against the lot or parcel of ground on which the nuisance was located. If the cost is to be assessed, the City Clerk at the timing of certifying other city taxes to the county clerk shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

15-516 PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORMWATER DRAINAGE STUDY

No development shall increase the quantity and rates of stormwater emanating from said land areas except in accordance with an approved Stormwater Drainage Study as provided for in these regulations. A professional engineer licensed in the State of Kansas shall prepare the Stormwater Drainage Study. The Director of Public Works shall issue no public works permit or approve any construction plans prior to the approval of the Stormwater Drainage Study.

15-517 STORMWATER DRAINAGE STUDY

A Stormwater Drainage Study shall accompany all preliminary applications for land development submitted in accordance with the City's ordinances. This study shall contain the following information and data:

a. A site plan of suitable scale and contour interval showing topographical information of the land to be developed and adjoining land whose topography may affect the proposed layout or drainage patterns for the development.

b. A general plan of final contours of the site development shall also be shown, as shall all existing streams, waterways, channels, lakes and the extent of the established floodplain and date of flood plain map used.

c. A drainage map showing the location and calculated flow rates of all adjacent storm drainage facilities.

d. A hydraulic and hydrologic summary table showing the 10 and 100-year flows for ultimate development.

e. A general discussion of the type and characteristics of soils contained in the development area.

f. A discussion of the concepts to be considered in the development to handle anticipated stormwater runoff including the methods to be utilized to detain or control increased stormwater runoff generated by the proposed development.

g. A preliminary plan of proposed storm drainage facilities including preliminary calculations of runoff to be handled by such facilities, basic information regarding the effects the proposed project will have on the receiving streams or channels for a distance as far downstream as the runoff will have a noticeable affect. The plan should also include the proposed routing of the 100-year runoff.

h. A discussion of the possible affects that the proposed development could have on downstream facilities and areas adjoining the development and proposed solutions.

Following the receipt of the Stormwater Drainage Study, a general review meeting shall be conducted with the Director of Public Works, representatives of the Developer, and the Developer's Engineer. The purpose of this review meeting shall be to jointly agree on the conceptual methods proposed to be utilized and the possible effects of the proposed development on existing or future adjacent developments.

15-518 FINAL CONSTRUCTION PLANS

Following the review of the Stormwater Drainage Study and after the general approval of the study by the Director of Public Works, Final Construction Plans shall be prepared for each phase of the proposed project as each phase is developed. The submittal of the final plans shall coincide with application for final approval of the development and shall constitute a refinement of the concepts approved in the study. It is important to note that if a project is to be phased, the total area of the conceptual project is to be considered in all calculations and the facility shall be designed for each phase, which will be compatible with those of the total development plan.

Final Construction Plans for any development shall conform to all construction standards set forth in the City's ordinances, including those set forth in Section 15302 of the City's Code.

Final Construction Plans shall also include the following additional information unless specifically allowed to be excluded by the Director of Public Works during the preliminary review of the plans.

a. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of flood plains and calculated high water elevations, the shoreline of lakes, ponds swamps, and detention basins including their inflow and outflow structures, if any.
b. The location and flowline elevation of all existing sanitary and stormwater sewers which fall within the project limits and within a distance of 200 feet beyond the exterior boundaries of said project.

c. Detailed determination of runoff anticipated for the entire project site following project completion indicating volumes and rates of proposed runoff for each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volumes and rates, and summary of the criteria which have been used by the design engineer.

d. A layout of the proposed stormwater system including the location and size of all drainage structures, stormwater sewers, channel and channel sections, detention basins, and analyses regarding the effect said improvement will have upon the receiving channel and its high water elevation. The layout shall also include 100-year flood elevations at lot corners along all open channels improved or natural, 100-year overflow swales and detention basins.

e. The slope, type, size, flow calculations and 10-year and 100-year energy grade line for all existing and proposed storm sewers and other waterways.

f. A grading and erosion and sediment control plan for the project site as described in Sections 15-521 through 15-524 and Sections 15-525 through 15-544 of this Ordinance.

g. For developments with lakes, the plan shall show the location of a silt basin and proposed access to the basin for periodic removal of silt and debris. The plans shall also show an alternate water supply to maintain the normal pool elevation and aeration for the lake.

h. A profile and one or more cross-sections of all existing and proposed channels or other open drainage facilities, showing existing conditions and the proposed changes

ORDINANCE NO. 1838

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM MARK AND JANET HOWELL FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR AMBASSADOR CORPORATE MANOR.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

All of the Southeasterly 25 feet of the Northeasterly 50.98 feet of Lot 20, Block 3, LEAWOOD COUNTRY MANOR, THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1838

Publication Fees: $13.34

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1838--12/21/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 22, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

ORDINANCE NO. 1838

First published in The Legal Record, Tuesday, December 21, 1999.

ORDINANCE NO. 1838

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM MARK AND JANET HOWELL FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR AMBASSADOR CORPORATE MANOR.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

All of the Southeasterly 25 feet of the Northeasterly 50.98 feet of Lot 20, Block 3, LEAWOOD COUNTRY MANOR, THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L) Peggy J. Dunn

$13.34

ORDINANCE NO. 1837 C

AN ORDINANCE AMENDING SECTION 1-208 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO COMPENSATION FOR THE MAYOR AND COUNCILMEMBERS, AND REPEALING EXISTING SECTION.

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

Section 1. Code Amended. That Section 1-208 of the Code of the City of Leawood, Kansas, is hereby amended to read as follows:

1-208. COMPENSATION. (a) There is hereby established 1) a salary of Nine Thousand Six Hundred Dollars ($9,600.00) per year, payable at the rate of Eight Hundred Dollars ($800.00) per month, and 2) a car allowance of Two Thousand Four Hundred Dollars ($2,400.00) per year, payable at the rate of Two Hundred Dollars ($200.00) per month, for the office of the mayor; said sums shall be paid each month until the mayor's term of office shall cease, or he or she is removed from office, or for any reason shall leave office and his or her successor shall be qualified and take over the duties of the office of mayor. Said sums shall be paid from and after January 1, 2000.

(b) There is hereby established a salary of Five Thousand Dollars ($5,000.00) per year for the office of councilmember, payable at the rate of Four Hundred Sixteen and 67/100 Dollars ($416.67) per month; said sum shall be paid each month until the councilmember's term of office shall cease, or he or she is removed from office or for any reason shall leave office and his or her successor shall be qualified and take over the office and duties of councilmember. Said sum shall be paid from and after January 1, 2000.

Section 2. Repeal of Existing Section. That existing Section 1-208 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1597C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn Mayor

ORD1837C

Publication Fees: $18.32

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1837C--12/21/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 22, 1999

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$18.32

ORDINANCE NO. 1837 C

First published in The Legal Record, Tuesday, December 21, 1999.

ORDINANCE NO. 1837 C

AN ORDINANCE AMENDING SECTION 1-208 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO COMPENSATION FOR THE MAYOR AND COUNCILMEMBERS, AND REPEALING EXISTING SECTION.

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

Section 1. Code Amended. That Section 1-208 of the Code of the City of Leawood, Kansas, is hereby amended to read as follows:

1-208. COMPENSATION. (a) There is hereby established 1) a salary of Nine Thousand Six Hundred Dollars ($9,600.00) per year, payable at the rate of Eight Hundred Dollars ($800.00) per month, and 2) a car allowance of Two Thousand Four Hundred Dollars ($2,400.00) per year, payable at the rate of Two Hundred Dollars ($200.00) per month, for the office of the mayor; said sums shall be paid each month until the mayor's term of office shall cease, or he or she is removed from office, or for any reason shall leave office and his or her successor shall be qualified and take over the duties of the office of mayor. Said sums shall be paid from and after January 1, 2000.

(b) There is hereby established a salary of Five Thousand Dollars ($5,000.00) per year for the office of councilmember, payable at the rate of Four Hundred Sixteen and 67/100 Dollars ($416.67) per month; said sum shall be paid each month until the councilmember's term of office shall cease, or he or she is removed from office or for any reason shall leave office and his or her successor shall be qualified and take over the office and duties of councilmember. Said sum shall be paid from and after January 1, 2000.

Section 2. Repeal of Existing Section. That existing Section 1-208 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1597C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

Patricia A. Bennett — City Attorney

ORDINANCE NO. 1836 C

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LEAWOOD, KANSAS, REPEALING EXISTING SECTION 9-118 OF THE CODE RELATING TO A MUNICIPAL COURT FEE.

WHEREAS, municipal court fees are now included in the fine schedule for ordinance traffic violations;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

Section 1. Repeal of Existing Section. That existing Section 9-118 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1026C, 12/21/87)

Section 2. Take Effect. That this ordinance shall take effect and be in force from and after January 1, 2000, and publication as required by law.

PASSED by the Governing Body, the 20th day of December, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM

Patricia Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1836C

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1836C--12/21/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 22, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

ORDINANCE NO. 1836 C

First published in The Legal Record, Tuesday, December 21, 1999.

ORDINANCE NO. 1836 C

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LEAWOOD, KANSAS, REPEALING EXISTING SECTION 9-118 OF THE CODE RELATING TO A MUNICIPAL COURT FEE.

WHEREAS, municipal court fees are now included in the fine schedule for ordinance traffic violations;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

Section 1. Repeal of Existing Section. That existing Section 9-118 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1026C, 12/21/87)

Section 2. Take Effect. That this ordinance shall take effect and be in force from and after January 1, 2000, and publication as required by law.

PASSED by the Governing Body, the 20th day of December, 1999.

Peggy J. Dunn
Peggy J. Dunn, Mayor

(S E A L)

ATTEST:

Martha Heizer
Martha Heizer, City Clerk

APPROVED AS TO FORM

Patricia Bennett, City Attorney

$18.32

ORDINANCE NO. 1835

AN ORDINANCE REZONING PROPERTY (GIBLIN COMMERCE CENTER) LOCATED AT THE NORTHWEST CORNER OF 143RD AND KENNETH ROAD FROM AG (AGRICULTURAL) TO CP-1 (PLANNED NEIGHBORHOOD RETAIL) AND CP-2 (PLANNED GENERAL RETAIL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

TRACT A. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence South 89 degrees 47 minutes 03 seconds West along the South line of said Section 34, a distance of 699.75 feet; thence North 00 degrees 00 minutes 56 seconds West a distance of 50.00 feet, to the Northerly right-of-way of 143rd Street, also being the Southeast corner of Willow Lake Estates, a subdivision of land in the City of Leawood, Johnson County, Kansas, said point being the TRUE POINT OF BEGINNING; thence continuing N 00 degrees 00 minutes 56 seconds West along the easterly line of said Willow Lake Estates a distance of 246.05 feet; thence leaving said easterly line North 89 degrees 47 minutes 03 seconds East a distance of 306.39 feet; thence South 45 degrees 00 minutes 21 seconds East a distance of 43.65 feet; thence South 00 degrees 12 minutes 57 seconds East a distance of 215.07 feet to a point on the northerly right-of-way of said 143rd Street; thence South 89 degrees 47 minutes 03 seconds West along said northerly right-of-way a distance of 338.00 feet to the TRUE POINT OF BEGINNING. Said tract contains 1.90 acres and is subject to all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-1,

AND

TRACT C. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence North 00 degrees 01 minutes 31 seconds West along the East line of said Section 34, a distance of 739.60 feet; thence South 89 degrees 59 minutes 29 seconds West a distance of 40.00 feet, to the Westerly right-of-way of Kenneth Road, said point being the TRUE POINT OF BEGINNING; thence South 00

degrees 01 minutes 31 seconds East along said westerly right -of-way a distance of 402.00 feet; thence South 89 degrees 58 minutes 29 seconds West, a distance of 135.66 feet; thence North 45 degrees 01 minutes 31 seconds West, a distance of 137.67 feet; thence North 00 degrees 01 minutes 31 seconds West, a distance of 325.99 feet; thence South 89 degrees 41 minutes 46 seconds East, a distance of 233.01 feet, to the TRUE POINT OF BEGINNING. Said tract contains 2.04 acres and is subject to all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-1,

AND

TRACT B. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence South 89 degrees 47 minutes 03 seconds West along the South line of said Section 34, a distance of 699.75 feet; thence North 00 degrees 00 minutes 56 seconds West a distance of 50.00 feet, to the Northerly right-of-way of 143rd Street, also being the Southeast corner of Willow Lake Estates, a subdivision of land in the City of Leawood, Johnson County, Kansas; thence continuing N 00 degrees 00 minutes 56 seconds West along the easterly line of said Willow Lake Estates a distance of 246.05 feet; thence leaving said easterly line North 89 degrees 47 minutes 03 seconds East a distance of 306.39 feet to the TRUE POINT OF BEGINNING; thence North 44 degrees 59 minutes 39 seconds East a distance of 170.07 feet; thence North 00 degrees 01 minutes 31 seconds West a distance of 19.99 feet; thence South 45 degrees 01 minutes 31 seconds East a distance of 137.67 feet; thence North 89 degrees 58 minutes 29 seconds East a distance of 135.66 feet, to the westerly right-of-way of Kenneth Road; thence South 00 degrees 01 minutes 31 seconds East along said westerly right -of-way a distance of 287.74 feet to the northerly right-of -way of said 143rd Street; thence South 89 degrees 47 minutes 03 seconds West along said northerly right-of-way 321.74 feet; thence North 0 degrees 12 minutes 57 seconds West a distance of 215.07 feet; thence North 45 degrees 00 minutes 21 seconds West a distance of 43.65 feet to the TRUE POINT OF BEGINNING. Said tract contains 2.32 acres and is subject to

all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-2.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

ORD1835

Publication Fees: $52.66

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1835--12/21/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 22, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$52.66

ORDINANCE NO. 1835

First published in The Legal Record, Tuesday, December 21, 1999.

ORDINANCE NO. 1835

AN ORDINANCE REZONING PROPERTY (GIBLIN COMMERCE CENTER) LOCATED AT THE NORTHWEST CORNER OF 143RD AND KENNETH ROAD FROM AG (AGRICULTURAL) TO CP-1 (PLANNED NEIGHBORHOOD RETAIL) AND CP-2 (PLANNED GENERAL RETAIL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

TRACT A. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence South 89 degrees 47 minutes 03 seconds West along the South line of said Section 34, a distance of 699.75 feet; thence North 00 degrees 00 minutes 56 seconds West a distance of 50.00 feet, to the Northerly right-of-way of 143rd Street, also being the Southeast corner of Willow Lake Estates, a subdivision of land in the City of Leawood, Johnson County, Kansas, said point being the TRUE POINT OF BEGINNING; thence continuing N 00 degrees 00 minutes 56 seconds West along the easterly line of said Willow Lake Estates a distance of 246.05 feet; thence leaving said easterly line North 89 degrees 47 minutes 03 seconds East a distance of 306.39 feet; thence South 45 degrees 00 minutes 21 seconds East a distance of 43.65 feet; thence South 00 degrees 12 minutes 57 seconds East a distance of 215.07 feet to a point on the northerly right-of-way of said 143rd Street; thence South 89 degrees 47 minutes 03 seconds West along said northerly right-of-way a distance of 338.00 feet to the TRUE POINT OF BEGINNING. Said tract contains 1.90 acres and is subject to all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-1,

AND

TRACT C. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence North 00 degrees 01 minutes 31 seconds West along the East line of said Section 34, a distance of 739.60 feet; thence South 89 degrees 59 minutes 29 seconds West a distance of 40.00 feet, to the Westerly right-of-way of Kenneth Road, said point being the TRUE POINT OF BEGINNING; thence South 00 degrees 01 minutes 31 seconds East along said westerly right-of-way a distance of 402.00 feet; thence South 89 degrees 58 minutes 29 seconds West, a distance of 135.66 feet; thence North 45 degrees 01 minutes 31 seconds West, a distance of 137.67 feet; thence North 00 degrees 01 minutes 31 seconds West, a distance of 325.99 feet; thence South 89 degrees 41 minutes 46 seconds East, a distance of 233.01 feet, to the TRUE POINT OF BEGINNING. Said tract contains 2.04 acres and is subject to all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-1,

AND

TRACT B. That portion of the Southeast quarter of Section 34, Township 13, Range 25 in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Section 34; thence South 89 degrees 47 minutes 03 seconds West along the South line of said Section 34, a distance of 699.75 feet; thence North 00 degrees 00 minutes 56 seconds West a distance of 50.00 feet, to the Northerly right-of-way of 143rd Street, also being the Southeast corner of Willow Lake Estates, a subdivision of land in the City of Leawood, Johnson County, Kansas; thence continuing N 00 degrees 00 minutes 56 seconds West along the easterly line of said Willow Lake Estates a distance of 246.05 feet; thence leaving said easterly line North 89 degrees 47 minutes 03 seconds East a distance of 306.39 feet to the TRUE POINT OF BEGINNING; thence North 44 degrees 59 minutes 39 seconds East a distance of 170.07 feet; thence North 00 degrees 01 minutes 31 seconds West a distance of 19.99 feet; thence South 45 degrees 01 minutes 31 seconds East a distance of 137.67 feet; thence North 89 degrees 58 minutes 29 seconds East a distance of 135.66 feet, to the westerly right-of-way of Kenneth Road; thence South 00 degrees 01 minutes 31 seconds East along said westerly right-of-way a distance of 287.74 feet to the northerly right-of-way of said 143rd Street; thence South 89 degrees 47 minutes 03 seconds West along said northerly right-of-way 321.74 feet; thence North 0 degrees 12 minutes 57 seconds West a distance of 215.07 feet; thence North 45 degrees 00 minutes 21 seconds West a distance of 43.65 feet to the TRUE POINT OF BEGINNING. Said tract contains 2.32 acres and is subject to all easements, restrictions, or covenants, recorded or unrecorded

now zoned AG, is hereby rezoned CP-2.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of December, 1999.

Approved by the Mayor the 20th day of December, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

ORDINANCE NO. 1834 C

AN ORDINANCE TO REGULATE THE USE OF THE PUBLIC RIGHT-OF-WAY BY ADOPTING ARTICLE 3 TO CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "USE AND EXCAVATION OF THE RIGHT-OF-WAY," AND REPEALING ORDINANCE 1821C AND THE LEAWOOD CITY CODE SECTIONS 13-1A02, 13-1A03, AND 13-202 THROUGH 13-214.

WHEREAS, the increased use and demand on the right-of-way by utilities and other right-of-way users has created a need for the City to regulate such use by ordinance; and

WHEREAS, the Governing Body has determined that such ordinance is necessary to protect the public safety and welfare; and

WHEREAS, the City has the authority to adopt by ordinance such regulation through both statute, home rule and its police powers; and

WHEREAS, on October 18, 1999 the Governing Body approved Ordinance 1821C creating an ordinance regarding the Use and Occupancy of the Public Right-of-way; and

WHEREAS, on that date the city of Overland Park approved a similar but different ordinance; and

WHEREAS, on November 1, 1999 the Governing Body indicated its desire to adopt changes to Ordinance 1821C to coincide with the ordinance approved by the city of Overland Park; and

WHEREAS, the Governing Body now hereby repeals and amends the provisions enacted by Ordinance 1821C regarding the Use and Occupancy of the Public Right-of-way to adopt these changes;

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Ordinance No. 1821C is hereby repealed.

Section 2. That Sections 13-1A02, 13-1A03, and 13-202 through 13-214 of the Leawood City Code are hereby repealed.

Section 3. That the code of the City of Leawood is hereby amended by adding Article 3 of Chapter 13 which as follows:

ARTICLE 3 USE AND OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY

13-301 General.

(a) No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided herein.

13-302 Purpose.

(a) To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;

(b) To clarify and regulate conditions of occupancy and construction for those ROW-users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW-users throughout the country;

(c) To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;

(d) To treat each ROW-user equitably and in a competitively neutral manner with considerations that may be unique to the technologies and situation of each particular ROW-user;

(e) To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health,

safety and welfare; and

(f) To comply with state and federal legislation.

13-303 Definitions.

(a) For purposes of this Ordinance, the following words and phrases shall have the meaning given herein:

(1) **"Abandoned Facilities"** means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.

(2) **"Administrative Fee"** means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this ordinance.

(3) **"Affiliate"** means any person controlling, controlled by or under the common control of a "service provider".

(4) **"Applicant"** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

(5) **"Area of Influence"** means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

(6) **"City"** means the City of Leawood, Kansas, a municipal corporation and any duly authorized representative.

(7) **"Construct"** means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

(8) **"Day"** means calendar day unless otherwise specified.

(9) **"Degradation"** means the accelerated depreciation of a street caused by excavation in or disturbance of the street, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(10) **"Degradation fee"** means the fee charged by the City to recover the cost to the City and the public at large associated with a decrease in the useful life of a street caused by excavation.

(11) **"Depreciation rate"** means the rate at which the useful service life of a public street improvement deteriorates over time.

(12) **"Emergency"** means a condition that (a) poses a clear and immediate danger to life or health, or of a significant loss of property; or (b) requires immediate repair or replacement in order to restore service to a user.

(13) **"Excavate"** means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

(14) **"FCC"** means Federal Communications Commission.

(15) **"Facility"** means lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

(16) **"Facility based service provider"** means a service provider owning or possessing facilities in the right-of-way.

(17) **"Governing body"** means the Mayor and the City Council of the City of Leawood, Kansas.

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

(19) **"KCC"** means the Kansas Corporation Commission.

(20) **"Parkway"** means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.

(21) **"Pavement"** means and includes Portland cement concrete pavement, asphalt concrete

pavement, asphalt treated road surfaces and any aggregate base material.

(22) **"Permittee"** means any person to whom a right-of-way permit is issued to excavate a right-of-way.

(23) **"Person"** means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(24) **"Public improvement"** means any project undertaken by the City for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

(25) **"Public lands"** means any real property of the City that is not right-of-way.

(26) **"Public Works Director"** means the Public Works Director, Leawood, Kansas, or the authorized representative.

(27) **"Registration"** means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the City to provide service both within and beyond the City limits.

(28) **"Repair"** means the temporary construction work necessary to make the right-of-way useable.

(29) **"Reseller service provider"** means a service provider providing service within the City that does not have its own facilities in the right-of-way, but instead uses the right-of-way by interconnecting with or using the network elements of another service provider utilizing the right-of-way, and/or by leasing excess capacity from a facility-based service provider.

(30) **"Restoration"** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, that existed before the commencement of the work.

(31) **"Right-of-way"** means the area on, below or above the present and future City streets, alleys, bridges, bikeways, parkways and sidewalks.

(32) **"Right-of-way Permit"** means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

(33) **"Routine Service Operation"** means a work activity that makes no material change to the facilities and does not disrupt traffic.

(34) **"ROW-user"** means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way, or a reseller service provider that does not own or control its own facilities in the right-of-way.

(35) **"Service"** means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, Open Video Systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

(36) **"Service provider"** means any person that is a provider of a service for or without a fee that has the requisite certifications and authorizations from applicable governmental entities, including the KCC and the FCC, to provide such service. Service provider includes both facility-based service providers and reseller service providers.

(37) **"Street"** means the pavement and sub-grade of a City residential, collector or arterial roadway.

13-304 Policy.

(a) It is the policy of the City to authorize any ROW-user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way

and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW-user shall be subject to the terms and conditions hereof, in addition to other applicable federal, state or local requirements.

(b) The right granted to the ROW-user to use the right-of-way is limited to the use that the ROW-user has filed with the City in accordance with this Ordinance. These rights are for the exclusive use of the ROW-user except where otherwise provided herein, or when authorized by the City.

(c) This Ordinance also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits which grant the authority to utilize and occupy the right-of-way within the City.

(d) All ROW-users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW-users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

13-305 Administration.

(a) The Public Works Director is the principal city official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.

(b) The Public Works Director is the principal City Official responsible for administration of the registering of a service provider. The Public Works Director may delegate any or all of the duties hereunder.

13-306 Requirements of Service Provider.

(a) Any existing service provider must register within thirty (30) days of the effective date of this Ordinance.

(b) Any person, who is not an existing service provider prior to the effective date of this Ordinance and who wishes to become a service provider, must first register with the City.

(c) The service provider shall report any changes in its registration information within thirty (30) days.

(d) No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.

(e) The information required for registration includes the following:

(1) Identity and legal status of service provider, including related affiliates.

(2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.

(3) Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.

(4) Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(5) Description of the service provider's intended use of the right-of-way.

(6) Information sufficient to determine whether the service provider is subject to franchising by Kansas law.

(7) Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the Kansas Corporation Commission.

(8) Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the Federal Communications Commission.

(9) Information which identifies reseller service providers as provided hereinafter.

(10) Such other information as may be reasonably required by the City to complete the registration statement.

(f) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this Ordinance. The service provider shall present to the City the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.

(g) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(h) Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.

(i) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(j) The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.

(k) To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:

(1) The capacity of the right-of-way to accommodate service facilities;

(2) The impact on the community of the volume of facilities in the right-of-way;

(3) The disruption arising from numerous excavations of the right-of-way;

(4) The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or

(5) Any other consideration based upon the interests of the public safety and welfare.

(l) The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

13-307 Mapping Requirement of Service Provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the City's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

(f) Such information shall be considered confidential and proprietary and shall remain the sole property of the service provider. Additionally, pursuant to K.S.A. 45-221(18), as amended, such information shall not constitute public records subject to K.S.A. 45-218, as amended. In the event the City's denial of any request for such information is challenged, the City shall immediately notify the service provider, and will take such action as may be reasonably required to cooperate with the service provider's efforts to safeguard such information.

13-308 Service Provider's Right to Sell, Transfer, Lease, Assign, Sublet or Dispose.

(a) Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or

involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

13-309 Reseller Service Providers.

(a) A service provider may permit and has the authority to sell, sublet, or lease any use of excess capacity and sell services for resale to any reseller service provider providing service within the City, including the service provider's subsidiary or affiliate. The reseller service provider shall first register and obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC. The service provider shall also provide the City on at least a semi-annual basis the identity of entities with which the service provider has entered into an interconnection and/or resale agreement within the State of Kansas. This notice will not relieve the reseller service provider from its own obligation to register and obtain any necessary franchise with the City. Nothing in this Ordinance shall prevent a facility-based service provider from providing to any reseller service provider the use of the facility-based service provider's facilities in the right-of-way as authorized by federal or state law.

13-310 Use of the Right-of-Way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.

(b) The ROW-user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.

(c) The ROW-user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, subject to the appeal process contained in Section 13-328, as amended.

(h) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or

excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(l) The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

13-311 Facility Relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.

(c) As soon as working drawings are available for public improvements which will require the ROW-user

to relocate its facilities, the City shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.

(d) Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.

(e) Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

(g) It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

13-312 Protection of the Public.

(a) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

(b) The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

(c) The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this Ordinance to the extent caused by the acts or omissions of the ROW-user.

(d) The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations.

(e) Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

(f) Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

(g) Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

(h) The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent the branches of such trees from coming in contact with the facilities of the ROW-user.

(i) In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

(j) Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than 24-hours advance notice from the person advising of the actual operation.

13-313 Right-of-way Vacation.

(a) If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

(b) If the vacation requires the relocation of facilities, and

(1) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.

(2) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(3) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

13-314 Abandoned and Unusable Facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the City that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW-user.

13-315 Permit Requirement.

(a) Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

(b) There are two exemptions to this provision:

(1) Contractors working on the construction or reconstruction of public improvements.

(2) ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.

(c) No person owning or occupying any land abutting on a public right-of-way shall construct, maintain,

or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

(d) A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

(e) No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and

(2) A new right-of-way permit or permit extension is granted.

(f) Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

(g) Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.

(h) All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.

(i) Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(j) Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.

(k) Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

13-316 Permit Applications.

(a) Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;

(3) A traffic control plan;

(4) Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.

13-317 Liability Insurance, Performance and Maintenance Bond Requirement.

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

(b) The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the

bond will be $5,000 or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this ordinance. An annual bond in an amount of $50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

(d) No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation.

13-318 Right-of-way Permit Fees.

(a) The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the Schedule of Fees maintained in the City Clerk's office.

(b) The right-of-way permit fee may include an administrative fee and a degradation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.

13-319 Issuance of Permit.

(a) If the Public Works Director determines that the applicant has satisfied the requirements of this Ordinance, the Public Works Director shall issue a right-of-way permit.

(b) The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the a performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

13-320 Permitted Work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. *Except in the event of an emergency as reasonably determined by the permittee, no such closure shall* take place without notice and prior authorization from the City.

(f) Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 AM to 8:30 AM and 4:00 PM to 6:00 PM, in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic

shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this Ordinance.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

(m) The City may use the as-built records of the service provider's facilities in connection with public improvements.

13-321 Right-of-way Repair and Restoration.

(a) The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

(b) All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen days will be provided to allow for the deficiencies to be corrected.

(c) After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.

(d) In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.

(e) If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its

option, serve written notice upon the permittee and its surety that, unless within five (5) days after serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise, at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.

(f) The permittee responsible for the excavation who leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirement.

(g) If an excavation cannot be back-filled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.

(h) In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the Public Works Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works (not including days during which work cannot be done because of circumstances constituting force Majeure or days when work is prohibited as unseasonable or unreasonable) In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the Public Works Director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.

(i) The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.

(j) Payment of a degradation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

13-322 Joint Applications.

(a) Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.

(b) Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

13-323 Supplementary Applications.

(a) A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area: (a) make application for a permit extension and pay any additional fees required thereby; and (b) receive a new right-of-way permit or permit extension.

(b) A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date.

13-324 Other Obligations.

(a) Obtaining a right-of-way permit under this ordinance shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal rules, laws, or regulations. A permittee shall perform all work in full accord with any and all applicable

engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, and the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.

(b) Except in cases of an emergency or with approval of the Public Works Director, no right-of-way work may be done when conditions are unreasonable for such work.

(c) A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.

13-325 Denial of Permit.

(a) The Public Works Director may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his discretion, may consider one or more of the following factors in denial of the permit:

(1) The extent to which the right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;

(4) The applicability of any ordinance or other regulations that affect location of facilities in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The condition and age of the right-of-way, which was constructed or reconstructed within the preceding five (5) years;

(8) The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;

(9) Whether the applicant maintains a current registration with the City;

(10) Whether the applicant has failed within the last three (3) years to comply, or is presently not in full compliance with, the requirements of this ordinance;

(11) Whether the applicant has delinquent debt owed to the City;

(12) Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.

(b) Notwithstanding the above provisions, the Public Works Director may in his discretion issue a right-of-way permit in any case where the permit is necessary to:

(1) Prevent substantial economic hardship to a user of the applicant's service;

(2) Allow such user to materially improve the service provided by the applicant.

13-326 Revocation of Permit.

(a) Permittees hold right-of-way permits issued pursuant to this ordinance as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any right-of-way permit, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

(3) Any material misrepresentation of any fact in the permit application;

(4) The failure to maintain the required bond or insurance;

(5) The failure to complete the work in a timely manner;

(6) The failure to correct a condition indicated on an order issued pursuant to this ordinance;

(7) Repeated traffic control violations; or

(8) Failure to repair facilities damaged in the right-of-way.

(b) If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated above, will allow the Public Works Director, at his discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the Public Works Director with a plan, acceptable to the Public Works Director, for correction of the breach. Permittee's failure to contact the Public Works Director, permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

(c) If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

13-327 Work Requirements and Inspections.

(a) Any excavation, back filling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.

(b) The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper back-filling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.

(c) The permittee shall notify the office of the Public Works Director upon completion of the authorized work permit.

(d) The permittee will notify the Public Works Director to schedule an inspection at the start of back filling. *Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout* inspection.

(e) When any corrective actions required have been completed and inspected to the Public Works Director's satisfaction, the two (2) year maintenance period will begin.

(f) In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the permittee.

(g) At the time of any inspection, the Public Works Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well being of the public. The Public Works Director may issue a citation to the permittee for any work, which does not conform, to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit.

13-328 Appeals Process.

(a) Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the City Administrator within ten (10) calendar days of the date of notice of such decision or action.

(b) The persons shall be afforded a hearing on the matter before the City Administrator within thirty (30) days of filing the appeal.

(c) In cases of applicability or interpretation of the rules, the City Administrator may revoke such decision or action taken by the Public Works Director.

(d) In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the City Administrator may extend the time limit of such decision or action, or

may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The City Administrator shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

(e) Pending a decision of the City Administrator, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(f) If a person still deems themselves aggrieved after the appeal to the City Administrator, such person shall have thirty (30) days after the effective date of the City Administrator's final decision to institute an action in the District Court of Johnson County, Kansas.

13-329 Indemnification.

(a) A ROW-user operating under the provisions of this ordinance shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the ROW-user in the performance of the permitted work. The City agrees to timely notify the ROW-user of such claim, demand, suit, proceeding, and/or action by providing written notice to the ROW-user and the registered agent of the ROW-user. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the ROW-user from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

13-330 Force Majeure.

(a) Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW-user's or the City's control.

13-331 Federal, State and City Jurisdiction.

(a) This ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this ordinance to the contrary, the construction, operation and maintenance of the ROW-user's facilities shall be in accordance with all laws and regulations of the United States, the state and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW-user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW-user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW-user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW-user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this ordinance.

13-332 Severability.

(a) If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

13-333 City's Failure to Enforce.

(a) The City's failure to enforce or remedy any noncompliance of the terms and conditions of this ordinance or of any permit granted hereunder shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as herein provided.

13-334 Penalties.

(a) Any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00). Every day that this chapter is violated shall constitute a separate offense.

(b) The violation of any provision of this ordinance is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

(c) The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Ordinance.

13-335 Reservation of Rights.

(a) In addition to any rights specifically reserved to the City by this ordinance, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this ordinance. The City shall have the right to waive any provision of this ordinance or any registration, permit or other authorization granted thereunder, except those required by federal or state law, if the City determines as follows: (a) that it is in the public interest to do so; and (b) that the enforcement of such provision will impose an undue hardship on the person. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

(b) Notwithstanding anything to the contrary set forth herein, the provisions of this Ordinance shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the right-of-way.

13-336 Repeal of Other Ordinances.

(a) All other ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this ordinance shall not take effect or become in force until the requirements for adopting an ordinance as set forth in the City of Leawood Municipal Code have occurred.

Section 4. This ordinance shall take effect and be in force from and after January 1, 2000, and after publication as provided by law.

PASSED by the Governing Body, this 6th day of December, 1999.

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1834C

Publication Fees: $293.04

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1834C--12/7/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 8, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$293.04

ORDINANCE NO. 1834 C

First published in The Legal Record, Tuesday, December 7, 1999.

ORDINANCE NO. 1834 C

AN ORDINANCE TO REGULATE THE USE OF THE PUBLIC RIGHT-OF-WAY BY ADOPTING ARTICLE 3 TO CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "USE AND EXCAVATION OF THE RIGHT-OF-WAY," AND REPEALING ORDINANCE 1821C AND THE LEAWOOD CITY CODE SECTIONS 13-1A02, 13-1A03, AND 13-202 THROUGH 13-214.

WHEREAS, the increased use and demand on the right-of-way by utilities and other right-of-way users has created a need for the City to regulate such use by ordinance; and

WHEREAS, the Governing Body has determined that such ordinance is necessary to protect the public safety and welfare; and

WHEREAS, the City has the authority to adopt by ordinance such regulation through both statute, home rule and its police powers; and

WHEREAS, on October 18, 1999 the Governing Body approved Ordinance 1821C creating an ordinance regarding the Use and Occupancy of the Public Right-of-way; and

WHEREAS, on that date the city of Overland Park approved a similar but different ordinance; and

WHEREAS, on November 1, 1999 the Governing Body indicated its desire to adopt changes to Ordinance 1821C to coincide with the ordinance approved by the city of Overland Park; and

WHEREAS, the Governing Body now hereby repeals and amends the provisions enacted by Ordinance 1821C regarding the Use and Occupancy of the Public Right-of-way to adopt these changes;

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Ordinance No. 1821C is hereby repealed.

Section 2. That Sections 13-1A02, 13-1A03, and 13-202 through 13-214 of the Leawood City Code are hereby repealed.

Section 3. That the code of the City of Leawood is hereby amended by adding Article 3 of Chapter 13 which as follows:

ARTICLE 3 USE AND OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY

13-301 General.

(a) No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided herein.

13-302 Purpose.

(a) To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;

(b) To clarify and regulate conditions of occupancy and construction for those ROW-users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW-users throughout the country;

(c) To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;

(d) To treat each ROW-user equitably and in a competitively neutral manner with considerations that may be unique to the technologies and situation of each particular ROW-user;

(e) To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health, safety and welfare; and

(f) To comply with state and federal legislation.

13-303 Definitions.

(a) For purposes of this Ordinance, the following words and phrases shall have the meaning given herein:

(1) **"Abandoned Facilities"** means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.

(2) **"Administrative Fee"** means the fee charged by the City to recover its cost incurred for right-of-way management including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this ordinance.

(3) **"Affiliate"** means any person controlling, controlled by or under the common control of a "service provider".

(4) **"Applicant"** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

(5) **"Area of Influence"** means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

(6) **"City"** means the City of Leawood, Kansas, a municipal corporation and any duly authorized representative.

(7) **"Construct"** means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

(8) **"Day"** means calendar day unless otherwise specified.

(9) **"Degradation"** means the accelerated depreciation of a street caused by excavation in or disturbance of the street, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(10) **"Degradation fee"** means the fee charged by the City to recover the cost to the City and the public at large associated with a decrease in the useful life of a street caused by excavation.

(11) **"Depreciation rate"** means the rate at which the useful service life of a public street improvement deteriorates over time.

(12) **"Emergency"** means a condition that (a) poses a clear and immediate danger to life or health, or of a significant loss of property; or (b) requires immediate repair or replacement in order to restore service to a user.

(13) **"Excavate"** means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

(14) **"FCC"** means Federal Communications Commission.

(15) **"Facility"** means lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

(16) **"Facility based service provider"** means a service provider owning or possessing facilities in the right-of-way.

(17) **"Governing body"** means the Mayor and the City Council of the City of Leawood, Kansas.

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

(19) **"KCC"** means the Kansas Corporation Commission.

(20) **"Parkway"** means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.

(21) **"Pavement"** means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

(22) **"Permittee"** means any person to whom a right-of-way permit is issued to excavate a right-of-way.

(23) **"Person"** means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(24) **"Public improvement"** means any project undertaken by the City for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

(25) **"Public lands"** means any real property of the City that is not right-of-way.

(26) **"Public Works Director"** means the Public Works Director, Leawood, Kansas, or the authorized representative.

(27) **"Registration"** means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the City to provide service both within and beyond the City limits.

(28) **"Repair"** means the temporary construction work necessary to make the right-of-way useable.

(29) **"Reseller service provider"** means a service provider providing service within the City that does not have its own facilities in the right-of-way, but instead uses the right-of-way by interconnecting with or using the network elements of another service provider utilizing the right-of-way, and/or by leasing excess capacity from a facility-based service provider.

(30) **"Restoration"** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, that existed before the commencement of the work.

(31) **"Right-of-way"** means the area on, below or above the present and future City streets, alleys, bridges, bikeways, parkways and sidewalks.

(32) **"Right-of-way Permit"** means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

(33) **"Routine Service Operation"** means a work activity that makes no material change to the facilities and does not disrupt traffic.

(34) **"ROW-user"** means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2001 et seq. with the City regarding the use and occupancy of the City's right-of-way, or a reseller service provider that does not own or control its own facilities in the right-of-way.

(35) **"Service"** means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, Open Video Systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

(36) **"Service provider"** means any person that is a provider of a service for or without a fee that has the requisite certifications and authorizations from applicable governmental entities, including the KCC and the FCC, to provide such service. Service provider includes both facility-based service providers and reseller service providers.

(37) **"Street"** means the pavement and sub-grade of a City residential, collector or arterial roadway.

13-304 Policy.

(a) It is the policy of the City to authorize any ROW-user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW-user shall be subject to the terms and conditions hereof, in addition to other applicable federal, state or local requirements.

(b) The right granted to the ROW-user to use the right-of-way is limited to the use that the ROW-user has filed with the City in accordance with this Ordinance. These rights are for the exclusive use of the ROW-user except where otherwise provided herein, or when authorized by the City.

(c) This Ordinance also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits which grant the authority to utilize and occupy the right-of-way within the City.

(d) All ROW-users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW-users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

13-305 Administration.

(a) The Public Works Director is the principal city official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.

(b) The Public Works Director is the principal City Official responsible for administration of the registering of a service provider. The Public Works Director may delegate any or all of the duties hereunder.

13-306 Requirements of Service Provider.

(a) Any existing service provider must register within thirty (30) days of the effective date of this Ordinance.

(b) Any person, who is not an existing service provider prior to the effective date of this Ordinance and who wishes to become a service provider, must first register with the City.

(c) The service provider shall report any changes in its registration information within thirty (30) days.

(d) No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.

(e) The information required for registration includes the following:

(1) Identity and legal status of service provider, including related affiliates.

(2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.

(3) Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.

(4) Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(5) Description of the service provider's intended use of the right-of-way.

(6) Information sufficient to determine whether the service provider is subject to franchising by Kansas law.

(7) Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the Kansas Corporation Commission.

(8) Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the Federal Communications Commission.

(9) Information which identifies reseller service providers as provided hereinafter.

(10) Such other information as may be reasonably required by the City to complete the registration statement.

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

(f) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this Ordinance. The service provider shall present to the City the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.

(g) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(h) Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.

(i) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(j) The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.

(k) To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:

(1) The capacity of the right-of-way to accommodate service facilities;

(2) The impact on the community of the volume of facilities in the right-of-way;

(3) The disruption arising from numerous excavations of the right-of-way;

(4) The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or

(5) Any other consideration based upon the interests of the public safety and welfare.

(l) The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

13-307 Mapping Requirement of Service Provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the City's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

(f) Such information shall be considered confidential and proprietary and shall remain the sole property of the service provider. Additionally, pursuant to K.S.A. 45-221(18), as amended, such information shall not constitute public records subject to K.S.A. 45-218, as amended. In the event the City's denial of any request for such information is challenged, the City shall immediately notify the service provider, and will take such action as may be reasonably required to cooperate with the service provider's efforts to safeguard such information.

13-308 Service Provider's Right to Sell, Transfer, Lease, Assign, Sublet or Dispose.

(a) Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

13-309 Reseller Service Providers.

(a) A service provider may permit and has the authority to sell, sublet, or lease any use of excess capacity and sell services for resale to any reseller service provider providing service within the City, including the service provider's subsidiary or affiliate. The reseller service provider shall first register and obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC. The service provider shall also provide the City on at least a semi-annual basis the identity of entities with which the service provider has entered into an interconnection and/or resale agreement within the State of Kansas. This notice will not relieve the reseller service provider from its own obligation to register and obtain any necessary franchise with the City. Nothing in this Ordinance shall prevent a facility-based service provider from providing to any reseller service provider the use of the facility-based service provider's facilities in the right-of-way as authorized by federal or state law.

13-310 Use of the Right-of-Way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right *to exercise its governmental powers now and hereafter vested in or granted to the City.*

(b) The ROW-user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.

(c) The ROW-user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, subject to the appeal process contained in Section 13-328, as amended.

(h) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or *replacement of the* damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(l) The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

13-311 Facility Relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, *for a public improvement, at City expense, by moving* such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.

(c) As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the City shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.

(d) Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.

(e) Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

(g) It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

13-312 Protection of the Public.

(a) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

(b) The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

(c) The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this Ordinance to the extent caused by the acts or omissions of the ROW-user.

(d) The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations.

(e) Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

(f) Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

(g) Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

(h) The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent the branches of such trees from coming in contact with the facilities of the ROW-user.

(i) In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

(c) Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than 24-hours advance notice from the person advising of the actual operation.

13-313 Right-of-way Vacation.

(a) If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

(b) If the vacation requires the relocation of facilities, and

(1) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.

(2) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(3) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

13-314 Abandoned and Unusable Facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the City that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW-user.

13-315 Permit Requirement.

(a) Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

(b) There are two exemptions to this provision:

(1) Contractors working on the construction or reconstruction of public improvements.

(2) ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.

(c) No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

(d) A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

(e) No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and

(2) A new right-of-way permit or permit extension is granted.

(f) Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

(g) Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.

(h) All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.

(i) Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(j) Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.

(k) Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

13-316 Permit Applications.

(a) Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) Submission of a completed permit application form, including all required attachments and sealed drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;

(3) A traffic control plan;

(4) Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.

13-317 Liability Insurance, Performance and Maintenance Bond Requirement.

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

(b) The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the term of the permit plus two additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this ordinance. An annual bond in an amount of $50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

(d) No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation.

13-318 Right-of-way Permit Fees.

(a) The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the Schedule of Fees maintained in the City Clerk's office.

(b) The right-of-way permit fee may include an administrative fee and a degradation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.

13-319 Issuance of Permit.

(a) If the Public Works Director determines that the applicant has satisfied the requirements of this Ordinance, the Public Works Director shall issue a right-of-way permit.

(b) The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the a performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

13-320 Permitted Work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.

(f) Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 AM to 8:30 AM and 4:00 PM to 6:00 PM, in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this Ordinance.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

(m) The City may use the as-built records of the service provider's facilities in connection with public improvements.

13-321 Right-of-way Repair and Restoration.

(a) The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unreasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

(b) All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen days will be provided to allow for the deficiencies to be corrected.

(c) After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.

(d) In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.

(e) If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

(j) Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than 24-hours advance notice from the person advising of the actual operation.

13-313 Right-of-way Vacation.

(a) If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

(b) If the vacation requires the relocation of facilities, and

(1) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.

(2) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(3) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

13-314 Abandoned and Unusable Facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the City that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW-user.

13-315 Permit Requirement.

(a) Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

(b) There are two exemptions to this provision:

(1) Contractors working on the construction or reconstruction of public improvements.

(2) ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.

(c) No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

(d) A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

(e) No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and

(2) A new right-of-way permit or permit extension is granted.

(f) Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

(g) Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.

(h) All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.

(i) Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(j) Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.

(k) Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

13-316 Permit Applications.

(a) Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;

(3) A traffic control plan;

(4) Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.

13-317 Liability Insurance, Performance and Maintenance Bond Requirement.

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

(b) The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be $5,000 or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this ordinance. An annual bond in an amount of $50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

(d) No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation.

13-318 Right-of-way Permit Fees.

(a) The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the Schedule of Fees maintained in the City Clerk's office.

(b) The right-of-way permit fee may include an administrative fee and a degradation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.

13-319 Issuance of Permit.

(a) If the Public Works Director determines that the applicant has satisfied the requirements of this Ordinance, the Public Works Director shall issue a right-of-way permit.

(b) The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the a performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

13-320 Permitted Work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.

(f) Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 AM to 8:30 AM and 4:00 PM to 6:00 PM, in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this Ordinance.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

(m) The City may use the as-built records of the service provider's facilities in connection with public improvements.

13-321 Right-of-way Repair and Restoration.

(a) The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

(b) All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen days will be provided to allow for the deficiencies to be corrected.

(c) After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.

(d) In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.

(e) If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its

CONTINUED FROM PRECEDING PAGE

(f) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this Ordinance. The service provider shall present to the City the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.

(g) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(h) Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.

(i) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(j) The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.

(k) To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:

(1) The capacity of the right-of-way to accommodate service facilities;

(2) The impact on the community of the volume of facilities in the right-of-way;

(3) The disruption arising from numerous excavations of the right-of-way;

(4) The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or

(5) Any other consideration based upon the interests of the public safety and welfare.

(l) The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

13-307 Mapping Requirement of Service Provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the City's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

(f) Such information shall be considered confidential and proprietary and shall remain the sole property of the service provider. Additionally, pursuant to K.S.A. 45-221(18), as amended, such information shall not constitute public records subject to K.S.A. 45-218, as amended. In the event the City's denial of any request for such information is challenged, the City shall immediately notify the service provider, and will take such action as may be reasonably required to cooperate with the service provider's efforts to safeguard such information.

13-308 Service Provider's Right to Sell, Transfer, Lease, Assign, Sublet or Dispose.

(a) Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

13-309 Reseller Service Providers.

(a) A service provider may permit and has the authority to sell, sublet, or lease any use of excess capacity and sell services for resale to any reseller service provider providing service within the City, including the service provider's subsidiary or affiliate. The reseller service provider shall first register and obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC. The service provider shall also provide the City on at least a semi-annual basis the identity of entities with which the service provider has entered into an interconnection and/or resale agreement within the State of Kansas. This notice will not relieve the reseller service provider from its own obligation to register and obtain any necessary franchise with the City. Nothing in this Ordinance shall prevent a facility-based service provider from providing to any reseller service provider the use of the facility-based service provider's facilities in the right-of-way as authorized by federal or state law.

13-310 Use of the Right-of-Way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.

(b) The ROW-user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.

(c) The ROW-user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, subject to the appeal process contained in Section 13-328, as amended.

(h) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(l) The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

13-311 Facility Relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easement which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.

(c) As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the City shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.

(d) Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.

(e) Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived:

(g) It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

13-312 Protection of the Public.

(a) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

(b) The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

(c) The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this Ordinance to the extent caused by the acts or omissions of the ROW-user.

(d) The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations.

(e) Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

(f) Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

(g) Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

(h) The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent the branches of such trees from coming in contact with the facilities of the ROW-user.

(i) In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

CONTINUED FROM PRECEDING PAGE

option, serve written notice upon the permittee and its surety that, unless within five (5) days after serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise, at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.

(f) The permittee responsible for the excavation who leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirement.

(g) If an excavation cannot be back-filled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.

(h) In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the Public Works Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works (not including days during which work cannot be done because of circumstances constituting force Majeure or days when work is prohibited as unseasonable or unreasonable) In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the Public Works Director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.

(i) The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.

(j) Payment of a degradation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

13-322 Joint Applications.

(a) Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.

(b) Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

13-323 Supplementary Applications.

(a) A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area: (a) make application for a permit extension and pay any additional fees required thereby; and (b) receive a new right-of-way permit or permit extension.

(b) A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date.

13-324 Other Obligations.

(a) Obtaining a right-of-way permit under this ordinance shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal rules, laws, or regulations. A permittee shall perform all work in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, and the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.

(b) Except in cases of an emergency or with approval of the Public Works Director, no right-of-way work may be done when conditions are unreasonable for such work.

(c) A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.

13-325 Denial of Permit.

(a) The Public Works Director may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his discretion, may consider one or more of the following factors in denial of the permit:

(1) The extent to which the right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;

(4) The applicability of any ordinance or other regulations that affect location of facilities in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The condition and age of the right-of-way, which was constructed or reconstructed within the preceding five (5) years;

(8) The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;

(9) Whether the applicant maintains a current registration with the City;

(10) Whether the applicant has failed within the last three (3) years to comply, or is presently not in full compliance with, the requirements of this ordinance;

(11) Whether the applicant has delinquent debt owed to the City;

(12) Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.

(b) Notwithstanding the above provisions, the Public Works Director may in his discretion issue a right-of-way permit in any case where the permit is necessary to:

(1) Prevent substantial economic hardship to a user of the applicant's service;

(2) Allow such user to materially improve the service provided by the applicant.

13-326 Revocation of Permit.

(a) Permittees hold right-of-way permits issued pursuant to this ordinance as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any right-of-way permit, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to the following:

(4) The failure to maintain the required bond or insurance;

(5) The failure to complete the work in a timely manner;

(6) The failure to correct a condition indicated on an order issued pursuant to this ordinance;

(7) Repeated traffic control violations; or

(8) Failure to repair facilities damaged in the right-of-way.

(b) If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated above, will allow the Public Works Director, at his discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the Public Works Director with a plan, acceptable to the Public Works Director, for correction of the breach. Permittee's failure to contact the Public Works Director, permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

(c) If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

13-327 Work Requirements and Inspections.

(a) Any excavation, back filling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.

(b) The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper back-filling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.

(c) The permittee shall notify the office of the Public Works Director upon completion of the authorized work permit.

(d) The permittee will notify the Public Works Director to schedule an inspection at the start of back filling. Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout inspection.

(e) When any corrective actions required have been completed and inspected to the Public Works Director's satisfaction, the two (2) year maintenance period will begin.

(f) In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the permittee.

(g) At the time of any inspection, the Public Works Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well being of the public. The Public Works Director may issue a citation to the permittee for any work, which does not conform, to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit.

13-328 Appeals Process.

(a) Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the City Administrator within ten (10) calendar days of the date of notice of such decision or action.

(b) The persons shall be afforded a hearing on the matter before the City Administrator within thirty (30) days of filing the appeal.

(c) In cases of applicability or interpretation of the rules, the City Administrator may revoke such decision or action taken by the Public Works Director.

(d) In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the City Administrator may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The City Administrator shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

(e) Pending a decision of the City Administrator, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(f) If a person still deems themselves aggrieved after the appeal to the City Administrator, such person shall have thirty (30) days after the effective date of the City Administrator's final decision to institute an action in the District Court of Johnson County, Kansas.

13-329 Indemnification.

(a) A ROW-user operating under the provisions of this ordinance shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the ROW-user in the performance of the permitted work. The City agrees to timely notify the ROW-user of such claim, demand, suit, proceeding, and/or action by providing written notice to the ROW-user and the registered agent of the ROW-user. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the ROW-user from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

13-330 Force Majeure.

(a) Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW-user's or the City's control.

13-331 Federal, State and City Jurisdiction.

(a) This ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this ordinance to the contrary, the construction, operation and maintenance of the ROW-user's facilities shall be in accordance with all laws and regulations of the United States, the state and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW-user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW-user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW-user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW-user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this ordinance.

13-332 Severability.

(a) If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

13-333 City's Failure to Enforce.

(a) The City's failure to enforce or remedy any noncompliance of the terms and conditions of this ordinance or of any permit granted hereunder shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as herein provided.

13-334 Penalties.

(a) Any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars ($200.00) nor more than five hundred dollars ($500.00). Every day that this chapter is violated shall constitute a separate offense.

CONTINUED FROM PRECEDING PAGE

(b) The violation of any provision of this ordinance is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

(c) The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Ordinance.

13-335 Reservation of Rights.

(a) In addition to any rights specifically reserved to the City by this ordinance, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this ordinance. The City shall have the right to waive any provision of this ordinance or any registration, permit or other authorization granted thereunder, except those required by federal or state law, if the City determines as follows: (a) that it is in the public interest to do so; and (b) that the enforcement of such provision will impose an undue hardship on the person. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

(b) Notwithstanding anything to the contrary set forth herein, the provisions of this Ordinance shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the right-of-way.

13-336 Repeal of Other Ordinances.

(a) All other ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this ordinance shall not take effect or become in force until the requirements for adopting an ordinance as set forth in the City of Leawood Municipal Code have occurred.

Section 4. This ordinance shall take effect and be in force from and after January 1, 2000, and after publication as provided by law.

PASSED by the Governing Body, this 6th day of December, 1999.

ATTEST:

Martha Heizer, City Clerk

Peggy Dunn, Mayor

APPROVED AS TO FORM:

/s/ Patricia A. Bennett

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1833

AN ORDINANCE AMENDING SECTION 6-3 OF THE "LEAWOOD DEVELOPMENT ORDINANCE", SPECIFICALLY AMENDING PROVISIONS OF NOTICE AND PUBLIC HEARING REQUIREMENTS; AND REPEALING EXISITNG SECTION.

Be it ordained by the Governing Body of the City of Leawood;

Section 1. " Leawood Development Ordinance" Amended. That Section 6-3 of the " Leawood Development Ordinance", is hereby amended to read as follows:

6-3 NOTICE AND PUBLIC HEARING REQUIREMENTS

Applications for:

- Rezoning
- Special Use Permit
- Preliminary Development Plans
- Revised Preliminary Development Plans

shall be set for public hearing by the Plan Commission following receipt of the application and compliance with the publication requirements of this ordinance. Any such hearing may, for good cause, in the discretion of the Plan Commission be continued for a definite time to be specified in the record of the Plan Commission. Nothing in this section 6-3 shall be construed as limiting notice and public hearing requirements set forth in other provisions of this ordinance including, without limitations, Section 3-12(O), 6-2.5D, 6-3.8 and 9-2.1C.

6-3.1 Notice Procedure

Notice of such hearing shall be published in one issue of the Official City Newspaper, such notice to be published not less than 20 days prior to the date of said hearing before the Plan Commission. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. In addition to such publication notice, the applicant shall be responsible for mailing notices of such proposed change to all the owners of lands located within 200 feet of the area proposed to be altered, at least 20 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. The 200 feet is to include public streets and rights-of-way and is measured from the outermost boundary of the property to be rezoned. Any property only partly within the 200 foot area must receive notice. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Such notice shall contain a statement that a legal description is available and state where available. Such mailed notices shall be addressed to the owners of land and not to occupants of such land. Failure to receive such notice shall not invalidate any subsequent action taken. Such notice is sufficient to permit the Plan Commission to recommend amendment to zoning regulations which affect only a portion of the land described in the notice.

6-3.2 Proof of Ownership

Upon request the applicant shall furnish proof acceptable to the City that he is the owner or has an option to purchase or is under contract to purchase the land described in the application.

6-3.3 Sign Announcing Pending Action

A) Each applicant for rezoning and each applicant for a special use permit shall, not later than 20 days prior to the date of the hearing scheduled before the Plan Commission, place a sign upon the lot, tract or parcel of land for which the application was filed. The sign shall be furnished by the City to the applicant; and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Unauthorized removal, defacing, or destruction of this sign is punishable upon conviction by fine not exceeding $100.00 and/or not more than 30 days imprisonment.

B) Maintenance of Sign - Affidavit. The sign shall be maintained and kept in place by the applicant until the conclusion of the public hearing before the Plan Commission or until withdrawal of the application, at which time the sign may be removed by the applicant; but in any event, the sign shall be removed by the applicant after final action on the application. The applicant shall file an affidavit at the time of the public hearing before the Plan Commission that the sign was placed and maintained to the hearing date as required by this ordinance. No application shall be heard by the Plan Commission or the Governing Body unless such affidavit has been filed.

C) Placement of Sign. The bottom of the sign shall be a minimum of 2 feet above the ground. The sign shall be placed 5 feet behind the street right-of-way line, in a central position on such lot, tract or parcel of land and shall have no visual obstructions from the street. If the lot, tract or parcel of land has more than 1 abutting street 1 sign shall be displayed facing each street frontage.

D) Defacing or Destroying Sign-Penalty. It is a public offense for any person to remove, deface or destroy any sign provided for by this ordinance. Any person, upon conviction thereof, shall be punished as provided by law.

6-3.4 Approval or Denial of Change

(A) Following the final hearing of such application, the Plan Commission shall by a vote of the majority of the members, present and voting, recommend approval or denial of the amendment to the Governing Body. If the Plan Commission fails to make a recommendation on a rezoning request, the Plan Commission shall be deemed to have made a recommendation of disapproval. The Plan Commission shall transmit an accurate written summary of the proceedings to the City Clerk.

(B) Approval or Denial of Public Facilities Conforming with the Master Plan

(1) Except as provided in subsection (2), any plan for a public improvement, public facility or public utility shall be submitted to the Plan Commission. The Plan Commission shall consider whether the construction is in conformity with the City's Master Plan. If the Plan Commission fails to make a report within 60 days of submission, the project shall be deemed to have been approved by the Plan Commission. If the Plan Commission finds that any such proposed public improvement, facility or utility does not conform to the Master Plan, the Plan Commission shall submit, in writing to the Governing Body, the manner in which such proposed improvement, facility or utility does not conform. The Governing Body may override the plan and the report of the Planning Commission, and the plan for the area concerned shall be deemed to have been amended.

(2) Whenever the Plan Commission has reviewed a capital improvement program and found that a specific public improvement, public facility or public utility of a type embraced within the recommendations of the Master Plan or portion thereof is in conformity with such plan, no further approval by the Plan Commission is necessary under this section.

(C) In the case of denial of an application by the Plan Commission or Governing Body, the applicant must wait a period of 6 months before reapplying for a zoning change.

6-3.5 Continuance of Development Plan

Applicants may request the continuance of an application to a specific date. A maximum of three continuances are allowed. After that time, the Plan Commission shall remove the case from the agenda. Once removed the applicant may re-file a new application at any time.

6-3.6 Submission of Plan Commission Action to Governing Body

Following the end of the 14 day protest period, at the next regularly scheduled Governing Body meeting following the receipt of the summary of the action of the Plan Commission, the City Clerk shall submit the same to the Governing Body for action approving or disapproving the recommendation of the Plan Commission. The Governing Body may for good cause continue its action upon such application or take the same under advisement for final decision at a later date; and in any case the record shall show the reason for such continuance or withholding of action. The Governing Body also may, if deemed advisable for the best interest of the public and applicant, refer such application back to the Plan Commission, for further consideration and may direct that a public hearing be held upon publication notice of the time, place and purpose of such

hearing and notification as required by Section 6-3.1 of this ordinance. The applicant shall not be required to pay an additional filing fee in such rehearing proceedings as herein provided.

6-3.7 Lesser Change Than Requested

A) The Plan Commission may recommend a change to a zoning district which is more restrictive than that requested by the applicant, provided such change is in keeping with the following:

1) Residential Districts:

AG Agriculture - Most Restrictive

RP-A5 Planned Rural Density Single Family Residential

RP-A Planned Large Lot Single Family Residential

R-1 Single-Family Residential

RP-1 Planned Single-Family Residential

RP-2 Two-Family Residential

RP-4 Cluster Dwelling House

RP-3 Garden Apartment District - Least Restrictive

2) Business Districts:

CP-0 Office Building District - Most Restrictive

CP-1 Restricted Business District

CP-2 General Business District - Least Restrictive

B) Equal or more restrictive change. The Plan Commission may recommend and the Governing Body may adopt a change in zoning which is more restrictive than the one requested, provided the more restrictive district is in the same R, or C category for which the change was requested.

6-3.8 Action by Plan Commission

Recommendations for amendment, revision, change or repeal of the Leawood Development Ordinance, zoning district map, rules or regulations, may also be made by the Plan Commission upon its own motion or by the Governing Body, provided that public hearing requirements have been satisfied. In no case shall final action by the Governing Body be taken until hearing and recommendation by the Plan Commission has been provided.

6-3.9 Protest Against Change

If, however, a protest against such amendment, supplement, change or special use permit is filed in the office of the City Clerk within 14 days after the date of the conclusion of the hearing pursuant to the publication notice, duly signed by the owners of 20% or more of any real property proposed to be rezoned or specially used, or by the owners of 20% of the total area, excepting public streets or ways, located within or without the corporate limits of the City and located within 200 feet of the boundaries of the property proposed to be rezoned or specially used, such amendment shall not be passed except by at least 3/4's vote of all the members of the Governing Body. All signatures on said protest petition must be verified by one of the signers as to the genuineness and correctness of the signatures thereon.

Section 2. Existing Section Repealed. That existing Section 6-3 of the " Leawood Development Ordinance" is hereby repealed. (Prior law. Ordinance 1676).

Section 3. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 6th day of December, 1999.

Approved by the Mayor the 6th day of December, 1999.

(SEAL)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

Patty Bennett — City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1833

Publication Fees: $87.00

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1833--12/28/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 29, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$87.00

ORDINANCE NO. 1833

First published in The Legal Record, Tuesday, December 28, 1999.

ORDINANCE NO. 1833

AN ORDINANCE AMENDING SECTION 6-3 OF THE "LEAWOOD DEVELOPMENT ORDINANCE", SPECIFICALLY AMENDING PROVISIONS OF NOTICE AND PUBLIC HEARING REQUIREMENTS; AND REPEALING EXISITNG SECTION.

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

Section 1. " Leawood Development Ordinance" Amended. That Section 6-3 of the " Leawood Development Ordinance", is hereby amended to read as follows:

6-3 NOTICE AND PUBLIC HEARING REQUIREMENTS

Applications for:

- Rezoning
- Special Use Permit
- Preliminary Development Plans
- Revised Preliminary Development Plans

shall be set for public hearing by the Plan Commission following receipt of the application and compliance with the publication requirements of this ordinance. Any such hearing may, for good cause, in the discretion of the Plan Commission be continued for a definite time to be specified in the record of the Plan Commission. Nothing in this section 6-3 shall be construed as limiting notice and public hearing requirements set forth in other provisions of this ordinance including, without limitations, Section 3-12(O), 6-2.5D, 6-3.8 and 9-2.1C.

6-3.1 Notice Procedure

Notice of such hearing shall be published in one issue of the Official City Newspaper, such notice to be published not less than 20 days prior to the date of said hearing before the Plan Commission. Such notice shall fix the time and place for such hearing and shall describe such proposal in general terms. In addition to such publication notice, the applicant shall be responsible for mailing notices of such proposed change to all the owners of lands located within 200 feet of the area proposed to be altered, at least 20 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. The 200 feet is to include public streets and rights-of-way and is measured from the outermost boundary of the property to be rezoned. Any property only partly within the 200 foot area must receive notice. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Such notice shall contain a statement that a legal description is available and state where available. Such mailed notices shall be addressed to the owners of land and not to occupants of such land. Failure to receive such notice shall not invalidate any subsequent action taken. Such notice is sufficient to permit the Plan Commission to recommend amendment to zoning regulations which affect only a portion of the land described in the notice.

6-3.2 Proof of Ownership

Upon request the applicant shall furnish proof acceptable to the City that he is the owner or has an option to purchase or is under contract to purchase the land described in the application.

6-3.3 Sign Announcing Pending Action

A) Each applicant for rezoning and each applicant for a special use permit shall, not later than 20 days prior to the date of the hearing scheduled before the Plan Commission, place a sign upon the lot, tract or parcel of land for which the application was filed. The sign shall be furnished by the City to the applicant; and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Unauthorized removal, defacing, or destruction of this sign is punishable upon conviction by fine not exceeding $100.00 and/or not more than 30 days imprisonment.

B) Maintenance of Sign - Affidavit. The sign shall be maintained and kept in place by the applicant until the conclusion of the public hearing before the Plan Commission or until withdrawal of the application, at which time the sign may be removed by the applicant; but in any event, the sign shall be removed by the applicant after final action on the application. The applicant shall file an affidavit at the time of the public hearing before the Plan Commission that the sign was placed and maintained to the hearing date as required by this ordinance. No application shall be heard by the Plan Commission or the Governing Body unless such affidavit has been filed.

C) Placement of Sign. The bottom of the sign shall be a minimum of 2 feet above the ground. The sign shall be placed 5 feet behind the street right-of-way line, in a central position on such lot, tract or parcel of land and shall have no visual obstructions from the street. If the lot, tract or parcel of land has more than 1 abutting street 1 sign shall be displayed facing each street frontage.

D) Defacing or Destroying Sign-Penalty. It is a public offense for any person to remove, deface or destroy any sign provided for by this ordinance. Any person, upon conviction thereof, shall be punished as provided by law.

6-3.4 Approval or Denial of Change

(A) Following the final hearing of such application, the Plan Commission shall by a vote of the majority of the members, present and voting, recommend approval or denial of the amendment to the Governing Body. If the Plan Commission fails to make a recommendation on a rezoning request, the Plan Commission shall be deemed to have made a recommendation of disapproval. The Plan Commission shall transmit an accurate written summary of the proceedings to the City Clerk.

(B) Approval or Denial of Public Facilities Conforming with [illegible] Master Plan

(1) Except as provided in subsection (2), any plan for a public improvement, public facility or public utility shall be submitted to [illegible] Plan Commission. The Plan Commission shall consider whether the construc[illegible] in conformity with the City's Master Plan. If the Plan Commission fails to [illegible] a report within 60 days of submission, the project shall be deemed to have [illegible] approved by the Plan Commission. If the Plan Commission finds that [illegible] proposed public improvement, facility or utility does not conform to [illegible] Master Plan, the Plan Commission shall submit, in writing to the Governing [illegible] manner in which such proposed improvement, facility or utility does not [illegible] The Governing Body may override the plan and the report of the Planning [illegible] Commission, and the plan for the area concerned shall be deemed to have been a[illegible]d.

(2) Whenever the Plan Commission has reviewed a capital imp[illegible]ent program and found that a specific public improvement, public facility or [illegible] utility of a type embraced within the recommendations of the Master Plan [illegible] on thereof is in conformity with such plan, no further approval by the Plan [illegible] mission is necessary under this section.

(C) In the case of denial of an application by the Plan Commission or Governing [illegible]dy, the applicant must wait a period of 6 months before reapplying for a zoning change.

6-3.5 Continuance of Development Plan

Applicants may request the continuance of an application to a specific date. A maximum of three continuances are allowed. After that time, the Plan Commission shall remove the case from the agenda. Once removed the applicant may re-file a new application at any time.

6-3.6 Submission of Plan Commission Action to Governing Body

Following the end of the 14 day protest period, at the next regularly scheduled Governing Body meeting following the receipt of the summary of the action of the Plan Commission, the City Clerk shall submit the same to the Governing Body for action approving or disapproving the recommendation of the Plan Commission. The Governing Body may for good cause continue its action upon such application or take the same under advisement for final decision at a later date; and in any case the record shall show the reason for such continuance or withholding of action. The Governing Body also may, if deemed advisable for the best interest of the public and applicant, refer such application back to the Plan Commission, for further consideration and may direct that a public hearing be held upon publication notice of the time, place and purpose of such hearing and notification as required by Section 6-3.1 of this ordinance. The applicant shall not be required to pay an additional filing fee in such rehearing proceedings as herein provided.

6-3.7 Lesser Change Than Requested

A) The Plan Commission may recommend a change to a zoning district which is more restrictive than that requested by the applicant, provided such change is in keeping with the following:

1) Residential Districts:

AG Agriculture - Most Restrictive

RP-A5 Planned Rural Density Single Family Residential

RP-A Planned Large Lot Single Family Residential

R-1 Single-Family Residential

RP-1 Planned Single-Family Residential

RP-2 Two-Family Residential

RP-4 Cluster Dwelling House

RP-3 Garden Apartment District - Least Restrictive

2) Business Districts:

CP-0 Office Building District - Most Restrictive

CP-1 Restricted Business District

CP-2 General Business District - Least Restrictive

B) Equal or more restrictive change. The Plan Commission may recommend and the Governing Body may adopt a change in zoning which is more restrictive than the one requested, provided the more restrictive district is in the same R, or C category for which the change was requested.

6-3.8 Action by Plan Commission

Recommendations for amendment, revision, change or repeal of the Leawood Development Ordinance, zoning district map, rules or regulations, may also be made by the Plan Commission upon its own motion or by the Governing Body, provided that public hearing requirements have been satisfied. In no case shall final action by the Governing Body be taken until hearing and recommendation by the Plan Commission has been provided.

6-3.9 Protest Against Change

If, however, a protest against such amendment, supplement, change or special use permit is filed in the office of the City Clerk within 14 days after the date of the conclusion of the hearing pursuant to the publication notice, duly signed by the owners of 20% or more of any real property proposed to be rezoned or specially used, or by the owners of 20% of the total area, excepting public streets or ways, located within or without the corporate limits of the City and located within 200 feet of the boundaries of the property proposed to be rezoned or specially used, such amendment shall not be passed except by at least 3/4's vote of all the members of the Governing Body. All signatures on said protest petition must be verified by one of the signers as to the genuineness and correctness of the signatures thereon.

Section 2. Existing Section Repealed. That existing Section 6-3 of the " Leawood Development Ordinance" is hereby repealed. (Prior law. Ordinance 1676).

Section 3. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

Passed by the Council the 6th day of December, 1999.

Approved by the Mayor the 6th day of December, 1999.

(SEAL)

Peggy J. Dunn

Mayor

Attest:

Martha Heizer

City Clerk

APPROVED FOR FORM:

Patty Bennett

City Attorney

ORDINANCE NO. 1832

AN ORDINANCE ACCEPTING TWO DEEDS OF DEDICATION FOR STREET RIGHT-OF-WAY PURPOSES FROM PULTE HOMES OF GREATER KANSAS CITY, INC. (FOR TEMPORARY STREET CUL-DE-SACS AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT).

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

Section 1. That the City of Leawood hereby accepts two deeds for the following described real estate, to wit:

A Deed of Dedication for right-of-way in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1623.35 feet; thence N 00° 53'04" W a distance of 134.03 feet to the point of beginning of the tract of land to be described; thence N 00° 53'04" W a distance of 50.00 feet; thence N 89° 06'55" E a distance of 70.69 feet; thence S 00° 53'04" E a distance of 50.00 feet; thence S 89° 06'55" W a distance of 70.69 feet to the point of beginning. Contains 3534.5 square feet or 0.08 acres more or less. Subject to easements, restrictions and reservations now of record.

A Deed of Dedication for right-of-way in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1421.59 feet; thence N 00° 18'58" E a distance of 738.84 feet to the point of beginning of the tract of land to be described; thence N 34° 43'44" E a distance of 50.00 feet; thence on a curve to the left having an initial tangent bearing of N 55° 16'15" W, a radius of 475.00 feet and an arc length of 67.08 feet; thence S 26° 38'17" W a distance of 50.00 feet; thence on a curve to the right having an initial tangent bearing of S 63° 21'42" E, a radius of 525.00 feet and an arc length of 74.14 feet to the point of beginning. Contains 3530 square feet or 0.08 acres more or less. Subject to easements, restrictions and reservations now of record.

Section 2. That copies of said deeds are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(SEAL)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1832

Publication Fees: $31.37

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1832--11/16/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 16, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

ORDINANCE NO. 1832

First published in The Legal Record, Tuesday, November 16, 1999.

ORDINANCE NO. 1832

AN ORDINANCE ACCEPTING TWO DEEDS OF DEDICATION FOR STREET RIGHT-OF-WAY PURPOSES FROM PULTE HOMES OF GREATER KANSAS CITY, INC. (FOR TEMPORARY STREET CUL-DE-SACS AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT).

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

Section 1. That the City of Leawood hereby accepts two deeds for the following described real estate, to wit:

A Deed of Dedication for right-of-way in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1623.35 feet; thence N 00°53'04" W a distance of 134.03 feet to the point of beginning of the tract of land to be described; thence N 00°53'04" W a distance of 50.00 feet; thence N 89°06'55" E a distance of 70.69 feet; thence S 00°53'04" E a distance of 50.00 feet; thence S 89°06'55" W a distance of 70.69 feet to the point of beginning. Contains 3534.5 square feet or 0.08 acres more or less. Subject to easements, restrictions and reservations now of record.

A Deed of Dedication for right-of-way in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1421.59 feet; thence N 00°18'58" E a distance of 738.84 feet to the point of beginning of the tract of land to be described; thence N 34° 43'44" E a distance of 50.00 feet; thence on a curve to the left having an initial tangent bearing of N 55°16'15" W, a radius of 475.00 feet and an arc length of 67.08 feet; thence S 26°38'17" W a distance of 50.00 feet; thence on a curve to the right having an initial tangent bearing of S 63° 21'42" E, a radius of 525.00 feet and an arc length of 74.14 feet to the point of beginning. Contains 3530 square feet or 0.08 acres more or less. Subject to easements, restrictions and reservations now of record.

Section 2. That copies of said deeds are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

Patricia A. Bennett — City Attorney

$31.37

ORDINANCE NO. 1831

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM PULTE HOMES OF GREATER KANSAS CITY, INC. FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

A 15 foot storm sewer easement in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1670.02 feet; thence N 00° 18'58" E a distance of 183.10 feet to the point of beginning of the tract of land to be described; thence N 07° 48'31" E a distance of 123.73 feet; thence N 23° 15'52" E a distance of 7.59 feet; thence S 75° 40'04" E a distance of 15.18 feet; thence S 23° 15'52" W a distance of 7.91 feet; thence S 07° 48'31" W a distance of 119.40 feet; thence S 89° 06'55" W a distance of 15.17 feet to the point of beginning. Contains 1940 square feet or 0.04 acres more or less. Subject to easements, restrictions, and reservations now of record.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1831

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1831--11/16/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 16, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$18.32

ORDINANCE NO. 1831

First published in The Legal Record, Tuesday, November 16, 1999.

ORDINANCE NO. 1831

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM PULTE HOMES OF GREATER KANSAS CITY, INC. FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR STEEPLECHASE, 2ND PLAT.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

A 15 foot storm sewer easement in the Northwest quarter of Section 3, Township 14, Range 25, East of the 6th Principal Meridian, in the City of Leawood, Johnson County, Kansas, and being more particularly described as follows: Commencing at the Southeast corner of said Northwest quarter; thence N 89° 41'01" W on the South line of said Northwest quarter a distance of 1670.02 feet; thence N 00° 18'58" E a distance of 183.10 feet to the point of beginning of the tract of land to be described; thence N 07° 48'31" E a distance of 123.73 feet; thence N 23° 15'52" E a distance of 7.59 feet; thence S 75° 40'04" E a distance of 15.18 feet; thence S 23° 15'52" W a distance of 7.91 feet; thence S 07° 48'31" W a distance of 119.40 feet; thence S 89° 06'55" W a distance of 15.17 feet to the point of beginning. Contains 1940 square feet or 0.04 acres more or less. Subject to easements, restrictions, and reservations now of record.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Beizer — City Clerk

APPROVED FOR FORM: /s/ Patricia A. Bennett

Patricia A. Bennett — City Attorney

ORDINANCE NO. 1830

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM ACUFF RHODES GROUP FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR THE PAVILIONS OF LEAWOOD, 5TH PLAT.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

Beginning at the Southwest corner of the SE1/4 of Section 4, T14S, R25E, Johnson County, Kansas; thence N 02° 25'29" W, along the West line of said SE1/4, a distance of 1,606.42 feet to the TRUE POINT OF BEGINNING; thence N 02° 25'29" W, continuing along the West line of said SE1/4, a distance of 4.50 feet; thence N 86° 35'17" E a distance of 171.61 feet; thence N 87° 16'02" E a distance of 210.93 feet; thence N 17° 52'11" W a distance of 26.44 feet; thence N 58° 11'30" W a distance of 36.92 feet; thence N 31° 48'30" E a distance of 15.00 feet; thence S 58° 11'30" E a distance of 19.24 feet; thence N 17° 52'11" W a distance of 165.91 feet; thence N 13° 00'00" W a distance of 93.03 feet; thence N 01° 00'00" W a distance of 194.94 feet; thence N 03° 06'22" W a distance of 45.61 feet; thence N 83° 01'10" W a distance of 27.12 feet; thence N 06° 58'50" E a distance of 15.00 feet; thence S 83° 01'10" E a distance of 24.54 feet; thence N 00° 00'00" E a distance of 139.27 feet; thence N 12° 51'20" E a distance of 193.72 feet; thence N 25° 55'02" W a distance of 19.72 feet; thence N 64° 04'58" E a distance of 15.00 feet to a point on the Westerly line of Lot 120, PAVILIONS OF LEAWOOD, 3RD PLAT; thence S 25° 55'02" E, along the Westerly line of said Lot 120, a distance of 25.00 feet to the Southwest corner of said Lot 120; thence S 12° 51'20" W, along the Westerly line and its extension thereof of Lot 119, PAVILIONS OF LEAWOOD, 3RD PLAT, a distance of 219.78 feet; thence S 00° 00'00" W a distance of 116.01 feet; thence S 03° 06'22" E a distance of 60.14 feet; thence S 01° 00'00" E a distance of 194.07 feet; thence S 13° 00'00" E a distance of 91.56 feet; thence S 17° 52'11" E a distance of 219.74 feet; thence S 86° 35'17" W a distance of 393.44 feet to the TRUE POINT OF BEGINNING.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(SEAL)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1830

Publication Fees: $28.28

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published *continuously and uninterrupted in said County and State for a* period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1830--11/16/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 16, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

ORDINANCE NO. 1830

First published in The Legal Record, Tuesday, November 16, 1999.

ORDINANCE NO. 1830

AN ORDINANCE ACCEPTING A PERMANENT STORM SEWER EASEMENT FROM ACUFF RHODES GROUP FOR STORM DRAINAGE FACILITIES AS SHOWN ON THE PLANS FOR THE PAVILIONS OF LEAWOOD, 5TH PLAT.

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

Section 1. That the City of Leawood hereby accepts a permanent storm sewer easement hereinafter more particularly described, to wit:

Beginning at the Southwest corner of the SE1/4 of Section 4, T14S, R25E, Johnson County, Kansas; thence N 02° 25'29" W, along the West line of said SE1/4, a distance of 1,606.42 feet to the TRUE POINT OF BEGINNING; thence N 02° 25'29" W, continuing along the West line of said SE1/4, a distance of 4.50 feet; thence N 86° 35'17" E a distance of 171.61 feet; thence N 87° 16'02" E a distance of 210.93 feet; thence N 17° 52'11" W a distance of 26.44 feet; thence N 58° 11'30" W a distance of 36.92 feet; thence N 31° 48'30" E a distance of 15.00 feet; thence S 58° 11'30" E a distance of 19.24 feet; thence N 17° 52'11" W a distance of 165.91 feet; thence N 13° 00'00" W a distance of 93.03 feet; thence N 01° 00'00" W a distance of 194.94 feet; thence N 03° 06'22" W a distance of 45.61 feet; thence N 83° 01'10" W a distance of 27.12 feet; thence N 06° 58'50" E a distance of 15.00 feet; thence S 83° 01'10" E a distance of 24.54 feet; thence N 00° 00'00" E a distance of 139.27 feet; thence N 12° 51'20" E a distance of 193.72 feet; thence N 25° 55'02" W a distance of 19.72 feet; thence N 64° 04'58" E a distance of 15.00 feet to a point on the Westerly line of Lot 120, PAVILIONS OF LEAWOOD, 3RD PLAT; thence S 25° 55'02" E, along the Westerly line of said Lot 120, a distance of 25.00 feet to the Southwest corner of said Lot 120; thence S 12° 51'20" W, along the Westerly line and its extension thereof of Lot 119, PAVILIONS OF LEAWOOD, 3RD PLAT, a distance of 219.78 feet; thence S 00° 00'00" W a distance of 116.01 feet; thence S 03° 06'22" E a distance of 60.14 feet; thence S 01° 00'00" E a distance of 194.07 feet; thence S 13° 00'00" E a distance of 91.56 feet; thence S 17° 52'11" E a distance of 219.74 feet; thence S 86° 35'17" W a distance of 393.44 feet to the TRUE POINT OF BEGINNING.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 15th day of November, 1999.

Approved by the Mayor the 15th day of November, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

$28.28

ORDINANCE NO. 1829

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELLING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located at the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated March 1, 1999, in the principal amount of $100,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable within the next six (6) months in the amount of not less than $100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the Project now due or to become due in the

immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Note.

The City reserves the right to redeem and pay said Notes, in whole at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem the Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such

redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Note as the same become due and payable.

Section Four. Form of Notes. The Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $100,000 shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in a special fund created for the purpose of paying costs and expenses of the Project..

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(SEAL)

ATTEST:

Martha Heizer, City Clerk

Peggy J. Dunn, Mayor

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1829
Publication Fees: $93.26

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1829--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$93.26

ORDINANCE NO. 1829

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1829

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELLING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located at the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated March 1, 1999, in the principal amount of $100,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable within the next six (6) months in the amount of not less than $100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Note.

The City reserves the right to redeem and pay said Notes, in whole at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem the Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Note as the same become due and payable.

Section Four. Form of Notes. The Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $100,000 shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in a special fund created for the purpose of paying costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1828

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 168 (MISSION ROAD, 83RD TO 95TH STREET), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD FROM 83RD TO 95TH STREET AND A PORTION OF 89TH STREET, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1717, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improve and reimprove that section of Mission Road between 83rd Street and 95th Street

(the "Mission Project") at an estimated cost of $200,000; and

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1716, the Governing Body of the City has heretofore authorized the following described improvement project within the City, to wit:

> improve and reimprove that section of 89th Street beginning at Mission Road between Mohawk Lane Cul-de-sac East approximately 1500 feet to Wenonga Road

(the "89th Street Project") at a cost of $400,000; and

WHEREAS, the Mission Project and the 89th Street Project (collectively, the "Project") are, as a matter of efficiency, undertaken together and have commenced and the City has incurred or expects to incur additional costs payable within the next six months in the amount of not less than $100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 168 (Mission Road, 83rd to 95th Street), in the aggregate principal amount of One Hundred Thousand Dollars ($100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Note shall consist of a single bearer note numbered 1 in the denomination of $100,000. Said Note shall be dated November 1, 1999, shall mature by its stated terms and become due and payable on August 1, 2000. The Note shall bear interest from its dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Note shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Note shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Note.

The City reserves the right to redeem and pay said Note, in whole at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem such Note as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Note and to any known holder of the Note or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Note from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Note.

The Governing Body of the City shall make provisions for the payment of said Note by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Note shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Note as the same become due and payable.

Section Four. Form of Note. Said Note shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Note herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Note shall be countersigned by the City Clerk and delivered to United Missouri/Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than/99.77% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Note shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Note, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Note, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Note and (2) it will not use or permit the use of any of the proceeds of the Note or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Note; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Note.

Section Eight. Designation of Note as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Note will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Note to be a "qualified tax-exempt obligation" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1828

Publication Fees: $120.39

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1828--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$120.39

ORDINANCE NO. 1828

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1828

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 168 (MISSION ROAD, 83RD TO 95TH STREET), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD FROM 83RD TO 95TH STREET AND A PORTION OF 89TH STREET, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1717, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improve and reimprove that section of Mission Road between 83rd Street and 95th Street

(the "Mission Project") at an estimated cost of $200,000; and

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1716, the Governing Body of the City has heretofore authorized the following described improvement project within the City, to wit:

> improve and reimprove that section of 89th Street beginning at Mission Road between Mohawk Lane Cul-de-sac East approximately 1500 feet to Wenonga Road

(the "89th Street Project") at a cost of $400,000; and

WHEREAS, the Mission Project and the 89th Street Project (collectively, the "Project") are, as a matter of efficiency, undertaken together and have commenced and the City has incurred or expects to incur additional costs payable within the next six months in the amount of not less than $100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 168 (Mission Road, 83rd to 95th Street), in the aggregate principal amount of One Hundred Thousand Dollars ($100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Note shall consist of a single bearer note numbered 1 in the denomination of $100,000. Said Note shall be dated November 1, 1999, shall mature by its stated terms and become due and payable on August 1, 2000. The Note shall bear interest from its dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Note shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Note shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Note.

The City reserves the right to redeem and pay said Note, in whole at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem such Note as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Note and to any known holder of the Note or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Note from and after the redemption date.

CONTINUED FROM PRECEDING PAGE

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1716, the Governing Body of the City has heretofore authorized the following described improvement project within the City, to wit:

> improve and reimprove that section of 89th Street beginning at Mission Road between Mohawk Lane Cul-de-sac East approximately 1500 feet to Wenonga Road

(the "89th Street Project") at a cost of $400,000; and

WHEREAS, the Mission Project and the 89th Street Project (collectively, the "Project") are, as a matter of efficiency, undertaken together and have commenced and the City has incurred or expects to incur additional costs payable within the next six months in the amount of not less than $100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 168 (Mission Road, 83rd to 95th Street), in the aggregate principal amount of One Hundred Thousand Dollars ($100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Note shall consist of a single bearer note numbered 1 in the denomination of $100,000. Said Note shall be dated November 1, 1999, shall mature by its stated terms and become due and payable on August 1, 2000. The Note shall bear interest from its dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Note shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Note shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Note.

The City reserves the right to redeem and pay said Note, in whole at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem such Note as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Note and to any known holder of the Note or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Note from and after the redemption date.

ORDINANCE NO. 1827

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 158 (TRAFFIC SIGNALIZATION), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF THE INTERSECTION OF STATE LINE ROAD AT 92ND STREET IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-687, et seq., as amended, and Ordinance No. 1202, as amended by Ordinance No. 1778, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> to improve and reimprove the intersection of State Line Road at 92nd Street located within the City of Leawood

(the "Project") at an estimated cost of $458,040.00; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 158 (Traffic Signalization), dated March 1, 1999, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood,

Kansas, Temporary Notes, Project 158 (Traffic Signalization), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring

the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

Peggy J. Dunn, Mayor

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORD1827

Publication Fees: $93.26

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1827--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$93.26

ORDINANCE NO. 1827

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1827

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 158 (TRAFFIC SIGNALIZATION), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF THE INTERSECTION OF STATE LINE ROAD AT 92ND STREET IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-687, et seq., as amended, and Ordinance No. 1202, as amended by Ordinance No. 1778, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> to improve and reimprove the intersection of State Line Road at 92nd Street located within the City of Leawood

(the "Project") at an estimated cost of $458,040.00; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 158 (Traffic Signalization), dated March 1, 1999, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 158 (Traffic Signalization), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1826

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?";

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the design phase for the improvements to existing city parks (the "Project") has commenced and the City has heretofore issued its Temporary Notes, Project 148 (City Park Design, Phase I), dated March 1, 1999, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the

known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal

Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

ATTEST:

Martha Heizer, City Clerk

Peggy J. Dunn, Mayor

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORD1826

Publication Fees: $93.26

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1826--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$93.26

ORDINANCE NO. 1826

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1826

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?";

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the design phase for the improvements to existing city parks (the "Project") has commenced and the City has heretofore issued its Temporary Notes, Project 148 (City Park Design, Phase I), dated March 1, 1999, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the

known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1825

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 144 (MISSION ROAD, 103RD - I-435), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $1,400,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD, 103RD - I-435, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1204, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of certain sections of Mission Road from 103rd Street to I-435, within the City of Leawood

(the "Project") at an estimated cost of $2,000,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 144 (Mission Road, 103rd - I-435), dated March 1, 1999, in the principal amount of $1,500,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 144 (Mission Road, 103rd - I-435), in the aggregate principal amount of One Million Four Hundred Thousand Dollars ($1,400,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 14 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.15% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so

redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.79 % of the

principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

ATTEST:

Martha Heizer, City Clerk

Peggy J. Dunn, Mayor

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORD1825

Publication Fees: $93.26

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1825--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$93.26

ORDINANCE NO. 1825

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1825

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 144 (MISSION ROAD, 103RD - I-435), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $1,400,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD, 103RD - I-435, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1204, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of certain sections of Mission Road from 103rd Street to I-435, within the City of Leawood

(the "Project") at an estimated cost of $2,000,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 144 (Mission Road, 103rd - I-435), dated March 1, 1999, in the principal amount of $1,500,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 144 (Mission Road, 103rd - I-435), in the aggregate principal amount of One Million Four Hundred Thousand Dollars ($1,400,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 14 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.15% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.79 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal

Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1824

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 137 (STATE LINE ROAD, PHASE IV), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF STATE LINE ROAD FROM A POINT 25.50 FEET SOUTH OF THE CENTERLINE OF 103RD STREET TO A POINT 123.76 FEET SOUTH OF THE CENTERLINE OF CARONDELET, TO INCLUDE GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES, APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS, OR OTHER IMPROVEMENTS OR ANY TWO OR MORE OF SUCH IMPROVEMENTS OR REIMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTIONS COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1372, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of State Line Road from a point 25.50 feet south of the centerline of 103rd Street, to a point 123.76 feet south of the centerline of Carondelet, a distance of approximately 2646 feet, within the City of Leawood

(the "Project") at an estimated cost of $3,680,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 137 (State Line Road, Phase IV), dated March 1, 1999, in the

principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 137 (State Line Road, Phase IV), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of

Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(SEAL)

ATTEST:

Peggy J. Dunn, Mayor

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1824

Publication Fees: $93.26

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1824--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$93.26

ORDINANCE NO. 1824

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1824

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 137 (STATE LINE ROAD, PHASE IV), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF STATE LINE ROAD FROM A POINT 25.50 FEET SOUTH OF THE CENTERLINE OF 103RD STREET TO A POINT 123.76 FEET SOUTH OF THE CENTERLINE OF CARONDELET, TO INCLUDE GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES, APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS, OR OTHER IMPROVEMENTS OR ANY TWO OR MORE OF SUCH IMPROVEMENTS OR REIMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTIONS COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1372, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of State Line Road from a point 25.50 feet south of the centerline of 103rd Street, to a point 123.76 feet south of the centerline of Carondelet, a distance of approximately 2646 feet, within the City of Leawood

(the "Project") at an estimated cost of $3,680,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 137 (State Line Road, Phase IV), dated March 1, 1999, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 137 (State Line Road, Phase IV), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated November 1, 1999, shall mature by their stated terms and become due and payable on August 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 4.10 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after February 1, 2000, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to United Missouri Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.77 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of November, 1999.

APPROVED by the Mayor the 1st day of November, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1823

AN ORDINANCE AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING SURVEY AND DESCRIPTION OF THE LAND AND INTEREST TO BE CONDEMNED.

WHEREAS, the Governing Body of the City of Leawood, Kansas, did by resolution approve on October 18, 1999, declare the necessity of appropriating certain private property for the use of the City; and

WHEREAS, the Governing Body has previously authorized a survey and description of the land and interest to be condemned to be made by some competent engineer and filed with the City Clerk; and

WHEREAS, a survey and description of the land and interest to be condemned has been made by a competent engineer and filed with the City Clerk.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. The City Attorney is hereby authorized and directed to institute eminent domain proceedings to acquire the property and interests described by survey filed with the City Clerk which property and interests have been determined by the Governing Body to be necessary for the purpose of construction of improvements and re-improvements to portions of the Dykes Branch Tributary:

The project purpose is new construction, erosion control, and flood control. The project will be 730 feet long, which will consist of the following improvements: A 230 feet long reinforced concrete box, double cell 11 foot x 6 foot, and will be constructed to replace an existing 48 inch R.C.P. This will prevent flooding of Overhill Road for the 100-year storm. Upstream, a concrete channel with 1.5:1 side slopes will be constructed to match the existing channel. The concrete channel will be 64.5 feet long.

Downstream, the alignment will remain as is, but will have limestone blocks lining it in order to prevent further erosion. Project located in the SW Quarter of the SW Quarter of the SE Quarter of Section 27, Township 12 South, Range 25 East, Johnson County, Kansas, across, along the Tributary of Dykes Branch.

Specifically, the City Attorney is authorized and directed to institute eminent domain proceedings to acquire the following described property:

See attached "EXHIBIT A"

Section 2. This Ordinance shall take effect and be enforced from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 18th DAY OF OCTOBER, 1999.

PEGGY J. DUNN, MAYOR
CITY OF LEAWOOD, KANSAS

ATTEST:

MARTHA HEIZER, CITY CLERK

APPROVED AS TO FORM:

PATRICIA A. BENNETT, CITY ATTORNEY

1) Lot 925 Permanent Drainage Easement
Dan R. Meyer and Jennifer A. Galbraith

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

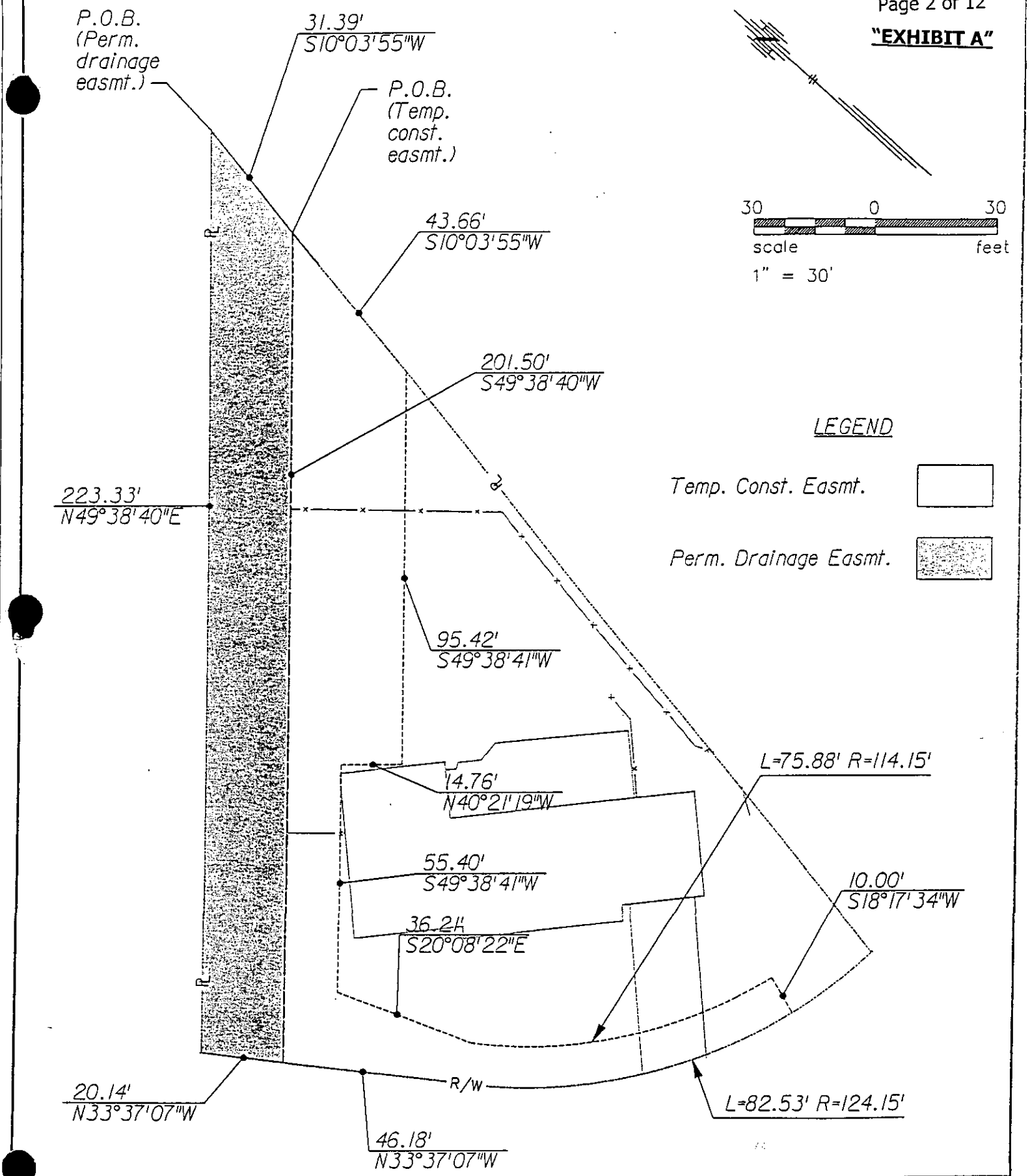
Beginning at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926; thence S 10° 03′ 55″ W along the easterly line of Lot 925, 31.39 feet; thence S 49° 38′ 40″ W, 201.50 feet to the platted right of way line of Overhill Road; thence N 33° 37′ 07″ W, 20.14 feet to the Southwesterly corner of said Lot; thence N 49° 38′ 40″ E along the Northwesterly line of said Lot, 223.33 feet to the Point of Beginning. Containing 4,248.5 square feet.

2) Lot 925 Temporary Construction Easement
Dan R. Meyer and Jennifer A. Galbraith

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926 ; thence S 10° 03′55″ W along the easterly line as platted, 31.39 feet to the Point of Beginning; thence continuing on the same course
S 10° 03′55″ W, 43.66 feet; thence following 4 (four) courses;
S 49° 38′41″ W, 95.42 feet;
N 40° 21′19″ W, 14.76 feet;
S 49° 38′41″ W, 55.40 feet;
S 20° 08′22″ E, 36.21 feet;
Thence along a curve to the left with a radius of 114.15 feet and initial tangent bearing of S 33° 37′07″ E, 75.88 feet; thence S 18° 17′34″ W leaving said curve, 10.00 feet to the East Right of Way of Overhill Road as platted; thence on said Right of Way, along a curve to the right with a radius of 124.15 feet with initial tangent bearing of N 71° 42′26″ W, 82.53 feet; thence N 33° 37′07″ W along said Right of Way, 46.18 feet; thence N 49° 38′40″ E, 201.50 feet to the Point of Beginning. Containing 5,351 square feet.

"EXHIBIT A"



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 925

DAN R. MEYER &
JENNIFER A. GALBRAITH
8607 OVERHILL ROAD
LEAWOOD, KS 66206

3) Lot 928 Permanent Drainage Easement
Leo J. Jr. & Sharon L. Pearce

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

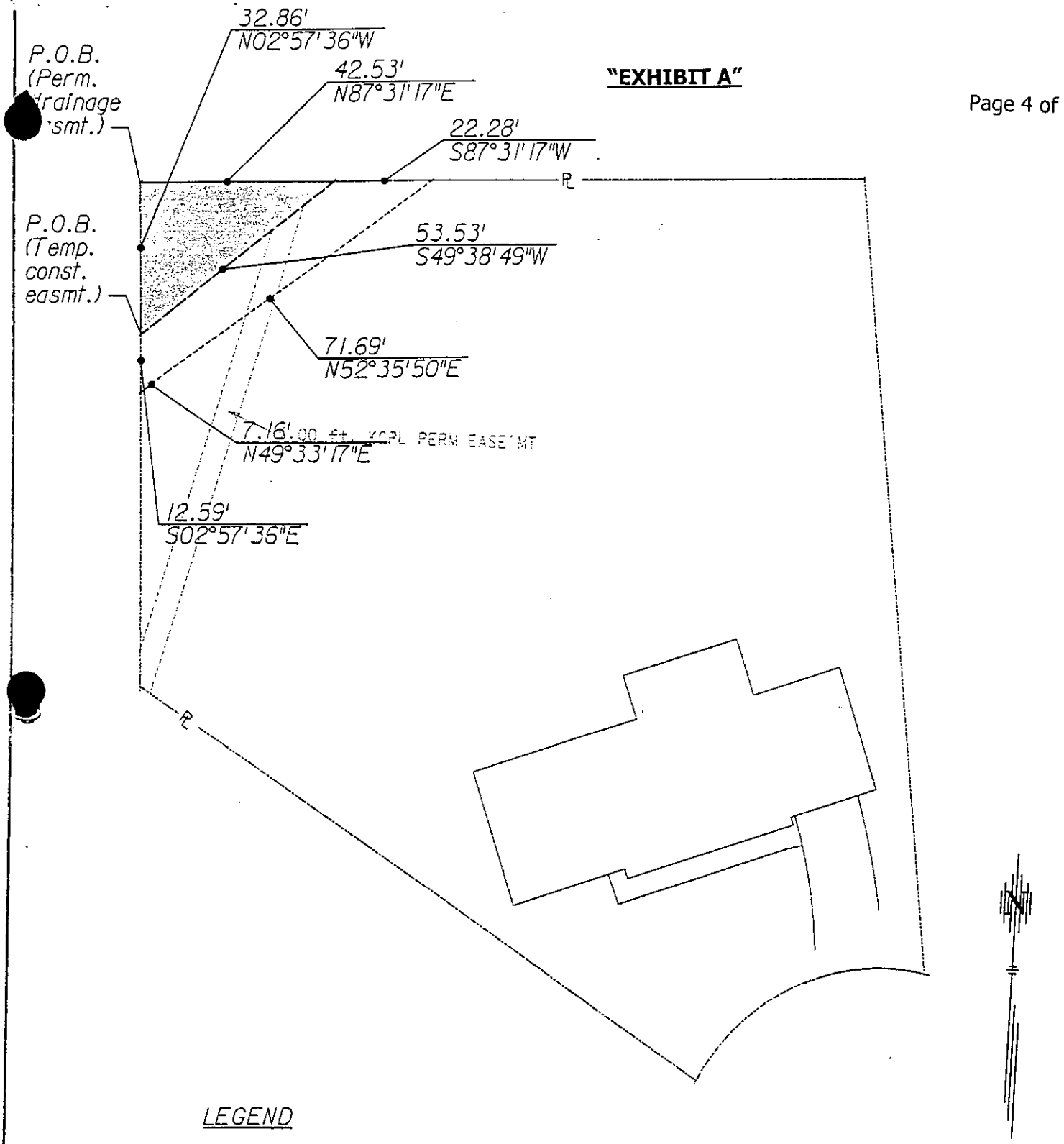
Beginning at the Northwest corner of Lot 928; thence N 87° 31'17" E along the North line, 42.53 feet; thence S 49° 38'49" W, 53.53 feet to the West line of said lot; thence N 02° 57'36" W; 32.86 feet to the Point of Beginning. Containing 698.9 square feet.

4) Lot 928 Temporary Construction Easement
Leo J. Jr. & Sharon L. Pearce

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the Northwest corner of Lot 928; thence S 02° 57'36" E along the West line, 32.86 feet to the Point of Beginning; thence continuing along the West line S 02° 57'36" E, 12.59 feet; thence N 49° 33'17" E, 7.16 feet; thence N 52° 35'50" E, 71.69 feet to the North line said Lot; thence S 87° 31'17" W, 22.28 feet; thence S 49° 38'49" W, 53.53 feet to the Point of Beginning. Containing 760.4 square feet.

"EXHIBIT A"



LEGEND

Temp. Const. Easmt.

Perm. Drainage Easmt.

30 0 30
scale feet
1" = 30'

DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 928

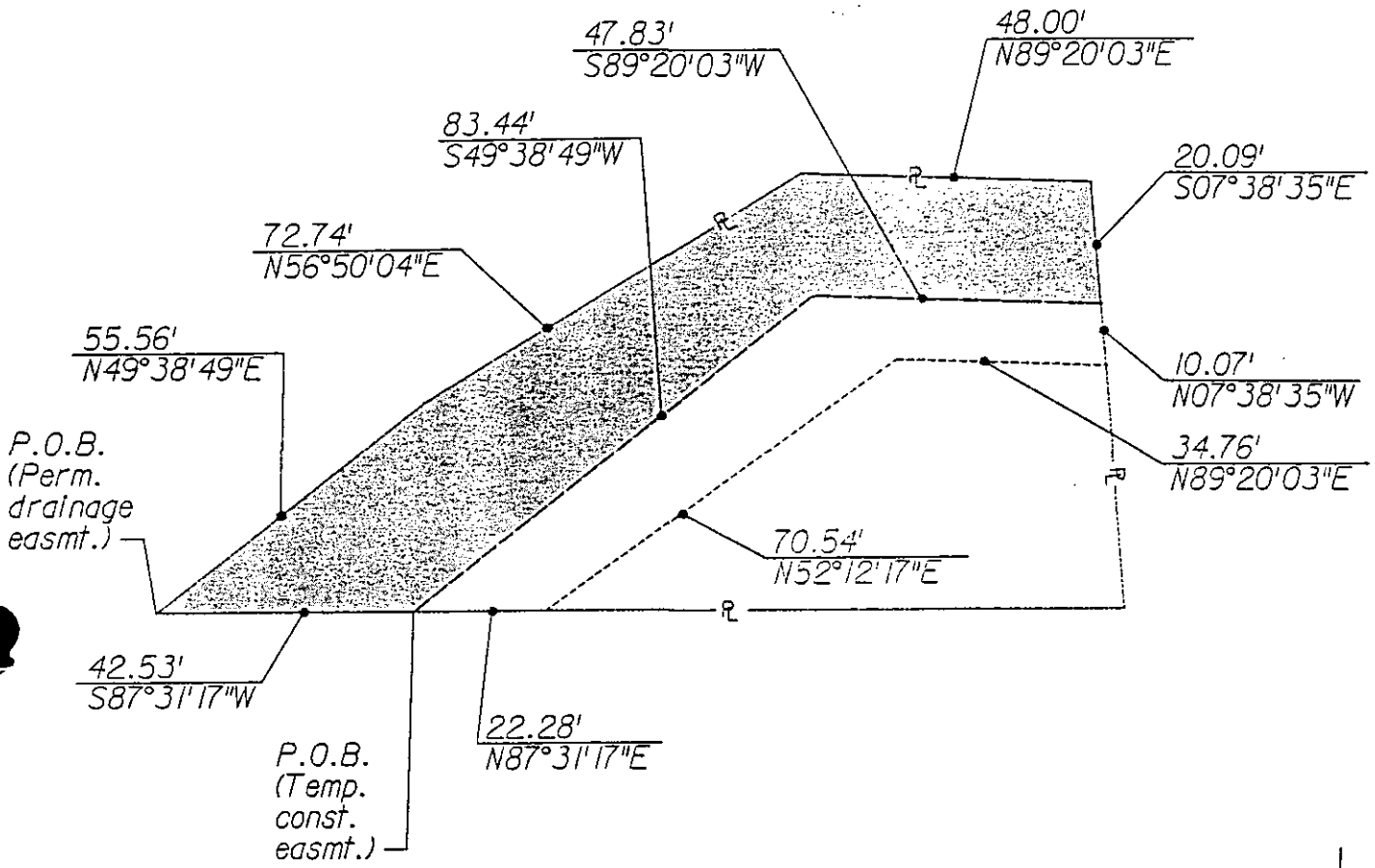
LEO J. JR. &
SHARON L. PEARCE
8629 OVERHILL ROAD
LEAWOOD, KS 66206

5) Lot 928A Permanent Drainage Easement
Don C. Edmisten

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning at the Southwest corner of Lot 928A, thence along the platted Lot lines of said Lot the following 3 (three) courses; N 49° 38'49" E, 55.56 feet N 56° 50'04" E, 72.74 feet N 89° 20'03" E, 48.00 feet to East line of said Lot; thence S 07° 38'35" E, 20.09 feet; thence the following 2 (two) courses; S 89° 20'03" W, 47.83 feet S 49° 38'49" W, 83.44 feet to the South line said Lot; thence S 87° 31'17" W, 42.53 feet to the Point of Beginning. Containing 3,433.2 square feet.

"EXHIBIT A"



LEGEND

Temp. Const. Easmt.

Perm. Drainage Easmt.

30 0 30
scale feet
1" = 30'

DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 928A

DON C. EDMISTEN
3811 CHAUMIERE ROAD NE
KANSAS CITY, MO 64117

6) Lot 937 Permanent Drainage Easement
David E. and Judith F. Wiseman

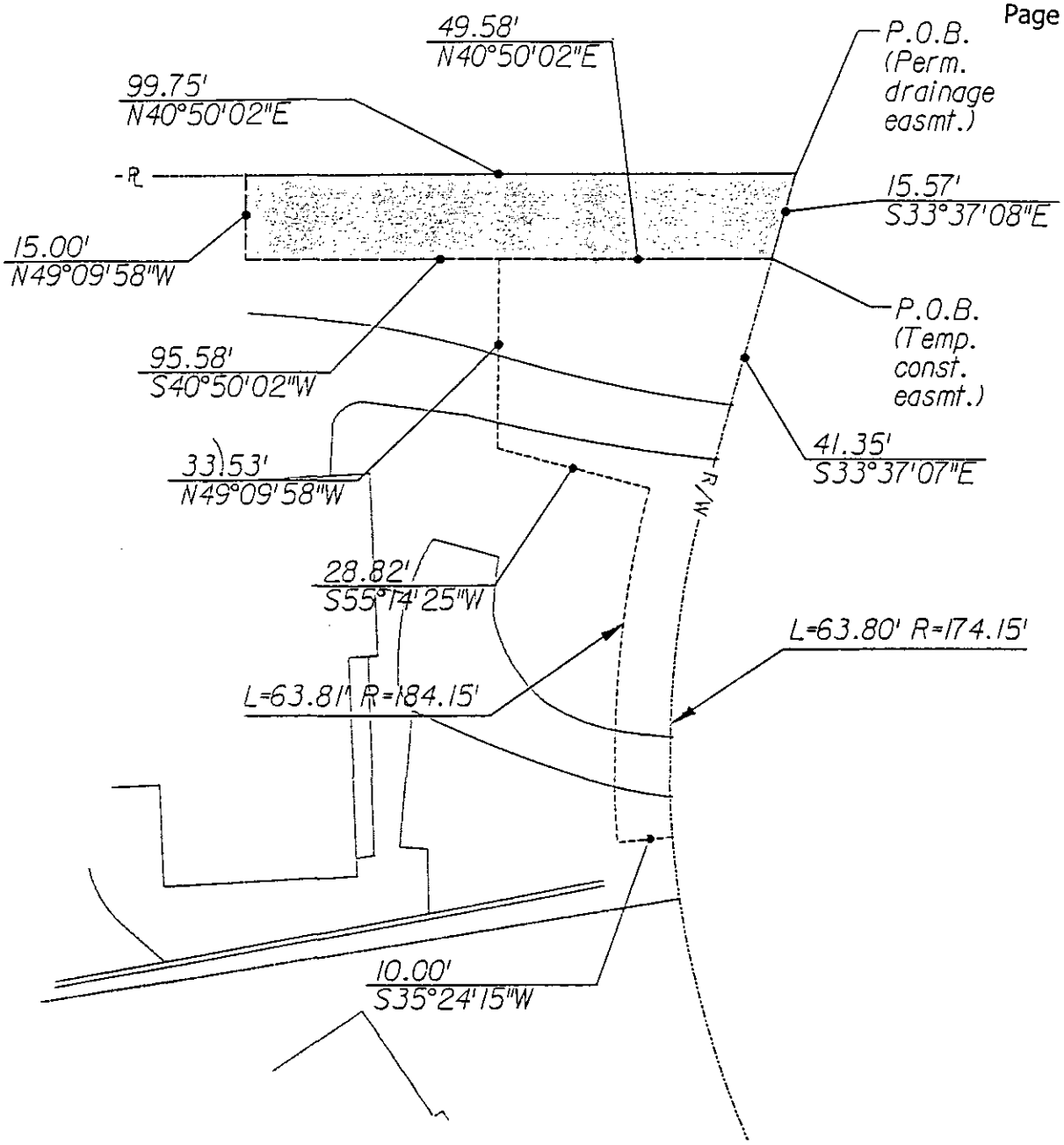
All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

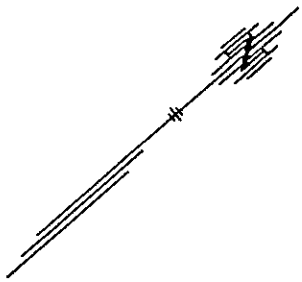
Beginning at the Northwesterly corner of Lot 937; thence S 33° 37'08" E, along the northern line, 15.57 feet; thence the following courses S 40° 50'02"W, 95.58 feet; N 49° 09'58"W, 15.00 feet to the west line; N 40° 50'02"E along the westerly line, 99.75 feet to the Point of Beginning. Containing 1,465.0 square feet.

7) Lot 937 Temporary Construction Easement
David E. and Judith F. Wiseman

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the Northwesterly corner of Lot 937; thence along the platted Overhill Road Right of Way S 33° 37'08" E, 15.57 feet to the Point of Beginning; thence continuing on the last course 41.35 feet to a curve to the left yielding a radius of 174.15 feet and an arc length of 63.80 feet; thence S 35° 24'15" W, 10.00 feet; thence on a curve to the right, initial tangent bearing of N 54° 36'37" W, yielding a radius of 184.15 feet and an arc length of 63.81 feet; thence S 55° 14'25" W, 28.82 feet; thence N 49° 09'58" W, 33.53 feet; thence N 40° 50'02" E, 49.58 feet to the Point of Beginning. Containing 2,321.1 square feet.





LEGEND

Temp. Const. Easmt.

Perm. Drainage Easmt.

30 0 30
scale feet
1" = 30'

DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 937

DAVID E. &
JUDITH F. WISEMAN
8608 OVERHILL ROAD
LEAWOOD, KS 66206

8) Lot 826 Permanent Drainage Easement
James R. and Brenda M. Hess

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

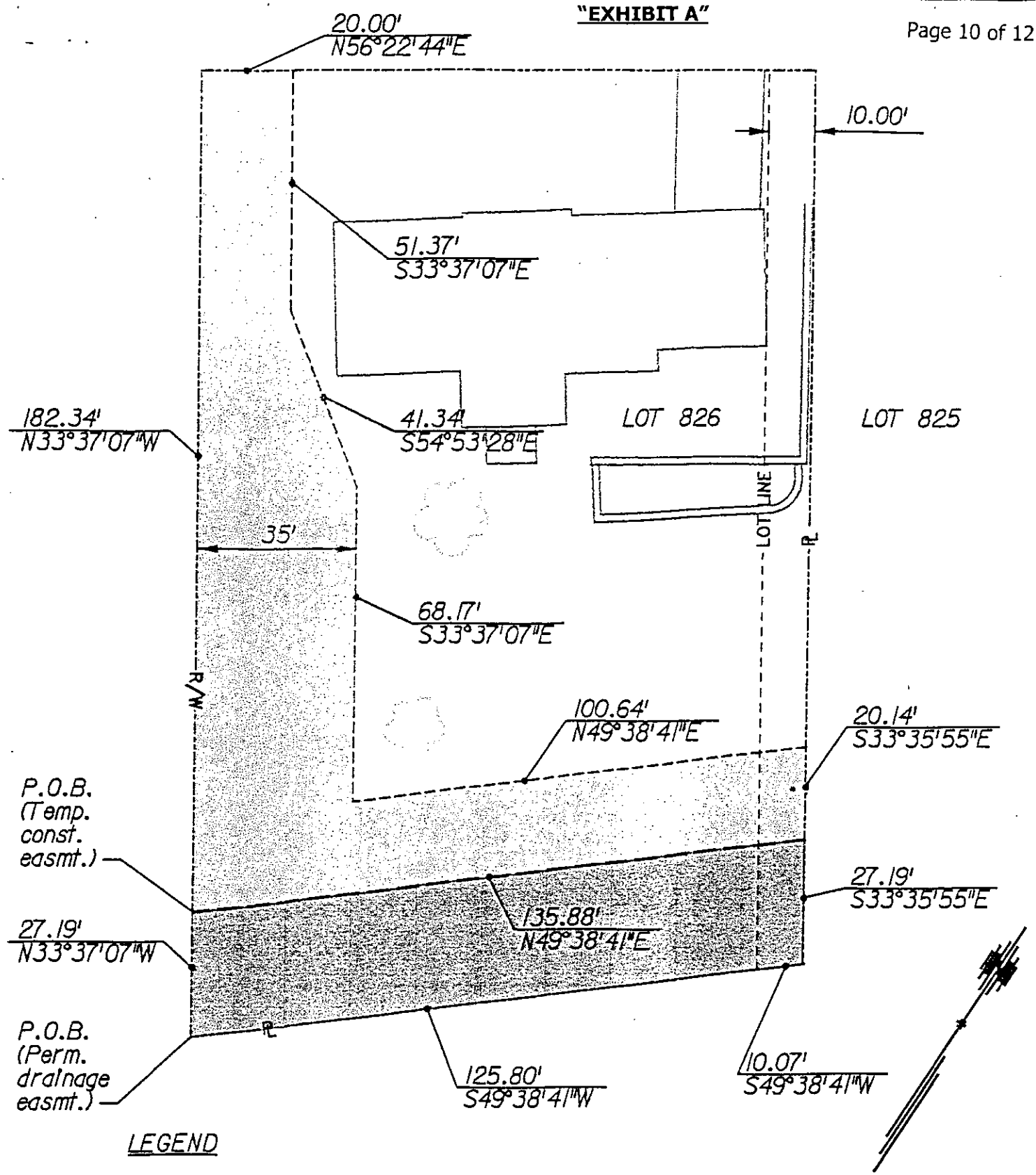
Beginning at the Southwesterly corner of Lot 826 as platted; thence N 33° 37'07" W along the West line 27.19 feet; thence N 49° 38'41" E, 135.88 feet to a point 10.00 feet East of the west line of Lot 825; thence S 33° 35'55" E, 27.19 feet to the South line of Lot 825; thence S 49° 38'41" W, 10.07 feet to the southeasterly corner of Lot 826 as platted; thence continuing on the last course 125.80 feet to the Point of Beginning. Containing 3,669 square feet.

9) Lot 826 Temporary Construction Easement
James R. and Brenda M. Hess

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning 27.19 feet North of the Southwesterly corner and on the westerly line of lot 826; thence the following courses:
N 33° 37'07" W, 182.34 feet to the Northwesterly corner of said lot;
N 56° 22'44" E, 20.00 feet;
S 33° 37'07" E, 51.37 feet;
S 54° 53' 28" E, 41.34 feet;
S 33° 37' 07" E, 68.17 feet;
N 49° 38'41" E, 100.64 feet to a point 10.00 feet East of the west line of Lot 825; thence S 33° 35' 55" E, 20.14 feet; thence S 49° 38' 41" W, 135.88 feet to the Point of Beginning. Containing 7,262.5 square feet.

"EXHIBIT A"



LEGEND

Temp. Const. Easmt.

Perm. Drainage Easmt.

30 0 30
scale feet
1" = 30'

DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 826

James & Brenda Hes
~~[illegible]~~
~~[illegible]~~
2825 W. 86TH STREET
LEAWOOD, KS 66206

10)Lot 825 Permanent Drainage Easement
Roy H. and Peggy S. Silvey

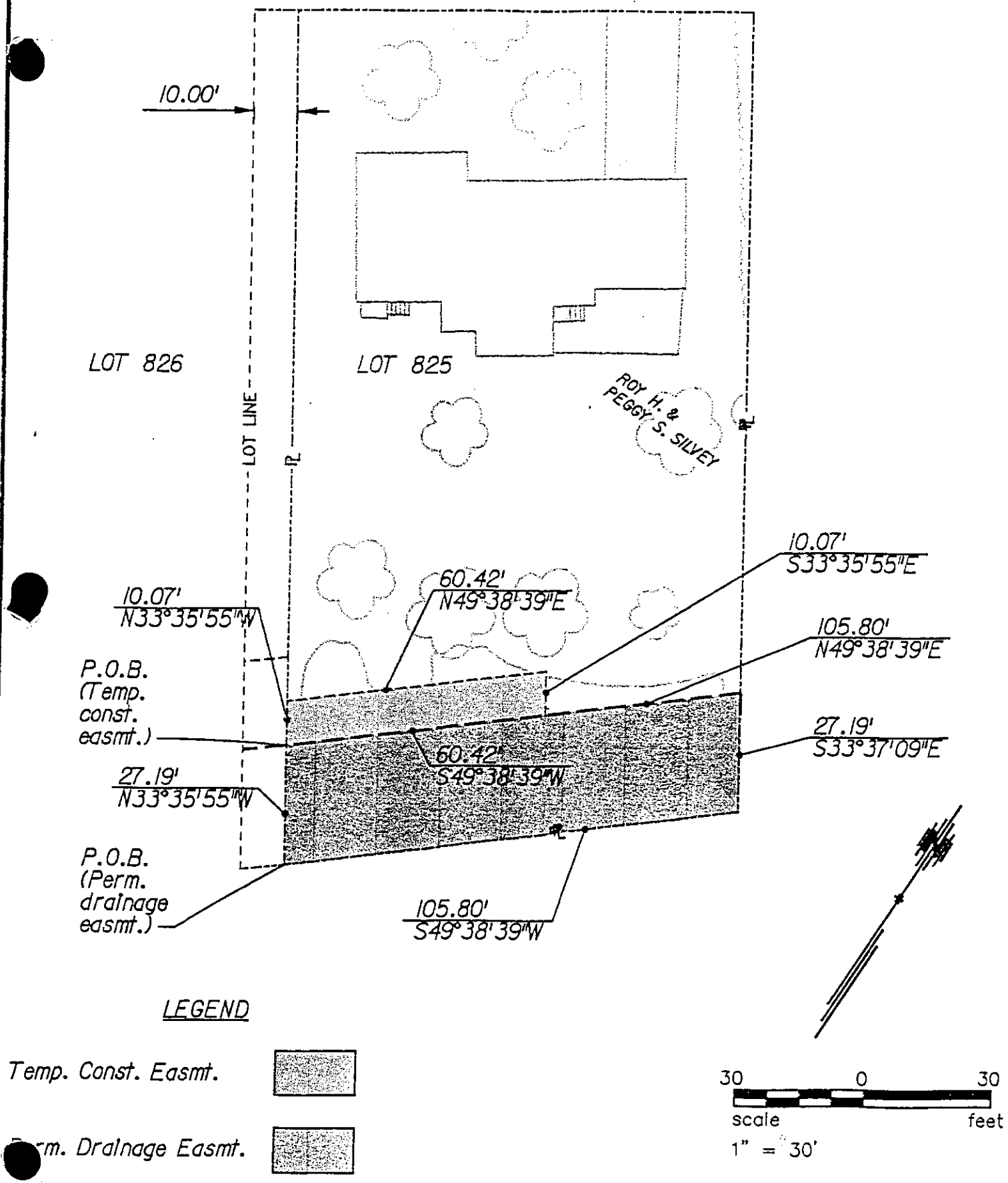
All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning at a point 10.00 feet East of the Southwest corner of Lot 825 as platted and on the South line of said lot; thence N 33°-35'-55" W, 27.19 feet; thence N 49°-38'-39"E, 105.80 feet to the Easterly line of said Lot; thence S 33° 37' 09"E, 27.19 feet; thence along the South line, S 49°-38'-39"W, 105.80 feet to the Point of Beginning. Containing 2,856.9 square feet.

11) Lot 825 Temporary Construction Easement
Roy H. and Peggy S. Silvey

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at a point 10.00 feet east of the Southwest corner of Lot 825 as platted and on the South line of said Lot; thence N 33°-35'-55" W, 27.19 feet to the Point of Beginning; thence continuing N 33°-35'-55" W, 10.07 feet; thence N 49°-38'-39" E, 60.42 feet; thence S 33°-35'-55" E, 10.07 feet; thence S 49°-38'-39" W, 60.42 feet to the Point of Beginning. Containing 604.20 square feet.



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 825

ROY H. &
PEGGY S. SILVEY
2817 W. 86TH STREET
LEAWOOD, KS 66206

ORD1823

Publication Fees: $210.28

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1823--10/26/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 27, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$210.28

ORDINANCE NO. 1823

First published in The Legal Record, Tuesday, October 26, 1999.

ORDINANCE NO. 1823

AN ORDINANCE AUTHORIZING AND PROVIDING FOR ACQUISITION OF PRIVATE PROPERTY FOR THE USE OF THE CITY AND AUTHORIZING SURVEY AND DESCRIPTION OF THE LAND AND INTEREST TO BE CONDEMNED.

WHEREAS, the Governing Body of the City of Leawood, Kansas, did by resolution approve on October 18, 1999, declare the necessity of appropriating certain private property for the use of the City; and

WHEREAS, the Governing Body has previously authorized a survey and description of the land and interest to be condemned to be made by some competent engineer and filed with the City Clerk; and

WHEREAS, a survey and description of the land and interest to be condemned has been made by a competent engineer and filed with the City Clerk.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. The City Attorney is hereby authorized and directed to institute eminent domain proceedings to acquire the property and interests described by survey filed with the City Clerk which property and interests have been determined by the Governing Body to be necessary for the purpose of construction of improvements and re-improvements to portions of the Dykes Branch Tributary:

The project purpose is new construction, erosion control, and flood control. The project will be 730 feet long, which will consist of the following improvements: A 230 feet long reinforced concrete box, double cell 11 foot x 6 foot, and will be constructed to replace an existing 48 inch R.C.P. This will prevent flooding of Overhill Road for the 100-year storm. Upstream, a concrete channel with 1.5:1 side slopes will be constructed to match the existing channel. The concrete channel will be 64.5 feet long. Downstream, the alignment will remain as is, but will have limestone blocks lining it in order to prevent further erosion. Project located in the SW Quarter of the SW Quarter of the SE Quarter of Section 27, Township 12 South, Range 25 East, Johnson County, Kansas, across, along the Tributary of Dykes Branch.

Specifically, the City Attorney is authorized and directed to institute eminent domain proceedings to acquire the following described property:

See attached "EXHIBIT A"

Section 2. This Ordinance shall take effect and be enforced from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 18th DAY OF OCTOBER, 1999.

PEGGY J. DUNN, MAYOR
CITY OF LEAWOOD, KANSAS

ATTEST:

MARTHA HEIZER, CITY CLERK

APPROVED AS TO FORM:

PATRICIA A. BENNETT, CITY ATTORNEY

"EXHIBIT A"

1) Lot 925 Permanent Drainage Easement
Dan R. Meyer and Jennifer A. Galbraith

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

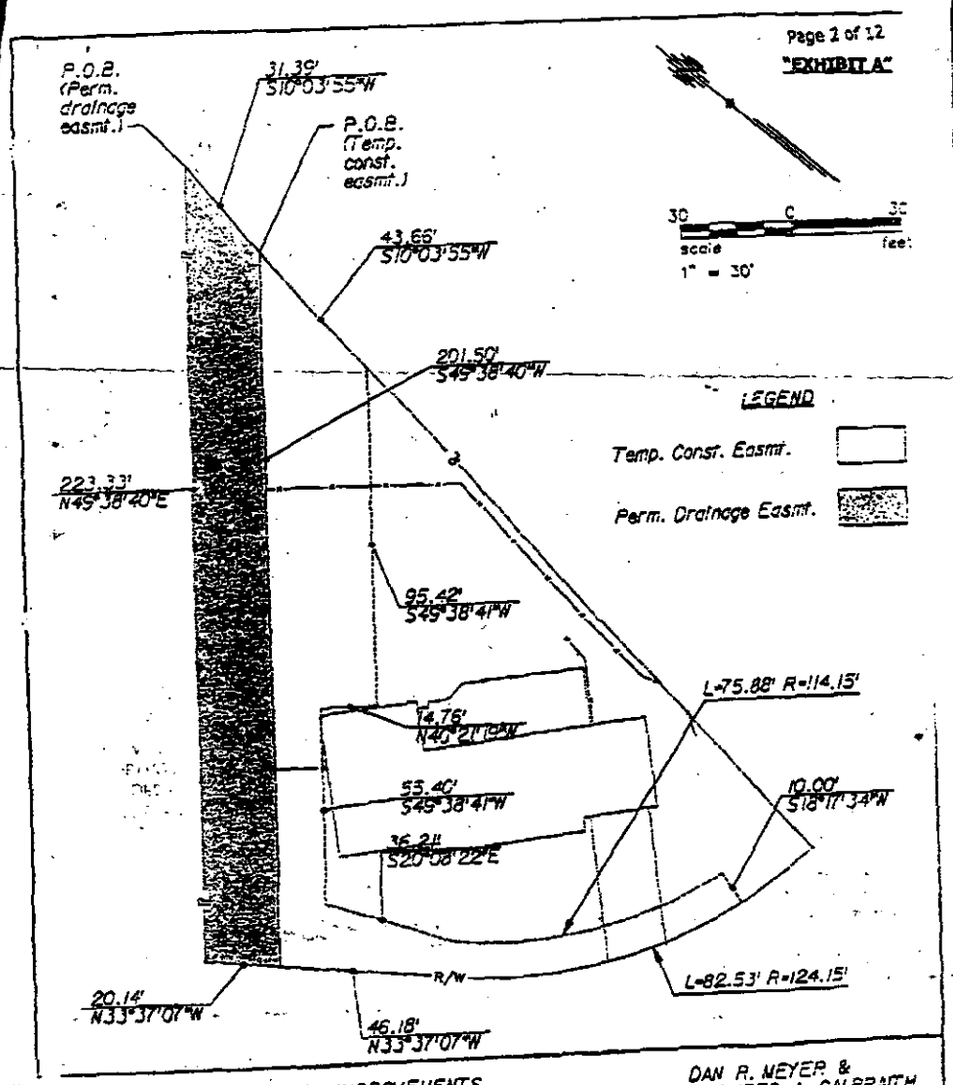
Beginning at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926; thence S 10° 03' 55" W along the easterly line of Lot 925, 31.39 feet; thence S 49° 38' 40" W, 201.50 feet to the platted right of way line of Overhill Road; thence N 33° 37' 07" W, 20.14 feet to the Southwesterly corner of said Lot; thence N 49° 38' 40" E along the Northwesterly line of said Lot, 223.33 feet to the Point of Beginning. Containing 4,248.5 square feet.

2) Lot 925 Temporary Construction Easement
Dan R. Meyer and Jennifer A. Galbraith

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the common corner of Lot 925 and Lot 926, said corner being the Northwest corner of Lot 926 ; thence S 10° 03'55" W along the easterly line as platted, 31.39 feet to the Point of Beginning; thence continuing on the same course
S 10° 03'55" W, 43.66 feet; thence following 4 (four) courses;
S 49° 38'41" W, 95.42 feet;
N 40° 21'19" W, 14.76 feet;
S 49° 38'41" W, 55.40 feet;
S 20° 08'22" E, 36.21 feet;
Thence along a curve to the left with a radius of 114.15 feet and initial tangent bearing of S 33° 37'07" E, 75.88 feet; thence S 18° 17'34" W leaving said curve, 10.00 feet to the East Right of Way of Overhill Road as platted; thence on said Right of Way, along a curve to the right with a radius of 124.15 feet with initial tangent bearing of N 71° 42'26" W, 82.53 feet; thence N 33° 37'07" W along said Right of Way, 46.18 feet; thence N 49° 38'40" E, 201.50 feet to the Point of Beginning. Containing 5,351 square feet.

"EXHIBIT A"



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 925

DAN R. MEYER &
JENNIFER A. GALBRAITH
8607 OVERHILL ROAD
LEAWOOD, KS 66206

3) Lot 928 Permanent Drainage Easement
Leo J. Jr. & Sharon L. Pearce

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

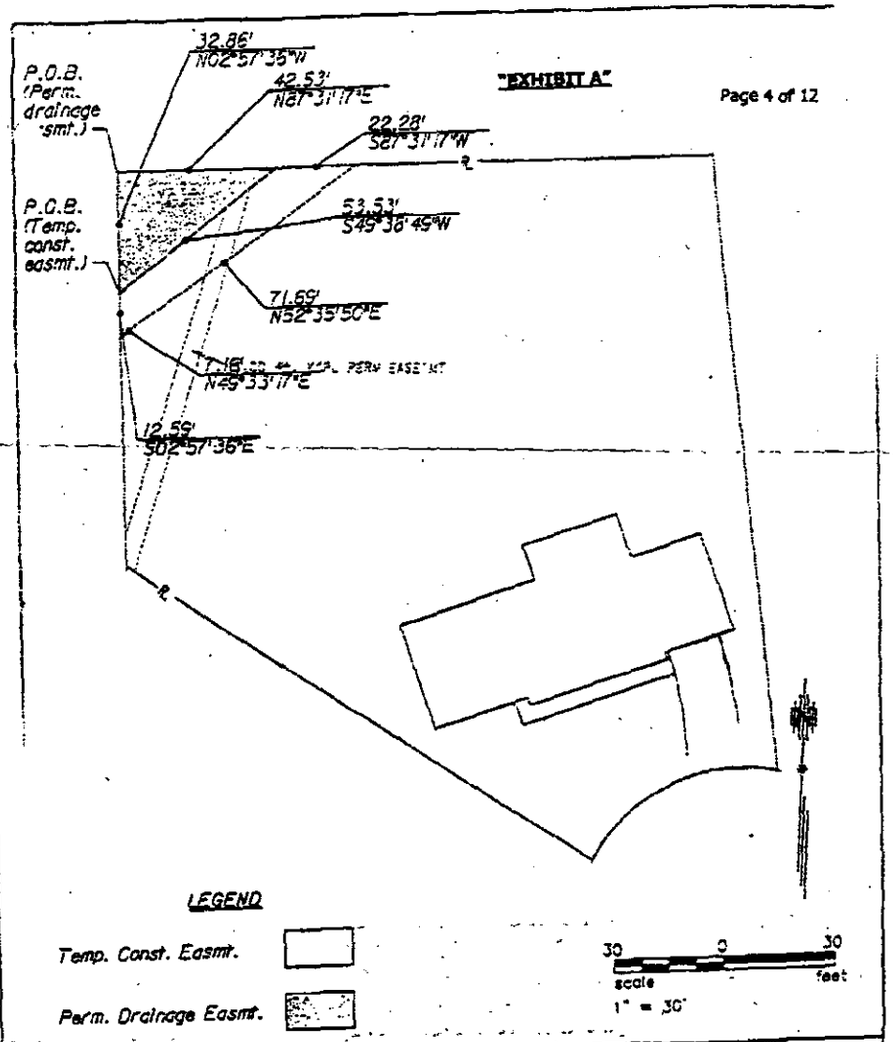
Beginning at the Northwest corner of Lot 928; thence N 87° 31'17" E along the North line, 42.53 feet; thence S 49° 38'49" W, 53.53 feet to the West line of said lot; thence N 02° 57'36" W; 32.86 feet to the Point of Beginning. Containing 698.9 square feet.

4) Lot 928 Temporary Construction Easement
Leo J. Jr. & Sharon L. Pearce

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the Northwest corner of Lot 928; thence S 02° 57'36" E along the West line, 32.86 feet to the Point of Beginning; thence continuing along the West line S 02° 57'36" E, 12.59 feet; thence N 49° 33'17" E, 7.16 feet; thence N 52° 35'50" E, 71.69 feet to the North line said Lot; thence S 87° 31'17" W, 22.28 feet; thence S 49° 38'49" W, 53.53 feet to the Point of Beginning. Containing 760.4 square feet.

"EXHIBIT A"



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 928

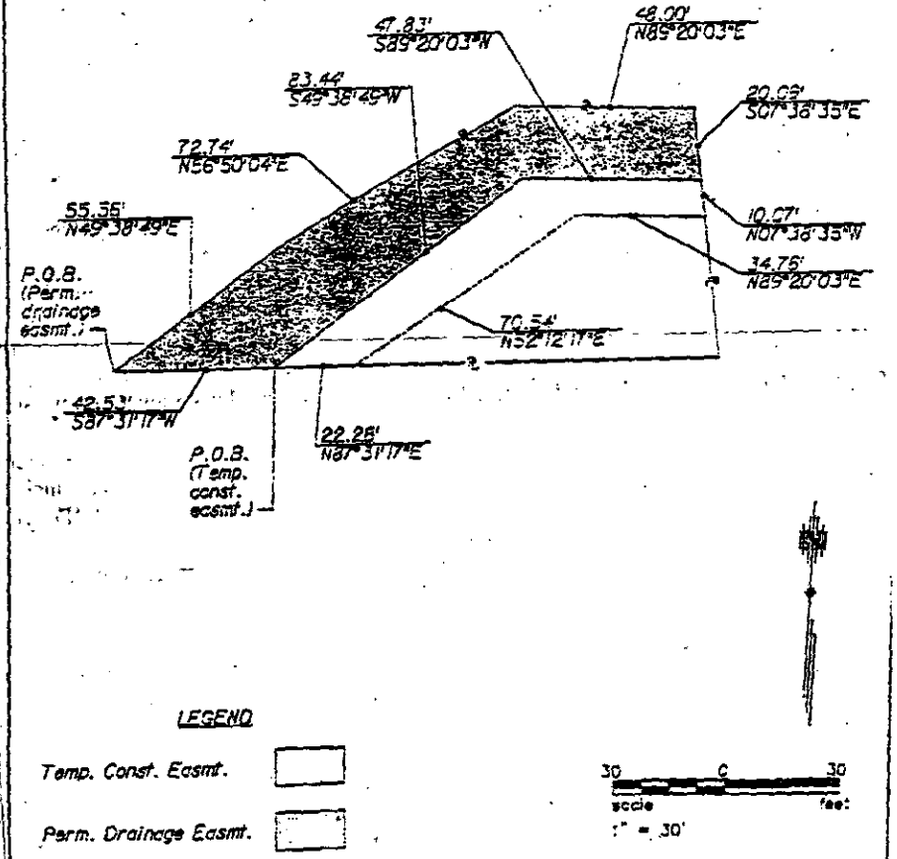
LEO J. JR. &
SHARON L. PEARCE
8629 OVERHILL ROAD
LEAWOOD, KS 66206

CONTINUED FROM PRECEDING PAGE

5) Lot 928A Permanent Drainage Easement
Don C. Edmisten

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning at the Southwest corner of Lot 928A, thence along the platted Lot lines of said Lot the following 3 (three) courses; N 49° 38'49" E, 55.56 feet N 56° 50'04" E, 72.74 feet N 89° 20'03" E, 48.00 feet to East line of said Lot; thence S 07° 38'35" E, 20.09 feet; thence the following 2 (two) courses; S 89° 20'03" W, 47.83 feet S 49° 38'49" W, 83.44 feet to the South line said Lot; thence S 87° 31'17" W, 42.53 feet to the Point of Beginning. Containing 3,433.2 square feet.



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 928A

DON C. EDMISTEN
3811 CHAUMIERE ROAD NE
KANSAS CITY, MO 64117

6) Lot 937 Permanent Drainage Easement
David E. and Judith F. Wiseman

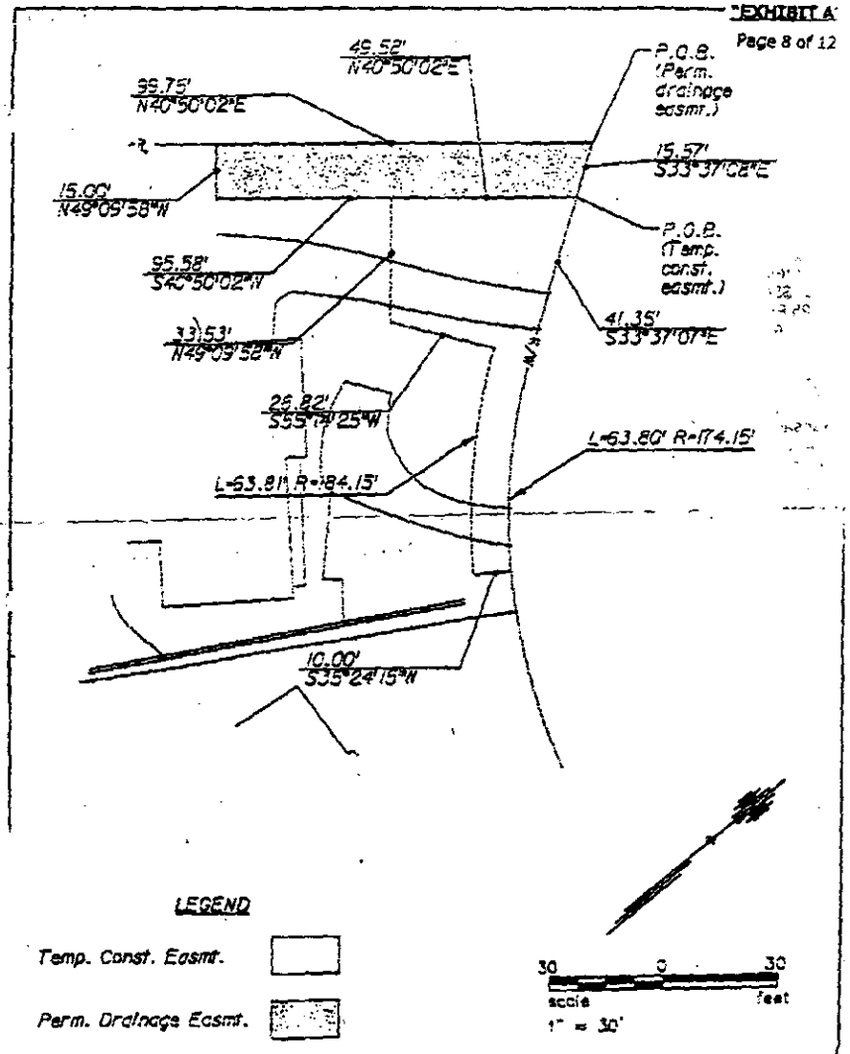
All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning at the Northwesterly corner of Lot 937; thence S 33° 37'08" E, along the northern line, 15.57 feet; thence the following courses S 40° 50'02"W, 95.58 feet; N 49° 09'58"W, 15.00 feet to the west line; N 40° 50'02"E along the westerly line, 99.75 feet to the Point of Beginning. Containing 1,465.0 square feet.

7) Lot 937 Temporary Construction Easement
David E. and Judith F. Wiseman

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at the Northwesterly corner of Lot 937; thence along the platted Overhill Road Right of Way S 33° 37'08" E, 15.57 feet to the Point of Beginning; thence continuing on the last course 41.35 feet to a curve to the left yielding a radius of 174.15 feet and an arc length of 63.80 feet; thence S 35° 24'15" W, 10.00 feet; thence on a curve to the right, initial tangent bearing of N 54° 36'37" W, yielding a radius of 184.15 feet and an arc length of 63.81 feet; thence S 55° 14'25" W, 28.82 feet; thence N 49° 09'58" W, 33.53 feet; thence N 40° 50'02" E, 49.58 feet to the Point of Beginning. Containing 2,321.1 square feet.



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 937

DAVID E. &
JUDITH F. WISEMAN
8608 OVERHILL ROAD
LEAWOOD, KS 66206

8) Lot 826 Permanent Drainage Easement
James R. and Brenda M. Hess

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

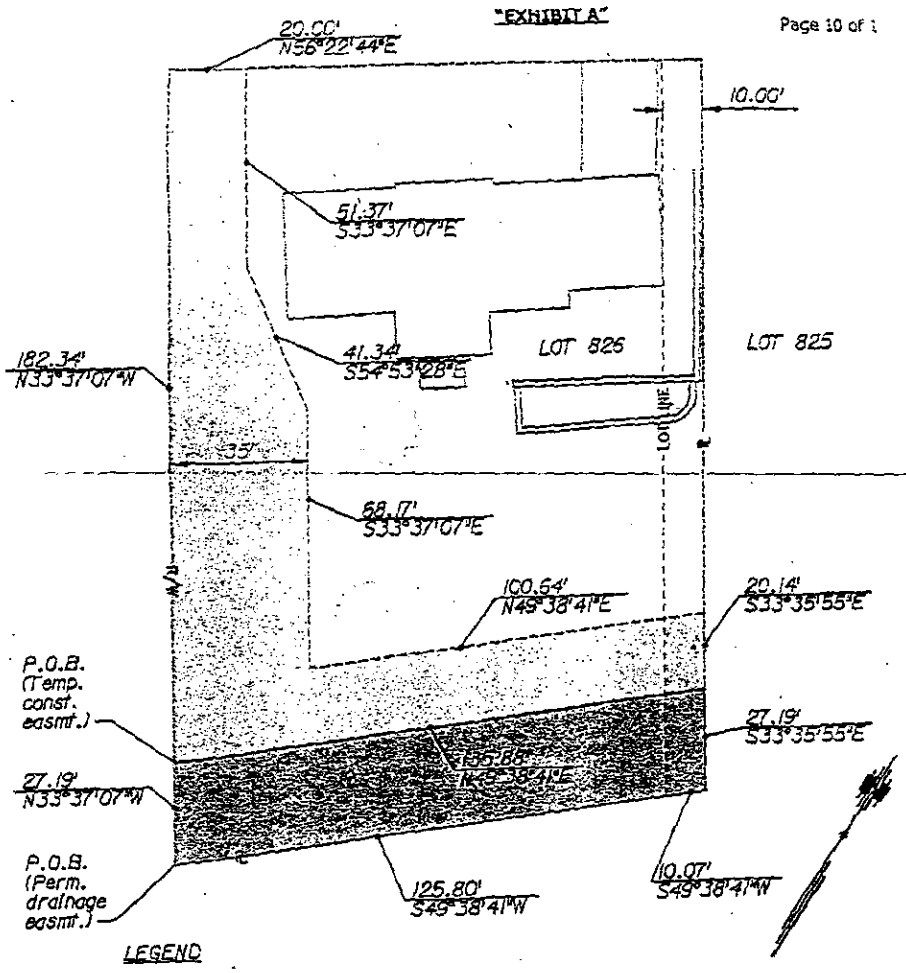
CONTINUED FROM PRECEDING PAGE

Beginning at the Southwesterly corner of Lot 826 as platted; thence N 33° 37'07" W along the West line 27.19 feet; thence N 49° 38'41" E, 135.88 feet to a point 10.00 feet East of the west line of Lot 825; thence S 33° 35'55" E, 27.19 feet to the South line of Lot 825; thence S 49° 38'41" W, 10.07 feet to the southeasterly corner of Lot 826 as platted; thence continuing on the last course 125.80 feet to the Point of Beginning. Containing 3,669 square feet.

9) Lot 826 Temporary Construction Easement
James R. and Brenda M. Hess

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning 27.19 feet North of the Southwesterly corner and on the westerly line of lot 826; thence the following courses:
N 33° 37'07" W, 182.34 feet to the Northwesterly corner of said lot;
N 56° 22'44" E, 20.00 feet;
S 33° 37'07" E, 51.37 feet;
S 54° 53' 28" E, 41.34 feet;
S 33° 37' 07" E, 68.17 feet;
N 49° 38'41" E, 100.64 feet to a point 10.00 feet East of the west line of Lot 825; thence S 33° 35' 55" E, 20.14 feet; thence S 49° 38' 41" W, 135.88 feet to the Point of Beginning. Containing 7,252.5 square feet.



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 826

James & Brenda Hes
2825 W. 86TH STREET
LEAWOOD, KS 66206

10) Lot 825 Permanent Drainage Easement
Roy H. and Peggy S. Silvey

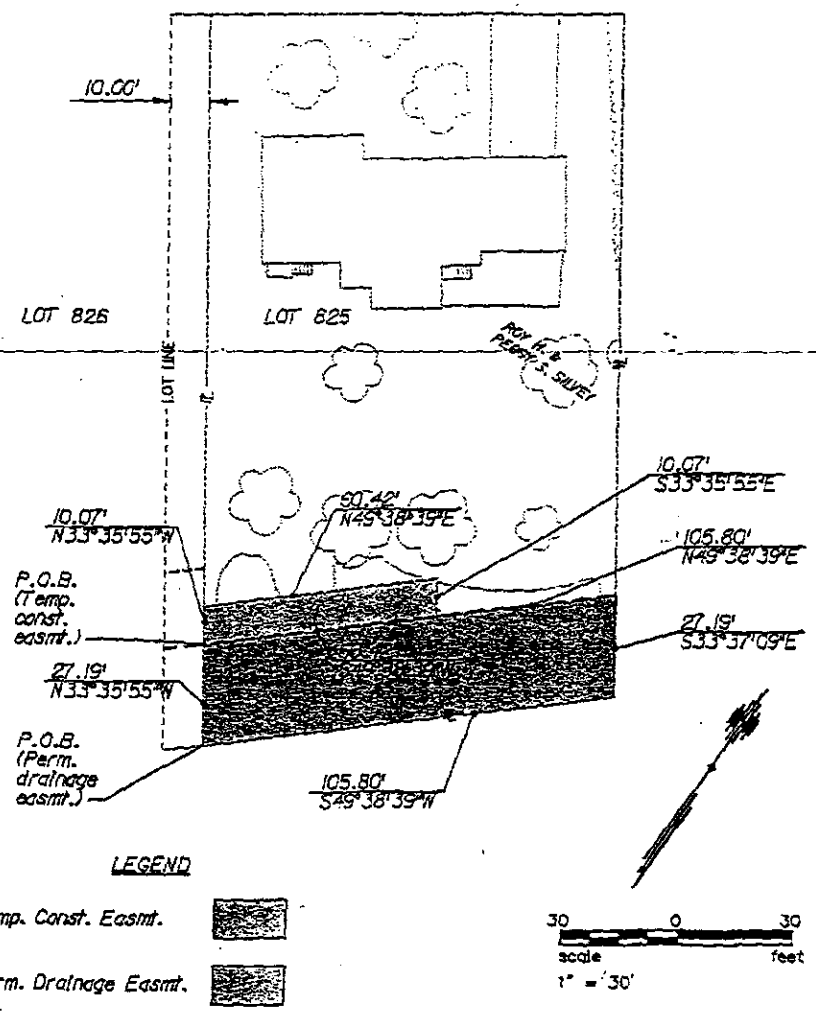
All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Beginning at a point 10.00 feet East of the Southwest corner of Lot 825 as platted and on the South line of said lot; thence N 33°-35'-55" W, 27.19 feet; thence N 49°-38'-39"E, 105.80 feet to the Easterly line of said Lot; thence S 33° 37' 09"E, 27.19 feet; thence along the South line, S 49°-38'-39"W, 105.80 feet to the Point of Beginning. Containing 2,856.9 square feet.

11) Lot 825 Temporary Construction Easement
Roy H. and Peggy S. Silvey

All that part of Leawood, a subdivision of land in the City of Leawood, Johnson County, Kansas, described as follows:

Commencing at a point 10.00 feet east of the Southwest corner of Lot 825 as platted and on the South line of said Lot; thence N 33°-35'-55" W, 27.19 feet to the Point of Beginning; thence continuing N 33°-35'-55" W, 10.07 feet; thence N 49°-38'-39" E, 60.42 feet; thence S 33°-35'-55" E, 10.07 feet; thence S 49°-38'-39" W, 60.42 feet to the Point of Beginning. Containing 604.20 square feet.



DYKE BRANCH TRIBUTARY IMPROVEMENTS
SEC. 27-T12S-R25E
LEAWOOD SUBDIVISION
LOT 825

ROY H. &
PEGGY S. SILVEY
2817 W. 86TH STREET
LEAWOOD, KS 66206

ORDINANCE NO. 1822

AN ORDINANCE TO AMEND SECTION 3-2 OF THE LEAWOOD DEVELOPMENT ORDINANCE REGARDING R-1 SINGLE FAMILY RESIDENTIAL DISTRICTS.

WHEREAS, Section 3-2 subsection F) 2) of the Leawood Development Ordinance regarding R-1 Single Family Residential Districts establishes a Side Setback requirement of 15 feet; and

WHEREAS, before the adoption of the current Side Setback requirement, the Side Setback of R-1 structures was determined by a formula which, as a result, allowed some R-1 residences to be built with a Side Setback of less than 15 feet; and

WHEREAS, some owners of R-1 residences that were legally constructed with Side Setbacks of less than 15 feet now desire to build additions that are continuous and consistent with the side build line of their existing structure; and

WHEREAS, under the current Side Setback requirement these additions are not allowed; and

WHEREAS, the Governing Body has determined that it is in the public interest to allow the Board of Zoning Appeals to grant exceptions to the current Side Setback requirement in these situations where the additions are built to the same side build line as the existing structure as long as the addition is not built within 10 feet of the property line, and as long as the addition does not provide any additional encroachment to surrounding property owners.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Section 3-2 of the Leawood Development Ordinance is hereby repealed.

Section 2. That Section 3-2 of the Leawood Development Ordinance is hereby amended to read as follows:

3-2 R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as R-1 Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned R-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District R-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body.

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the R-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot shall be 30 feet.

2) Side Setback: 15 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.

5) Lot Area: 15,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 ½ stories

8) Exception to Side Yard Setback: The Board of Zoning Appeals shall have the power to grant an exception to the required 15-foot Side Setback for additions to existing structures, upon a determination that such exception shall not cause adverse impact to the surrounding properties, and upon a finding of the following conditions:

a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and

b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and

c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and

d) The proposed addition shall not cause further encroachment than that of the existing structure.

Such exception shall require a public hearing. Notice of the hearing shall be published in the official city newspaper at the applicant's expense at least 20 days prior to the date of the hearing. Additionally, at least 10 days prior to the date of the hearing, the applicant shall mail notices regarding the application to all adjacent property owners and to the applicable homes association. Such mailed notice shall be by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Failure to receive such notice shall not invalidate any subsequent action taken.

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Type of Construction: Exterior walls of all dwellings shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal and glass.

1) Roofs shall be covered with:

a) Wood Shingles: Number 1 or 2 grade

b) Wood Shakes:

1) Number 1 or 2 grade

2) Minimum ½ inch thickness measured at butt

c) Slate

d) Clay Tile

e) Concrete Tile

f) Other Tile

Synthetic slate within similar color range of slate, clay or concrete tile.

Gerard Tile and other stone-coated steel roofing tile meeting the same characteristics shall be limited to the following colors:

Chestnut

Driftwood

Mahogany

3) Other tile or roofing materials as specifically authorized by resolution of the Plan Commission and ordinance of the City Council provided that all building code requirements are met.

g) Laminated Composition Shingles:

1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake.

2) Required to be installed with sheet metal valleys and flashings.

3) Required to be installed with preformed ridge shingles.

4) Have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes.

5) Must use a minimum of five (5) color blend granules.

6) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4's.

7) Minimum thickness 3/16 inch measured at exposed but end of overlap creating the shadow line or individual thickness of the ply of roof material.

8) Required to be U.L. Class A fire rated material.

9) Required to be a minimum of 330 lb./square.

2) Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 ½) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 3. This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the Governing Body, the 18 day of October, 1999.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1822

Publication Fees: $85.97

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1822--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$85.97

ORDINANCE NO. 1822

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1822

AN ORDINANCE TO AMEND SECTION 3-2 OF THE LEAWOOD DEVELOPMENT ORDINANCE REGARDING R-1 SINGLE FAMILY RESIDENTIAL DISTRICTS.

WHEREAS, Section 3-2 subsection F) 2) of the Leawood Development Ordinance regarding R-1 Single Family Residential Districts establishes a Side Setback requirement of 15 feet; and

WHEREAS, before the adoption of the current Side Setback requirement, the Side Setback of R-1 structures was determined by a formula which, as a result, allowed some R-1 residences to be built with a Side Setback of less than 15 feet; and

WHEREAS, some owners of R-1 residences that were legally constructed with Side Setbacks of less than 15 feet now desire to build additions that are continuous and consistent with the side build line of their existing structure; and

WHEREAS, under the current Side Setback requirement these additions are not allowed; and

WHEREAS, the Governing Body has determined that it is in the public interest to allow the Board of Zoning Appeals to grant exceptions to the current Side Setback requirement in these situations where the additions are built to the same side build line as the existing structure as long as the addition is not built within 10 feet of the property line, and as long as the addition does not provide any additional encroachment to surrounding property owners.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Section 3-2 of the Leawood Development Ordinance is hereby repealed.

Section 2. That Section 3-2 of the Leawood Development Ordinance is hereby amended to read as follows:

3-2 R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as R-1 Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned R-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District R-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings
2) Group Homes as defined herein.
3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:
   a) Athletic Fields
   b) Cemeteries
   c) Community center buildings
   d) Convents, when a part of a school or church complex
   e) Fire station
   f) Libraries
   g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon
   h) Parks, playgrounds and other recreational areas of municipal ownership
   i) Police stations
   j) Swimming pools, (municipal)
   k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the R-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.
2) Sales office
3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot shall be 30 feet.
2) Side Setback: 15 feet
3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.
4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.
5) Lot Area: 15,000 square feet per dwelling
6) Lot Frontage: 100 feet
7) Height Limit: 2 ½ stories
8) Exception to Side Yard Setback: The Board of Zoning Appeals shall have the power to grant an exception to the required 15-foot Side Setback for additions to existing structures, upon a determination that such exception shall not cause adverse impact to the surrounding properties, and upon a finding of the following conditions:
   a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and
   b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and
   c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and
   d) The proposed addition shall not cause further encroachment than that of the existing structure.

   Such exception shall require a public hearing. Notice of the hearing shall be published in the official city newspaper at the applicant's expense at least 20 days prior to the date of the hearing. Additionally, at least 10 days prior to the date of the hearing, the applicant shall mail notices recording the application to all adjacent property owners and to the applicable homes association. Such mailed notice shall be by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Failure to receive such notice shall not invalidate any subsequent action taken.

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Type of Construction: Exterior walls of all dwellings shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal and glass.

1) Roofs shall be covered with:
   a) *Wood Shingles: Number 1 or 2 grade*
   b) Wood Shakes:
      1) Number 1 or 2 grade
      2) Minimum ½ inch thickness measured at butt
   c) Slate
   d) Clay Tile
   e) Concrete Tile
   f) Other Tile

      Synthetic slate within similar color range of slate, clay or concrete tile.

      Gerard Tile and other stone-coated steel roofing tile meeting the same characteristics shall be limited to the following colors:

      Chestnut
      Driftwood
      Mahogany

      3) Other tile or roofing materials as specifically authorized by resolution of the Plan Commission and ordinance of the City Council provided that all building code requirements are met.
   g) Laminated Composition Shingles:
      1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake.
      2) Required to be installed with sheet metal valleys and flashings.
      3) Required to be installed with preformed ridge shingles.
      4) Have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes.
      5) Must use a minimum of five (5) color blend granules.
      6) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4's.
      7) Minimum thickness 3/16 inch measured at exposed but end of overlap creating the shadow line or individual thickness of the ply of roof material.
      8) Required to be U.L. Class A fire rated material.
      9) Required to be a minimum of 330 lb./square.
2) Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 ½) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 3. This ordinance shall take effect and be in force as of the date of its passage, approval and publication as provided by law.

PASSED by the Governing Body, the 18 day of October, 1999.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1821C

AN ORDINANCE TO REGULATE THE USE OF THE PUBLIC RIGHT-OF-WAY BY ADOPTING ARTICLE 3 TO CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "USE AND EXCAVATION OF THE RIGHT-OF-WAY," AND REPEALING THE EXISTING LEAWOOD CITY CODE SECTIONS 13-1A02, 13-1A03, AND 13-202 THROUGH 13-214.

WHEREAS, the increased use and demand on the right-of-way by utilities and other right-of-way users has created a need for the City to regulate such use by ordinance; and

WHEREAS, the Governing Body has determined that such ordinance is necessary to protect the public safety and welfare; and

WHEREAS, the City has the authority to adopt by ordinance such regulation through both statute, home rule and its police powers; and

WHEREAS, the Governing Body has established the regulations and requirements provided for hereafter in conjunction with the cities of Overland Park and Prairie Village who are adopting similar if not identical ordinances; and

WHEREAS, Article 3 of Chapter XIII of the Leawood City Code is currently unused and designated "Reserved."

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Sections 13-1A02, 13-1A03, and 13-202 through 3-214 of the Leawood City Code are hereby repealed.

Section 2. That the code of the City of Leawood is hereby amended by adding Article 3 of Chapter 13 which as follows:

ARTICLE 3 USE AND OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY

13-301 General.

(a) No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided herein.

13-302 Purpose.

(a) To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;

(b) To clarify and regulate conditions of occupancy and construction for those ROW-users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW-users throughout the country;

(c) To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;

(d) To treat each ROW-user equitably and in a competitively neutral manner with considerations that may be unique to the technologies and situation of each particular ROW-user;

(e) To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health, safety and welfare; and

(f) To comply with state and federal legislation.

13-303 Definitions.

(a) For purposes of this Ordinance, the following words and phrases shall have the meaning given herein:

(1) **"Abandoned Facilities"** means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.

(2) **"Administrative Fee"** means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this ordinance.

(3) **"Affiliate"** means any person controlling, controlled by or under the common control of a "service provider".

(4) **"Applicant"** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

(5) **"Area of Influence"** means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

(6) **"City"** means the City of Leawood, Kansas, a municipal corporation and any duly authorized representative.

(7) **"Construct"** means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

(8) **"Day"** means calendar day unless otherwise specified.

(9) **"Degradation"** means the accelerated depreciation of a street caused by excavation in or disturbance of the street, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(10) **"Degradation fee"** means the fee charged by the City to recover the cost to the City and the public at large associated with a decrease in the useful life of a street caused by excavation.

(11) **"Depreciation rate"** means the rate at which the useful service life of a public street improvement deteriorates over time.

(12) **"Emergency"** means a condition that (a) poses a clear and immediate danger to life or health, or of a significant loss of property; or (b) requires immediate repair or replacement in order to restore service to a user.

(13) **"Excavate"** means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

(14) **"FCC"** means Federal Communications Commission.

(15) **"Facility"** means lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

(16) **"Facility based service provider"** means a service provider owning or possessing facilities in the right-of-way.

(17) **"Governing body"** means the Mayor and the City Council of the City of Leawood, Kansas.

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

(19) **"KCC"** means the Kansas Corporation Commission.

(20) **"Parkway"** means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.

(21) **"Pavement"** means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

(22) **"Permittee"** means any person to whom a right-of-way permit is issued to excavate a right-of-way.

(23) **"Person"** means any natural or corporate person, business association or business entity

including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(24) **"Public improvement"** means any project undertaken by the City for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

(25) **"Public lands"** means any real property of the City that is not right-of-way.

(26) **"Public Works Director"** means the Public Works Director, Leawood, Kansas, or the authorized representative.

(27) **"Registration"** means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the City to provide service both within and beyond the City limits.

(28) **"Repair"** means the temporary construction work necessary to make the right-of-way useable.

(29) **"Reseller service provider"** means a service provider providing service within the City that does not have its own facilities in the right-of-way, but instead uses the right-of-way by interconnecting with or using the network elements of another service provider utilizing the right-of-way, and/or by leasing excess capacity from a facility-based service provider.

(30) **"Restoration"** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, that existed before the commencement of the work.

(31) **"Right-of-way"** means the area on, below or above the present and future City streets, alleys, bridges, bikeways, parkways and sidewalks.

(32) **"Right-of-way Permit"** means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

(33) **"Routine Service Operation"** means a work activity that makes no material change to the facilities and does not disrupt traffic.

(34) **"ROW-user"** means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way, or a reseller service provider that does not own or control its own facilities in the right-of-way.

(35) **"Service"** means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, Open Video Systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

(36) **"Service provider"** means any person that is a provider of a service for or without a fee that has the requisite certifications and authorizations from applicable governmental entities, including the KCC and the FCC, to provide such service. Service provider includes both facility-based service providers and reseller service providers.

(37) **"Street"** means the pavement and sub-grade of a City residential, collector or arterial roadway.

13-304 Policy.

(a) It is the policy of the City to authorize any ROW-user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW-user shall be subject to the terms and conditions hereof, in addition to other applicable federal, state or local requirements.

(b) The right granted to the ROW-user to use the right-of-way is limited to the use that the ROW-user has

filed with the City in accordance with this Ordinance. These rights are for the exclusive use of the ROW-user except where otherwise provided herein, or when authorized by the City.

(c) This Ordinance also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits which grant the authority to utilize and occupy the right-of-way within the City.

(d) All ROW-users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW-users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

13-305 Administration.

(a) The Public Works Director is the principal city official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.

(b) The Public Works Director is the principal City Official responsible for administration of the registering of a service provider. The Public Works Director may delegate any or all of the duties hereunder.

13-306 Requirements of Service Provider.

(a) Any existing service provider must register within thirty (30) days of the effective date of this Ordinance.

(b) Any person, who is not an existing service provider prior to the effective date of this Ordinance and who wishes to become a service provider, must first register with the City.

(c) The service provider shall report any changes in its registration information within thirty (30) days.

(d) No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.

(e) The information required for registration includes the following:

(1) Identity and legal status of service provider, including related affiliates.

(2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.

(3) Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.

(4) Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(5) Description of the service provider's intended use of the right-of-way.

(6) Information sufficient to determine whether the service provider is subject to franchising by Kansas law.

(7) Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the Kansas Corporation Commission.

(8) Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the Federal Communications Commission.

(9) Information which identifies reseller service providers as provided hereinafter.

(10) Such other information as may be reasonably required by the City to complete the registration statement.

(f) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this Ordinance. The service provider shall present to the City the agent's name, address, telephone number,

fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.

(g) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(h) Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.

(i) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(j) The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.

(k) To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:

(1) The capacity of the right-of-way to accommodate service facilities;

(2) The impact on the community of the volume of facilities in the right-of-way;

(3) The disruption arising from numerous excavations of the right-of-way;

(4) The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or

(5) Any other consideration based upon the interests of the public safety and welfare.

(l) The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

13-307 Mapping Requirement of Service Provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the City's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

(f) Such information shall be considered confidential and proprietary and shall remain the sole property of the service provider. Additionally, pursuant to K.S.A. 45-221(18), as amended, such information shall not constitute public records subject to K.S.A. 45-218, as amended. In the event the City's denial of any request for such information is challenged, the City shall immediately notify the service provider, and will take such action as may be reasonably required to cooperate with the service provider's efforts to safeguard such information.

13-308 Service Provider's Right to Sell, Transfer, Lease, Assign, Sublet or Dispose.

(a) Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a

transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

13-309 Reseller Service Providers.

(a) A service provider may permit and has the authority to sell, sublet, or lease any use of excess capacity and sell services for resale to any reseller service provider providing service within the City, including the service provider's subsidiary or affiliate. The reseller service provider shall first register and obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC. The service provider shall also provide the City on at least a semi-annual basis the identity of entities with which the service provider has entered into an interconnection and/or resale agreement within the State of Kansas. This notice will not relieve the reseller service provider from its own obligation to register and obtain any necessary franchise with the City. Nothing in this Ordinance shall prevent a facility-based service provider from providing to any reseller service provider the use of the facility-based service provider's facilities in the right-of-way as authorized by federal or state law.

13-310 Use of the Right-of-Way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.

(b) The ROW-user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.

(c) The ROW-user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, subject to the appeal process contained in Section 13-328, as amended.

(h) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown,

upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(l) The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

13-311 Facility Relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.

(c) As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the City shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and

a proposed construction schedule within thirty (30) days.

(d) Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.

(e) Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

(g) It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

13-312 Protection of the Public.

(a) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

(b) The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

(c) The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this Ordinance to the extent caused by the acts or omissions of the ROW-user.

(d) The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations.

(e) Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

(f) Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

(g) Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

(h) The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent the branches of such trees from coming in contact with the facilities of the ROW-user.

(i) In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

(j) Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other

structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than 24-hours advance notice from the person advising of the actual operation.

13-313 Right-of-way Vacation.

(a) If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

(b) If the vacation requires the relocation of facilities, and

(1) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.

(2) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(3) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

13-314 Abandoned and Unusable Facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the City that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW-user.

13-315 Permit Requirement.

(a) Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

(b) There are two exemptions to this provision:

(1) Contractors working on the construction or reconstruction of public improvements.

(2) ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.

(c) No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

(d) A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

(e) No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and

(2) A new right-of-way permit or permit extension is granted.

(f) Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

(g) Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.

(h) All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.

(i) Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(j) Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.

(k) Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

13-316 Permit Applications.

(a) Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;

(3) A traffic control plan;

(4) Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.

13-317 Liability Insurance, Performance and Maintenance Bond Requirement.

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

(b) The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be $5,000 or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two additional years, conditioned upon the permittee's faithful performance of

the provisions, terms and conditions conferred by this ordinance. An annual bond in an amount of $50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

(d) No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation.

13-318 Right-of-way Permit Fees.

(a) The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the Schedule of Fees maintained in the City Clerk's office.

(b) The right-of-way permit fee may include an administrative fee and a degradation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.

13-319 Issuance of Permit.

(a) If the Public Works Director determines that the applicant has satisfied the requirements of this Ordinance, the Public Works Director shall issue a right-of-way permit.

(b) The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the a performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

13-320 Permitted Work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.

(f) Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 AM to 8:30 AM and 4:00 PM to 6:00 PM, in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage

shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this Ordinance.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

(m) The City may use the as-built records of the service provider's facilities in connection with public improvements.

13-321 Right-of-way Repair and Restoration.

(a) The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

(b) All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen days will be provided to allow for the deficiencies to be corrected.

(c) After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.

(d) In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.

(e) If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its option, serve written notice upon the permittee and its surety that, unless within five (5) days after

serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise, at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.

(f) The permittee responsible for the excavation who leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirement.

(g) If an excavation cannot be back-filled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.

(h) In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the Public Works Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works (not including days during which work cannot be done because of circumstances constituting force Majeure or days when work is prohibited as unseasonable or unreasonable) In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the Public Works Director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.

(i) The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.

(j) Payment of a degradation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

13-322 Joint Applications.

(a) Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.

(b) Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

13-323 Supplementary Applications.

(a) A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area: (a) make application for a permit extension and pay any additional fees required thereby; and (b) receive a new right-of-way permit or permit extension.

(b) A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date.

13-324 Other Obligations.

(a) Obtaining a right-of-way permit under this ordinance shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal rules, laws, or regulations. A permittee shall perform all work in full accord with any and all applicable

engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, and the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.

(b) Except in cases of an emergency or with approval of the Public Works Director, no right-of-way work may be done when conditions are unreasonable for such work.

(c) A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.

13-325 Denial of Permit.

(a) The Public Works Director may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his discretion, may consider one or more of the following factors in denial of the permit:

(1) The extent to which the right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;

(4) The applicability of any ordinance or other regulations that affect location of facilities in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The condition and age of the right-of-way, which was constructed or reconstructed within the preceding five (5) years;

(8) The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;

(9) Whether the applicant maintains a current registration with the City;

(10) Whether the applicant has failed within the last three (3) years to comply, or is presently not in full compliance with, the requirements of this ordinance;

(11) Whether the applicant has delinquent debt owed to the City;

(12) Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.

(b) Notwithstanding the above provisions, the Public Works Director may in his discretion issue a right-of-way permit in any case where the permit is necessary to:

(1) Prevent substantial economic hardship to a user of the applicant's service;

(2) Allow such user to materially improve the service provided by the applicant.

13-326 Revocation of Permit.

(a) Permittees hold right-of-way permits issued pursuant to this ordinance as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any right-of-way permit, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

(3) Any material misrepresentation of any fact in the permit application;

(4) The failure to maintain the required bond or insurance;

(5) The failure to complete the work in a timely manner;

(6) The failure to correct a condition indicated on an order issued pursuant to this ordinance;

(7) Repeated traffic control violations; or

(8) Failure to repair facilities damaged in the right-of-way.

(b) If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated above, will allow the Public Works Director, at his discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the Public Works Director with a plan, acceptable to the Public Works Director, for correction of the breach. Permittee's failure to contact the Public Works Director, permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

(c) If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

13-327 Work Requirements and Inspections.

(a) Any excavation, back filling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.

(b) The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper back-filling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.

(c) The permittee shall notify the office of the Public Works Director upon completion of the authorized work permit.

(d) The permittee will notify the Public Works Director to schedule an inspection at the start of back filling. Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout inspection.

(e) When any corrective actions required have been completed and inspected to the Public Works Director's satisfaction, the two (2) year maintenance period will begin.

(f) In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the permittee.

(g) At the time of any inspection, the Public Works Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well being of the public. The Public Works Director may issue a citation to the permittee for any work, which does not conform, to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit.

13-328 Appeals Process.

(a) Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the City Administrator within ten (10) calendar days of the date of notice of such decision or action.

(b) The persons shall be afforded a hearing on the matter before the City Administrator within thirty (30) days of filing the appeal.

(c) In cases of applicability or interpretation of the rules, the City Administrator may revoke such decision or action taken by the Public Works Director.

(d) In cases where compliance with such decision or action taken by the Public Works Director would

cause undue hardship, the City Administrator may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The City Administrator shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

(e) Pending a decision of the City Administrator, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(f) If a person still deems themselves aggrieved after the appeal to the City Administrator, such person shall have thirty (30) days after the effective date of the City Administrator's final decision to institute an action in the District Court of Johnson County, Kansas.

13-329 Indemnification.

(a) A ROW-user operating under the provisions of this ordinance shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the ROW-user in the performance of the permitted work. The City agrees to timely notify the ROW-user of such claim, demand, suit, proceeding, and/or action by providing written notice to the ROW-user and the registered agent of the ROW-user. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the ROW-user from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

13-330 Force Majeure.

(a) Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW-user's or the City's control.

13-331 Federal, State and City Jurisdiction.

(a) This ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this ordinance to the contrary, the construction, operation and maintenance of the ROW-user's facilities shall be in accordance with all laws and regulations of the United States, the state and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW-user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW-user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW-user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW-user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this ordinance.

13-332 Severability.

(a) If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

13-333 City's Failure to Enforce.

(a) The City's failure to enforce or remedy any noncompliance of the terms and conditions of this ordinance or of any permit granted hereunder shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as herein provided.

13-334 Penalties.

(a) Any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars ($200.00) nor more than

five hundred dollars ($500.00). Every day that this chapter is violated shall constitute a separate offense.

(b) The violation of any provision of this ordinance is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

(c) The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Ordinance.

13-335 Reservation of Rights.

(a) In addition to any rights specifically reserved to the City by this ordinance, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this ordinance. The City shall have the right to waive any provision of this ordinance or any registration, permit or other authorization granted thereunder, except those required by federal or state law, if the City determines as follows: (a) that it is in the public interest to do so; and (b) that the enforcement of such provision will impose an undue hardship on the person. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

(b) Notwithstanding anything to the contrary set forth herein, the provisions of this Ordinance shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the right-of-way.

13-336 Repeal of Other Ordinances.

(a) All other ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this ordinance shall not take effect or become in force until the requirements for adopting an ordinance as set forth in the City of Leawood Municipal Code have occurred.

Section 3. This ordinance shall take effect and be in force from and after January 1, 2000, and after publication as provided by law.

PASSED by the Governing Body, this 18th day of October, 1999.

ATTEST:

Peggy Dunn

Peggy Dunn, Mayor

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1821C

Publication Fees: $293.04

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1821C--11/9/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 10, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$293.04

ORDINANCE NO. 1821C

First published in The Legal Record, Tuesday, November 9, 1999.

ORDINANCE NO. 1821C

AN ORDINANCE TO REGULATE THE USE OF THE PUBLIC RIGHT-OF-WAY BY ADOPTING ARTICLE 3 TO CHAPTER XIII OF THE LEAWOOD CITY CODE ENTITLED "USE AND EXCAVATION OF THE RIGHT-OF-WAY," AND REPEALING THE EXISTING LEAWOOD CITY CODE SECTIONS 13-1A02, 13-1A03, AND 13-202 THROUGH 13-214.

WHEREAS, the increased use and demand on the right-of-way by utilities and other right-of-way users has created a need for the City to regulate such use by ordinance; and

WHEREAS, the Governing Body has determined that such ordinance is necessary to protect the public safety and welfare; and

WHEREAS, the City has the authority to adopt by ordinance such regulation through both statute, home rule and its police powers; and

WHEREAS, the Governing Body has established the regulations and requirements provided for hereafter in conjunction with the cities of Overland Park and Prairie Village who are adopting similar if not identical ordinances; and

WHEREAS, Article 3 of Chapter XIII of the Leawood City Code is currently unused and designated "Reserved."

NOW THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. That Sections 13-1A02, 13-1A03, and 13-202 through 3-214 of the Leawood City Code are hereby repealed.

Section 2. That the code of the City of Leawood is hereby amended by adding Article 3 of Chapter 13 which as follows:

ARTICLE 3 USE AND OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY

13-301 General.

(a) No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided herein.

13-302 Purpose.

(a) To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;

(b) To clarify and regulate conditions of occupancy and construction for those ROW-users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW-users throughout the country;

(c) To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;

(d) To treat each ROW-user equitably and in a competitively neutral manner with considerations that may be unique to the technologies and situation of each particular ROW-user;

(e) To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health, safety and welfare; and

(f) To comply with state and federal legislation.

13-303 Definitions.

(a) For purposes of this Ordinance, the following words and phrases shall have the meaning given herein:

(1) **"Abandoned Facilities"** means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.

(2) **"Administrative Fee"** means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this ordinance.

(3) **"Affiliate"** means any person controlling, controlled by or under the common control of a "service provider".

(4) **"Applicant"** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

(5) **"Area of Influence"** means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

(6) **"City"** means the City of Leawood, Kansas, a municipal corporation and any duly authorized representative.

(7) **"Construct"** means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

(8) **"Day"** means calendar day unless otherwise specified.

(9) **"Degradation"** means the accelerated depreciation of a street caused by excavation in or disturbance of the street, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

(10) **"Degradation fee"** means the fee charged by the City to recover the cost to the City and the public at large associated with a decrease in the useful life of a street caused by excavation.

(11) **"Depreciation rate"** means the rate at which the useful service life of a public street improvement deteriorates over time.

(12) **"Emergency"** means a condition that (a) poses a clear and immediate danger to life or health, or of a significant loss of property; or (b) requires immediate repair or replacement in order to restore service to a user.

(13) **"Excavate"** means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

(14) **"FCC"** means Federal Communications Commission.

(15) **"Facility"** means lines, pipes, irrigation systems, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

(16) **"Facility based service provider"** means a service provider owning or possessing facilities in the right-of-way.

(17) **"Governing body"** means the Mayor and the City Council of the City of Leawood, Kansas.

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

(19) **"KCC"** means the Kansas Corporation Commission.

(20) **"Parkway"** means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.

(21) **"Pavement"** means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

(22) **"Permittee"** means any person to whom a right-of-way permit is issued to excavate a right-of-way.

(23) **"Person"** means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

(24) **"Public improvement"** means any project undertaken by the City for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.

(25) **"Public lands"** means any real property of the City that is not right-of-way.

(26) **"Public Works Director"** means the Public Works Director, Leawood, Kansas, or the authorized representative.

(27) **"Registration"** means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the City to provide service both within and beyond the City limits.

(28) **"Repair"** means the temporary construction work necessary to make the right-of-way useable.

(29) **"Reseller service provider"** means a service provider providing service within the City that does not have its own facilities in the right-of-way, but instead uses the right-of-way by interconnecting with or using the network elements of another service provider utilizing the right-of-way, and/or by leasing excess capacity from a facility-based service provider.

(30) **"Restoration"** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, that existed before the commencement of the work.

(31) **"Right-of-way"** means the area on, below or above the present and future City streets, alleys, bridges, bikeways, parkways and sidewalks.

(32) **"Right-of-way Permit"** means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

(33) **"Routine Service Operation"** means a work activity that makes no material change to the facilities and does not disrupt traffic.

(34) **"ROW-user"** means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way, or a reseller service provider that does not own or control its own facilities in the right-of-way.

(35) **"Service"** means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, Open Video Systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.

(36) **"Service provider"** means any person that is a provider of a service for or without a fee that has the requisite certifications and authorizations from applicable governmental entities, including the KCC and the FCC, to provide such service. Service provider includes both facility-based service providers and reseller service providers.

(37) **"Street"** means the pavement and sub-grade of a City residential, collector or arterial roadway.

13-304 Policy.

(a) It is the policy of the City to authorize any ROW-user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW-user shall be subject to the terms and conditions hereof, in addition to other applicable federal, state or local requirements.

(b) The right granted to the ROW-user to use the right-of-way is limited to the use that the ROW-user has filed with the City in accordance with this Ordinance. These rights are for the exclusive use of the ROW-user except where otherwise provided herein, or when authorized by the City.

(c) This Ordinance also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits which grant the authority to utilize and occupy the right-of-way within the City.

(d) All ROW-users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW-users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

13-305 Administration.

(a) The Public Works Director is the principal city official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.

(b) The Public Works Director is the principal City Official responsible for administration of the registering of a service provider. The Public Works Director may delegate any or all of the duties hereunder.

13-306 Requirements of Service Provider.

(a) Any existing service provider must register within thirty (30) days of the effective date of this Ordinance.

(b) Any person, who is not an existing service provider prior to the effective date of this Ordinance and who wishes to become a service provider, must first register with the City.

(c) The service provider shall report any changes in its registration information within thirty (30) days.

(d) No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.

(e) The information required for registration includes the following:

(1) Identity and legal status of service provider, including related affiliates.

(2) Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.

(3) Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.

(4) Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(5) Description of the service provider's intended use of the right-of-way.

(6) Information sufficient to determine whether the service provider is subject to franchising by Kansas law.

(7) Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the Kansas Corporation Commission.

(8) Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the Federal Communications Commission.

(9) Information which identifies reseller service providers as provided hereinafter.

(10) Such other information as may be reasonably required by the City to complete the registration statement.

(f) Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this Ordinance. The service provider shall present to the City the agent's name, address, telephone number,

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.

(g) Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.

(h) Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.

(i) The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

(j) The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.

(k) To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:

(1) The capacity of the right-of-way to accommodate service facilities;

(2) The impact on the community of the volume of facilities in the right-of-way;

(3) The disruption arising from numerous excavations of the right-of-way;

(4) The financial capabilities of the service provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or

(5) Any other consideration based upon the interests of the public safety and welfare.

(l) The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

13-307 Mapping Requirement of Service Provider.

(a) The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right-of-way.

(b) Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.

(c) When available to the service provider, such information will be submitted electronically in an AutoCad™ format to the extent compatible with the City's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the service provider to acquire or modify any electronic mapping system.

(d) Underground facilities shall be differentiated from overhead facilities.

(e) Such mapping and identification shall be at the sole expense of the service provider.

(f) Such information shall be considered confidential and proprietary and shall remain the sole property of the service provider. Additionally, pursuant to K.S.A. 45-221(18), as amended, such information shall not constitute public records subject to K.S.A. 45-218, as amended. In the event the City's denial of any request for such information is challenged, the City shall immediately notify the service provider, and will take such action as may be reasonably required to cooperate with the service provider's efforts to safeguard such information.

13-308 Service Provider's Right to Sell, Transfer, Lease, Assign, Sublet or Dispose.

(a) Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

13-309 Reseller Service Providers.

(a) A service provider may permit and has the authority to sell, sublet, or lease any use of excess capacity and sell services for resale to any reseller service provider providing service within the City, including the service provider's subsidiary or affiliate. The reseller service provider shall first register and obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC. The service provider shall also provide the City on at least a semi-annual basis the identity of entities with which the service provider has entered into an interconnection and/or resale agreement within the State of Kansas. This notice will not relieve the reseller service provider from its own obligation to register and obtain any necessary franchise with the City. Nothing in this Ordinance shall prevent a facility-based service provider from providing to any reseller service provider the use of the facility-based service provider's facilities in the right-of-way as authorized by federal or state law.

13-310 Use of the Right-of-Way.

(a) The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.

(b) The ROW-user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.

(c) The ROW-user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.

(d) All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the streets, alleys, sidewalks or other public lands of the City.

(e) All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.

(f) Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.

(g) The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, subject to the appeal process contained in Section 13-328, as amended.

(h) The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW-user.

(i) If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user use of the conduit is reasonable and appropriate under the circumstances.

(j) All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.

(k) All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this Ordinance may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

(l) The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors.

13-311 Facility Relocation.

(a) The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.

(b) The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.

(c) As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the City shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.

(d) Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.

(e) Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

(f) In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

(g) It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

13-312 Protection of the Public.

(a) It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

(b) The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

(c) The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this Ordinance to the extent caused by the acts or omissions of the ROW-user.

(d) The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations.

(e) Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

(f) Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

(g) Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

(h) The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent the branches of such trees from coming in contact with the facilities of the ROW-user.

(i) In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.

(j) Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other

structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than 24-hours advance notice from the person advising of the actual operation.

13-313 Right-of-way Vacation.

(a) If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

(b) If the vacation requires the relocation of facilities, and

(1) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.

(2) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(3) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

13-314 Abandoned and Unusable Facilities.

(a) A ROW-user owning abandoned facilities in the right-of-way must either:

(1) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

(2) Provide information satisfactory to the City that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or

(3) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

(b) Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the facility and restoring it to a useable function, or (c) requiring the removal of the facility by the ROW-user.

13-315 Permit Requirement.

(a) Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

(b) There are two exceptions to this provision:

(1) Contractors working on the construction or reconstruction of public improvements.

(2) ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.

(c) No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

(d) A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

(e) No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:

(1) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and

(2) A new right-of-way permit or permit extension is granted.

(f) Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

(g) Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.

(h) All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.

(i) Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.

(j) Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.

(k) Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

13-316 Permit Applications.

(a) Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way.

(b) Right-of-way applications shall contain and be considered complete only upon receipt of the following:

(1) Compliance with verification of registration;

(2) Submission of a completed permit application form, including all required attachments and sealed drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;

(3) A traffic control plan;

(4) Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.

13-317 Liability Insurance, Performance and Maintenance Bond Requirement.

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

(b) The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be $5,000 or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this ordinance. An annual bond in an amount of $50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

(d) No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation.

13-318 Right-of-way Permit Fees.

(a) The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the Schedule of Fees maintained in the City Clerk's office.

(b) The right-of-way permit fee may include an administrative fee and a degradation fee.

(c) Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.

13-319 Issuance of Permit.

(a) If the Public Works Director determines that the applicant has satisfied the requirements of this Ordinance, the Public Works Director shall issue a right-of-way permit.

(b) The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

(c) When a right-of-way permit is requested for purposes of installing additional facilities and the a performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.

(d) Issued permits are not transferable.

(e) If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.

13-320 Permitted Work.

(a) The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.

(b) The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.

(c) The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

(d) The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.

(e) The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.

(f) Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 AM to 8:30 AM and 4:00 PM to 6:00 PM, in order to minimize disruption of traffic flow.

(g) All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.

(h) The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.

(i) The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

(j) Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this Ordinance.

(k) All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.

(l) Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

(m) The City may use the as-built records of the service provider's facilities in connection with public improvements.

13-321 Right-of-way Repair and Restoration.

(a) The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

(b) All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen days will be provided to allow for the deficiencies to be corrected.

(c) After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.

(d) In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.

(e) If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its option, serve written notice upon the permittee and its surety that, unless within five (5) days after

CONTINUED FROM PRECEDING PAGE

serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise, at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.

(f) The permittee responsible for the excavation who leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirement.

(g) If an excavation cannot be back-filled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.

(h) In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the Public Works Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works (not including days during which work cannot be done because of circumstances constituting force Majeure or days when work is prohibited as unseasonable or unreasonable) In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the Public Works Director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.

(i) The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.

(j) Payment of a degradation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

13-322 Joint Applications.

(a) Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.

(b) Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

13-323 Supplementary Applications.

(a) A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area: (a) make application for a permit extension and pay any additional fees required thereby; and (b) receive a new right-of-way permit or permit extension.

(b) A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date.

13-324 Other Obligations.

(a) Obtaining a right-of-way permit under this ordinance shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal rules, laws, or regulations. A permittee shall perform all work in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, and the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.

(b) Except in cases of an emergency or with approval of the Public Works Director, no right-of-way work may be done when conditions are unreasonable for such work.

(c) A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.

13-325 Denial of Permit.

(a) The Public Works Director may deny a permit to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his discretion, may consider one or more of the following factors in denial of the permit:

(1) The extent to which the right-of-way space where the permit is sought is available;

(2) The competing demands for the particular space in the right-of-way;

(3) The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;

(4) The applicability of any ordinance or other regulations that affect location of facilities in the right-of-way;

(5) The degree of compliance of the applicant with the terms and conditions of its franchise, this ordinance, and other applicable ordinances and regulations;

(6) The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

(7) The condition and age of the right-of-way, which was constructed or reconstructed within the preceding five (5) years;

(8) The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;

(9) Whether the applicant maintains a current registration with the City;

(10) Whether the applicant has failed within the last three (3) years to comply, or is presently not in full compliance with, the requirements of this ordinance;

(11) Whether the applicant has delinquent debt owed to the City;

(12) Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.

(b) Notwithstanding the above provisions, the Public Works Director may in his discretion issue a right-of-way permit in any case where the permit is necessary to:

(1) Prevent substantial economic hardship to a user of the applicant's service;

(2) Allow such user to materially improve the service provided by the applicant.

13-326 Revocation of Permit.

(a) Permittees hold right-of-way permits issued pursuant to this ordinance as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any right-of-way permit, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to the following:

(1) The violation of any material provision of the right-of-way permit;

(2) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

(3) Any material misrepresentation of any fact in the permit application;

(4) The failure to maintain the required bond or insurance;

(5) The failure to complete the work in a timely manner;

(6) The failure to correct a condition indicated on an order issued pursuant to this ordinance;

(7) Repeated traffic control violations; or

(8) Failure to repair facilities damaged in the right-of-way.

(b) If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated above, will allow the Public Works Director, at his discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the Public Works Director with a plan, acceptable to the Public Works Director, for correction of the breach. Permittee's failure to contact the Public Works Director, permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

(c) If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

13-327 Work Requirements and Inspections.

(a) Any excavation, back filling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.

(b) The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper back-filling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.

(c) The permittee shall notify the office of the Public Works Director upon completion of the authorized work permit.

(d) The permittee will notify the Public Works Director to schedule an inspection at the start of back filling. Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout inspection.

(e) When any corrective actions required have been completed and inspected to the Public Works Director's satisfaction, the two (2) year maintenance period will begin.

(f) In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the permittee.

(g) At the time of any inspection, the Public Works Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well being of the public. The Public Works Director may issue a citation to the permittee for any work, which does not conform, to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit.

13-328 Appeals Process.

(a) Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the City Administrator within ten (10) calendar days of the date of notice of such decision or action.

(b) The persons shall be afforded a hearing on the matter before the City Administrator within thirty (30) days of filing the appeal.

(c) In cases of applicability or interpretation of the rules, the City Administrator may revoke such decision or action taken by the Public Works Director.

(d) In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the City Administrator may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The City Administrator shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

(e) Pending a decision of the City Administrator, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

(f) If a person still deems themselves aggrieved after the appeal to the City Administrator, such person shall have thirty (30) days after the effective date of the City Administrator's final decision to institute an action in the District Court of Johnson County, Kansas.

13-329 Indemnification.

(a) A ROW-user operating under the provisions of this ordinance shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the ROW-user in the performance of the permitted work. The City agrees to timely notify the ROW-user of such claim, demand, suit, proceeding, and/or action by providing written notice to the ROW-user and the registered agent of the ROW-user. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the ROW-user from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

13-330 Force Majeure.

(a) Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW-user's or the City's control.

13-331 Federal, State and City Jurisdiction.

(a) This ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this ordinance to the contrary, the construction, operation and maintenance of the ROW-user's facilities shall be in accordance with all laws and regulations of the United States, the state and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW-user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW-user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW-user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW-user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this ordinance.

13-332 Severability.

(a) If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

13-333 City's Failure to Enforce.

(a) The City's failure to enforce or remedy any noncompliance of the terms and conditions of this ordinance or of any permit granted hereunder shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as herein provided.

13-334 Penalties.

(a) Any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars ($200.00) nor more than

five hundred dollars ($500.00). Every day that this chapter is violated shall constitute a separate offense.

(b) The violation of any provision of this ordinance is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

(c) The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this ordinance. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Ordinance.

13-335 Reservation of Rights.

(a) In addition to any rights specifically reserved to the City by this ordinance, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this ordinance. The City shall have the right to waive any provision of this ordinance or any registration, permit or other authorization granted thereunder, except those required by federal or state law, if the City determines as follows: (a) that it is in the public interest to do so; and (b) that the enforcement of such provision will impose an undue hardship on the person. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

(b) Notwithstanding anything to the contrary set forth herein, the provisions of this Ordinance shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the right-of-way.

13-336 Repeal of Other Ordinances.

(a) All other ordinances and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this ordinance shall not take effect or become in force until the requirements for adopting an ordinance as set forth in the City of Leawood Municipal Code have occurred.

Section 3. This ordinance shall take effect and be in force from and after January 1, 2000, and after publication as provided by law.

PASSED by the Governing Body, this 18th day of October, 1999.

ATTEST:

Peggy Dunn, Mayor

Martha Heizer, City Clerk

APPROVED AS TO FORM:

/s/ Patricia A. Bennett

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1820

AN ORDINANCE AMENDING SECTION 4-3 OF THE "AMENDMENT TO LEAWOOD DEVELOPMENT ORDINANCE," AND PROVIDING AN AMENDMENT TO THE SPECIAL USE PROVISIONS FOR THE SUBSECTION REGARDING "DRIVE THRU BANKING FACILITIES"; AND REPEALING THE EXISTING SECTION.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. "Amendment to Leawood Development Ordinance" Amended. That Section 4-3 of the "Amendment to Leawood Development Ordinance," is hereby amended to read as follows:

4-3 SPECIAL USE PROVISIONS

4-3.1 Special Uses Designated

Any of the following uses may be located in any district by Special Use Permit of the Governing Body after notification of adjacent and abutting property owners, public hearing, and after recommendation of the Plan Commission, under such conditions as to operation, site development, signs, and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of the neighboring property, and will conform to the general intent and purpose of this Ordinance and shall comply with the height and area regulations of the district in which they may be located unless a variance is specifically granted by the Board of Zoning Appeals.

1) Amusement parks, privately-owned baseball or athletic fields, race tracks;
2) Aviation fields or airports, under such restrictions as may be imposed to control noise, promote safety, and prevent undue danger to aircraft or to surrounding property;
3) Cemeteries, mausoleums, or crematories for the disposal of the dead;
4) Public and private schools;
5) Churches, synagogues and other places of worship;
6) Clubs, including those where alcoholic beverages are consumed;
7) Drive-in theaters;
8) Golf driving ranges, commercial or illuminated;
9) Gun clubs, skeet shoots, or target ranges;
10) Tennis courts and paved play areas, commonly referred to as "Sport Courts," hereinafter referred to as courts, may be approved

as a special use. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance use the following conditions shall be considered minimum requirements to be met.

a) Courts will only be considered as a special use if said court is accessory to the principal use it is intended to serve. Courts on separate lots will not be considered as stand alone structures.

b) Plans shall be submitted for approval and shall be based upon compliance with the following standards: 1) The need for screening to protect the privacy of adjoining properties, including noise and lighting, if proposed, and 2) surface runoff. These standards are to be considered minimums and other factors may be considerations for approval by the Plan Commission and/or Governing Body.

c) Courts shall not be constructed within a required front yard and shall be located a minimum of 10 feet from any rear or side lot line. Screen plantings of a height necessary to muffle noise and block lights may be required as a condition to the special use approval.

d) Fences for courts may be up to 12 feet in height and shall be of a green or black PVC coated chain link fabric. Said fences shall be located a minimum of 10 feet from any rear or interior side lot line.

e) Courts shall be designed so that the surface water will be carried to the street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.

f) All court lighting shall be subject to approval as a special use either in conjunction with the application for a sport court or separately as an addition at a later date. Existing courts requesting lighting must apply for same as a separate special use. A lighting plan shall be submitted which indicates the lumins (footcandles) at the property line and distance to the nearest structures. Footcandles shall not exceed .5 measured anywhere along the adjacent property lines. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. A lighted court may be required

to have additional screening in order to mitigate the effect of lighting on any adjoining properties.

g) No court lighting shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

h) A landscape plan shall be submitted at time of application for special use indicating plant material, size, location and spacing proposed.

i) All courts shall require a building permit prior to grading and/or installation.

11) Hospitals; special care facilities for humans; not to include group homes as defined herein.

12) Campgrounds, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only;

13) Nursery sales office, building greenhouse, or area (wholesale or retail);

14) Nursing and convalescent homes; housing for the elderly; retirement centers and communities; not to include group homes as defined herein.

15) Outdoor poster panels or billboards; off-site promotional signs;

16) Veterinary clinics, dog kennels;

17) Radio, television and microwave towers;

18) Regulations for the Siting and Construction of Wireless Communication Facilities, Towers and Antennae.

a) Statement of Intent.

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City of Leawood has many diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount.

Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character that Leawood is built around. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met,

while at the same time protecting the general safety and welfare of the community.

b) Purpose.

A wireless communication facility, tower or antenna may be sited, constructed, designed or maintained in the City of Leawood provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance.

More specifically, these regulations are necessary to:

1. Provide for suitable location of wireless communication facilities, towers and antennae so as to mitigate their effect on residential neighborhoods and land uses;

2. Maintain community aesthetics by minimizing the visual effects of wireless communication facilities, towers and antennae through specific design and siting criteria;

3. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;

4. Encourage co-location among wireless service providers on existing and newly constructed sites in order to reduce the overall number of towers needed;

5. Promote the use of innovative camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City of Leawood.

c) Special Use Permit Required.

1. Special Use Permit Requirement. Wireless communication facilities, towers, and antennae shall be allowed, subject to approval of a special use permit granted by the Governing Body, after notification of adjacent and abutting property owners

within 1000 feet of said property parcel, after a public hearing, and after recommendation on the matter by the Plan Commission. Written notification shall be conducted by certified return receipt mail to those parcels within 200 feet of said property and via regular mail as a courtesy to parcels beyond the 200-foot mark. "Said property parcel" shall be defined as the perimeter of any parcel recognized by the Johnson County Appraiser's Office and recorded with a real estate identification number established for the parcel by Johnson County. As determined and evaluated by the Plan Commission and Governing Body, wireless communication facilities, towers and antennae may occupy a smaller leased area on the property parcel, provided that adequate space is afforded for all facilities, landscaping, berming, and screening, and provided that proper notice is provided from the perimeter of the property parcel and not the smaller leased area.

Consideration of the special use shall be in accordance with the following as established by this ordinance:

A) Suitable location in accordance to the zoning districts and comprehensive (master) planned areas in which wireless communication facilities, towers or antennae are allowed;

B) Design, landscape, and screening of the wireless communication facility, tower, or antenna;

C) Maximum tower height required by the wireless service provider(s), with consideration for co-location possibilities;

D) Co-location among wireless service providers on the proposed tower;

E) Minimum separation distance of the proposed tower from other towers within the City of Leawood;

F) Minimum setbacks of the proposed tower and

related facilities from the property line; and

G) Minimum buffer distance between the proposed tower and related facilities from surrounding comprehensive (master) planned and existing residential areas.

2. Bond. Prior to the issuance of the special use permit for the operation of a wireless communication facility, tower or antenna, the applicant will provide a performance or cash bond in an amount equal to twenty (20%) percent of total construction costs for the facility, tower or antenna. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility, tower or antenna should it become necessary to do so. The bond will be secured for the term of the special use permit plus one year.

3. Pre-existing Wireless Communication Facilities, Towers and Antennae. Pre-existing wireless communication facilities, towers and antennae, shall be considered legal non-conforming structures and shall not be required to meet the mandates of this ordinance with the exception of 4-3.1 18)k) until the expiration of their applicable special use permit.

Routine maintenance shall be permitted on a non-conforming structure. Any replacement of a pre-existing antenna on a non-conforming structure shall be permitted. Any placement of an additional antenna on a non-conforming structure shall be considered an expansion of the non-conforming structure unless prior approval specifically contemplated multiple antennae. Any such replacement antenna or additional antenna placed on a non-conforming structure shall require an appropriate application as required by 4-3.1 18)j)2 and 3, and shall meet any and all current applicable design and technical standards and requirements for new antennae. The cumulative effect of any additional antennae and related facilities placed upon a non-conforming structure must comply with the radio frequency radiation emission guidelines established by the FCC.

d) Zoning Location Requirements.

1. Allowable Areas. Wireless communication facilities, towers, and antennae shall be allowed, subject to approval of a special use permit, within the following comprehensive (master) planned or existing areas and districts:

   A) CP-O, Planned Office;

   B) CP-1, Planned Neighborhood Retail;

   C) CP-2, Planned General Retail;

   D) BP, Planned Business Park;

   E) PI, Planned Industrial;

   F) SD, Special Development;

   G) REC, Planned Recreation; and

   H) AG, Agricultural (when comprehensive (master) planned for commercial, industrial, or recreational / open space uses).

   All districts delineated within this ordinance shall be defined by the current, approved Zoning and Comprehensive (Master) Development Plan maps established for the City of Leawood.

2. Residential Areas. Newly proposed wireless communication facilities, antennae and towers shall not be permitted within any comprehensive (master) planned or existing residential area to include RP-A, RP-A5, R-1, RP-1, RP-2, RP-3, and RP-4 zoning districts. Exceptions to this may be provided for the following, upon approval of a special use permit:

   A) Church sites, when camouflaged as steeples, bell towers, etc.;

   B) Park sites, when camouflaged to be compatible

with the natural elements of the park; and

C) Pre-existing nonresidential alternative tower structures when designed to be architecturally integral and compatible with said structure.

No exception shall be made that will inhibit or infringe upon any historic or scenic views as designated by the Governing Body or any state or federal law or agency.

3. Tower Inventory. In order to construct a new tower within any permitted area, the applicant must provide an inventory of all existing and proposed tower and antennae locations within a three-mile radius of the proposed site. The applicant must also demonstrate, using technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a "reasonable" co-location lease agreement could not be reached with the owners of said alternative sites. Finally, the applicant must provide evidence that the proposed site is necessary for the provision of wireless service. For the purpose of this ordinance "reasonable" shall be defined as the total of all costs related to the construction of a new tower. The applicant shall be responsible for updating the inventory to include all subsequently proposed, approved and/or constructed tower or antenna locations that occur within the three-mile study area during the special use permit process.

4. Grid Information. At the time of site selection, the applicant shall demonstrate how the proposed wireless communication facility, tower or antenna will impact the overall network of the wireless service provider within the City of Leawood and adjacent Cities on both sides of the state line, and shall provide evidence that the proposed site is necessary for the provision of wireless service. The applicant shall be required to update this information as necessary during the special use permit process.

e) Tower Height.

Evidence shall be supplied at the time of site selection that

the proposed tower height is necessary to meet coverage needs. Approved tower height will be based upon need demonstrated by the applicant, as well as potential co-location by other wireless service providers. Any proposed tower, within any allowed area, shall not exceed 150 feet in height (excluding lighting arrestor rods not to exceed 5 feet in height).

f) Tower Setback and Buffer Requirements.

1. Setbacks. Towers and related facilities shall meet the applicable building setback limits of the zoning district in which the tower and facilities are to be sited.

2. Distance From Residential Areas. Any proposed tower and related facilities shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or comprehensive (master) planned residential area. Note: This 500-foot buffer requirement applies only to towers as defined herein and not to other wireless communication facilities or alternative tower structures.

g) Design Requirements.

1. Tower Design.

A) Design. All towers will be constructed of a monopole design. Guy and lattice-type towers will not be allowed. Towers that are less than 75 feet in height must be designed so that their antennae are internally placed, thus creating a smooth, non-projecting appearance. Towers that are 75 feet or greater in height must be designed and engineered to accommodate at least two wireless service providers' antennae. Antenna bridges and platforms are not allowed.

B) Color and Finish. Exterior finish of the monopole will provide for a non-segmented, tapered appearance. Towers and related facilities shall be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment.

2. Antenna Design.

A) Design on Towers. All antennae installed on towers shall be internal or shall panel antennae of "slim-line" design and shall be mounted parallel with the tower. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Leawood are exempt from this requirement.

B) Design on Alternative Tower Structures. All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed.

C) Color and Finish. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be of a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.

3. Site Plan and Photo Simulations Required. Any application for construction of a new wireless communication facility, tower or antenna must provide

a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development.

4. Operational Standards. Wireless communication facilities, towers, and antennae shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all wireless communication facilities, towers and antennae shall be brought into compliance with the revised standards and regulations within six (6) months of the effective date of the standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring wireless communication facilities, towers and antennae into compliance with any revised standards and regulations shall constitute grounds for the removal of the facility, tower or antenna at the owner or provider's expense. Any such removal by the City shall be in the manner provided within 4-3.1 18)k) of this ordinance.

5. Radiation Certification. An engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antenna.

6. Electromagnetic Interference Problems. It is the responsibility of the wireless service provider to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.

7. Protective Devices. All wireless communication facilities, towers or antennae shall be equipped with any appropriate anti-climbing device or other similar protective device to prevent unauthorized access.

8. Parking Areas. All parking areas and drives associated with any wireless communication facility, tower or antenna shall comply with applicable provisions for such facilities in each zoning district, except that the Plan Commission or Governing Body may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

h) Screening, Landscaping, Tree Trimming and Lighting Requirements.

1. Screening Wall. All wireless communication facilities will be screened with a full perimeter wall when deemed necessary by the Plan Commission or Governing Body. This wall is to be constructed of concrete block and surfaced with a material (stucco, brick, etc.) designed to match the architecture of surrounding structures. The minimum height of the wall will be 6 feet from ground level.

2. Landscape Materials. Landscaping in the form of pines and other flowering and deciduous trees is required on the outside perimeter of the screening wall. The standard buffer shall consist of a landscaped strip at least 6 feet wide outside the perimeter of the screening wall. Pines are to be a minimum of 6 feet in height, while other trees are to have a minimum 3 inch caliper. The owner or provider shall be responsible for maintenance of all related landscape and screening materials. Existing mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.

3. Authority to Trim Trees. A wireless service provider

shall have authority to trim trees and shrubbery upon and overhanging right-of-way, public utility easements and other public property so as to prevent the branches and foliage of such trees and shrubbery from coming in contact and interfering with the wires, cables and other facilities of the provider. All trimming shall be done only under the supervision and direction of the City Public Works Department, and in accordance with any applicable ordinance, including, but not limited to, the City's Right-of-Way ordinance.

4. Lighting. Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the Plan Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

i) Separation Distances.

No newly proposed tower shall be allowed to locate within 1000 feet of an existing tower unless technologically required or visually preferable. This distance shall be measured from the base of the existing tower to the base site location of the proposed tower.

j) Co-location.

1. Multiple User Towers. All approved towers 75 feet or greater in height must be designed to accommodate at least two wireless service providers' antennae. Prior to issuance of a building permit, the applicant and owner must provide either of the following: (1) signed, executed lease agreements with other wireless service providers who desire to co-locate on the proposed tower, or (2) a signed statement of intent that guarantees nondiscriminatory pricing for access to the tower by any competing provider, and that the price for access will be based on the current market rate for co-location. This market rate will be established by an independent research consultant hired at the expense of the applicant. Failure to provide co-location opportunities to (or negotiate in good faith with) alternative providers may constitute a finding of noncompliance with 4-3.1 18)c)1.D of this

ordinance, and thus be grounds for revocation of the special use permit, and shall be cause for the withholding of future permits to same owner or provider to install, build, or modify wireless communication facilities, towers or antennae within the City of Leawood.

2. Existing Site Improvement. Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

   A) Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this ordinance. Unless otherwise provided for by the current special use permit, application for such an alteration or improvement to an existing site will require approval through a new special use permit. However, if provided for by the current special use permit, such application shall be considered a revised final site plan and will only require submission to and approval by the Plan Commission;

   B) Alter an existing facility, tower or antenna in a manner that makes the facility, tower or antennae less obtrusive, such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antennae to a "slim line" or internal design. Such application shall be considered a revised final site plan and will only require submission to and approval by the Plan Commission.

   Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antenna and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

3. Additional Antennae. When provided for in the

approved capacity limit of a multi-user tower's current special use permit, additional antennae or replacement of current antennae may be added through an application for a revised final site plan and will only require submission to and approval by the Plan Commission. Additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require a special use permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

k) Abandoned Or Unsafe Wireless Communication Facilities, Towers and Antennae.

Any wireless communication facility, tower or antenna which is occupied by inactive antennae for a period of twelve (12) months shall be considered abandoned and a nuisance, and will be removed at the owner or provider's expense within ninety (90) days. Any wireless communication facility, tower or antenna which is not maintained to a suitable degree of safety and appearance (as determined by the Director of Planning, Chief Building Inspector, and any applicable code) will also be considered a nuisance and will be upgraded or removed at the owner or provider's expense. The construction bond, secured at the time of building permit, will be used to the remedy any nuisance.

In the future should the levels of radio frequency radiation emitted by a wireless communication facility, tower or antenna be determined to be a threat to human health or safety, the facility, tower or antenna shall be cured or immediately removed within ninety (90) days at the owner or provider's expense. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.

l) Building Codes and Inspection.

1. Construction and Maintenance Standards. To insure the structural integrity of any wireless communication

facility, tower or antenna, the owner of the facility, tower or antenna shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for wireless communication facilities, towers, and antennae that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a wireless communication facility, tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon proper notice, the owner and provider shall have thirty (30) days to bring such facility, tower or antenna into compliance with such standards. If the owner or provider fails to bring such facility, tower or antenna into compliance within the thirty (30) days, the City may order the removal or cause the removal of such facility, tower or antenna at the owner or provider's expense. Failure of the City to inspect the facility, tower or antenna shall not relieve the owner or provider of their responsibility to comply with any provision under this ordinance.

2. Inspection Requirement. At least every twenty-four (24) months, the wireless communication facility, tower, or antenna shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of wireless communication facilities, towers, or antennae. At a minimum, this inspection shall be conducted in accordance with the inspection check list provided in the Electronic Industries Association (EIA) Standard 222, 'Structural Standards for Steel Antenna Towers and Antenna Support Structures.' A copy of such inspection record shall be provided to the City. Said inspection shall be conducted at the owner or provider's expense.

3. Cables, Wire, and Other Such Facilities. In all areas of the City where the cables, wire, and other such facilities of public utilities are underground, or are required by the City to be placed underground, the owner or provider shall also place its cables, wires, or other such facilities underground. Further, the owner or provider shall abide by all applicable right-of-way or utility easement ordinance or standard.

4. Disturbance of Right-of-Way. In the case of any disturbance to right-of-way or other public property caused by an owner or provider during the course of constructing or maintaining its wireless communication facility, tower, or antenna, the owner or provider shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface any street or public property disturbed in as good or better condition as before the disturbance in accordance with applicable federal, state, and local laws, rules, regulations, administrative decisions or applicable right-of-way or utility easement ordinance or standard. The duty to restore the right-of-way or other public property shall include the repair of any area identified by the Director of Public Works as being weakened or damaged as a result of a cut or to other invasion of the pavement of a street or other public property.

m) Exclusions.

The following shall be exempt from this ordinance:

1. Any tower and antenna less than 70 feet in total height which is owned and operated by an amateur radio operator licensed by the FCC;

2. Any device designed for over the air reception of television broadcast signals, multi-channel, multi-point distribution service or direct broadcast satellite service.

n) Penalties.

This ordinance shall be in full force and effect upon its enactment and approval, and any person found to be in violation of any of the provisions of this ordinance shall be subject to a fine of up to $500 for of violation. Each day shall constitute a separate violation.

o) Severability.

If any section, subsection sentence, clause, phrase or portion of this ordinance 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 hereof.

p) Repeal of Laws in Conflict.

This ordinance supersedes all ordinances or part of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

q) Definitions.

Act:	The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include all future amendments.
Alternative tower structure:	Manmade trees, clock towers, bell steeples, light poles, buildings and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or facilities.
Antenna:	Any device used to transmit or receive electromagnetic signals for communication purposes, not to include satellite dishes used solely for home television purposes. For purposes of this ordinance, all references to antennae shall be applicable to micro-cells and repeaters.
Antenna support structure:	Any pole, telescoping mast, tower tripod, or any other structure which supports a device or antenna used in the transmission or receipt of radio frequency energy.

Co-location:	Placement of wireless communication facilities, towers or antennae by more than one wireless service provider on a single tower or alternative tower structure.
Effective radiated power (ERP):	The product of the antenna power input and the numerically equal power output gain.
EPA:	Environmental Protection Agency.
FAA:	Federal Aviation Administration.
FCC:	Federal Communications Commission.
Guyed tower:	A tower that is supported, in whole or in part, by guy wires and ground anchors.
Interference:	Disturbances in reception caused by intruding signals or electrical current.
Lattice tower:	A three or four-sided tower constructed of open steel framing.
Micro-cell:	A low power mobile radio service communication facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage. *(see antenna)*
Monopole:	A tower of single-pole design, constructed without support (guy) wires or anchors.
Omnidirectional antenna:	An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed. *(a.k.a. whip antenna)*
Panel antenna:	An antenna that transmits signals in specific directions, and are typically

square or rectangular in shape.

Repeater: A low power mobile radio service communication facility that extends coverage of a cell to areas not covered by the originating cell. *(see antenna)*

Slim-line antenna: A panel antenna which mounts directly to and parallel with a monopole or alternative tower structure.

Tower: A structure designed to support at least one or more antennae. This does not include structures owned and operated by amateur radio personnel licensed by the FCC.

Tower height: The vertical distance measured from the base of the tower or alternative tower structure at grade to the highest point of the tower or alternative tower structure. If the tower or alternative tower structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the tower height.

Wireless communication facility: Any complex, including tower, antenna, antenna support structure, cabinet, building, screen walls, transmission equipment, power source or other equipment constructed on the ground, and used to assist antennae in the generation or receipt of electromagnetic communication signals, or used for the transmission or receipt of electromagnetic communication signals.

Wireless service provider (provider): Any provider of cellular or wireless (digital, PCS, and PCN) communication service allowing customers to use mobile telephones to connect, via low power radio transmitter sites either to

the public switched network or to other mobile telephones. Such providers shall be licensed by the FCC in a specific geographical area in which the radio frequency spectrum is divided into discrete channels.

19) Television and amateur radio antennae exceeding district height limitations.

20) Reservoirs, towers, filter beds, or water treatment plants;

21) Riding stables and tracks;

22) Wastewater treatment plant;

23) Motor hotels, motels, hotels, and convention centers;

24) Banking facilities with accessory drive-through lanes

   a) a minimum stacking distance of five car lengths must be provided for each drive-through lane,

   b) drive through lanes must be attached and integral to a full-service banking facility;

   c) the automobile movements in and out of the bank facility shall not interfere with the adjacent public street system.

25) Buildings, structures, and premises for public utility services, or public service corporations;

26) Temporary use of land or building for commercial or industrial purposes, provided that any building or structure constructed thereon which is not otherwise permitted in the District in which such land is situated shall be temporary, and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall be valid for not more than 2 years but may be renewed after public hearing;

27) Assembly halls, community centers, philanthropic organizations;

28) Child care centers, family day care homes, preschools, nursery schools, Montessori schools, private kindergartens, day care homes and group day care homes; not to include group homes as defined herein.

29) Off-street parking lots or off-street parking structures of a temporary or permanent nature;

30) Group boarding home for minors or adults; not to include group homes as defined herein.

31) Private ambulance service;

32) Bed and breakfast;

33) Horse pasturing on lots of less than 3 acres in residential districts.

34) Temporary self contained health care suites located within an attached garage are intended to provide an "in home" physical care facility as a temporary alternative to a nursing home environment. It is not intended to provide long term care lodging for anyone that would be better served by a more permanent solution. Such permanent alternate solutions may require an alteration to the home, an addition onto the home, or off-site care by a health care institution. Such use is allowed as a special use provided the following conditions are met:

    a) The suites are to be freestanding self contained units including independent heating and air conditioning units and plumbing systems.

    b) Not more than 2 persons shall be housed in such suite provided said housing is necessitated by a physical impairment or health care need of one or both persons and said health care need is being met by occupant or occupants of the existing home. Said person(s) residing in such health care suite shall be either an occupant or a relative of the occupant of the home except in cases when an overnight health care provider is required.

    c) A letter from a licensed doctor of medicine or osteopathy shall be submitted, along with the application for special use, verifying the need for such health care suite by the applicant or prospective resident of said suite.

    d) Health care suites shall be limited to a maximum of 2 years duration. Such use may only be continued for 1 additional year and only after review and approval by the Plan Commission and Governing Body. Any amount of time beyond 3 years will require a permanent solution to be specified at the time the additional year is requested. Such solution shall be made a condition of approval if granted. At the end of the special use, the unit shall be removed and the garage restored to its former condition.

    e) Any exterior modification of the home necessitated by the suite, such as the temporary removal of the garage door(s) to facilitate a private entry, windows, or heating or cooling units, shall be replaced with materials of an architectural likeness to the existing home. Samples of materials proposed to be used shall be submitted with the application for approval by the Plan Commission.

f) Additional written notification shall be required to the applicant's homes association and to all property owners within 200 feet of the applicant's property.

g) Because the installation of such health care suite temporarily removes the enclosed off-street parking spaces required by ordinance, the applicant shall submit an interim plan for dealing with off-street parking for the duration of the special use.

35) The Director of Planning may upon application by the proponent issue an Administrative Special Use Permit for the use of a specified parcel of land for such temporary short-term uses as trade shows, street fairs, expositions, promotional ventures, entertainment, seasonal sales, balloons, search lights, and tents, provided the following conditions are met:

a) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.

b) The applicant shall submit a site plan showing the location of any proposed structure.

c) The short-term special use shall not be operated longer than 10 consecutive days.

d) No more than 6 special event permits per calendar year shall be issued administratively at any location. Any additional permits may be granted by the Governing Body.

1) Fees for administrative special use permits issued in accordance with Section 4-3.1 (33) d) shall be established by the fee schedule approved yearly by the governing body. If an applicant applies for all six allowable administrative special use permits at one time, the applicant's fee will be reduced to 2/3 of the total ordinary cost. (For example, if the

ordinary fee is $50 per permit, an applicant applying for the six allowable permits at one time will pay only $200 instead of the $300 the applicant would pay is applying for the permits on separate occasions within an y given year.)

e) Upon the cessation of the short-term special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

f) Any structure used in conjunction with the special event shall be the subject of a valid building permit or tent permit.

g) The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.

h) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces used by the event itself.

i) The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

j) If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the Director of Planning deems the special use reasonable, the special use permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district.

k) Any applicant denied an Administrative Special Use Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

36) House or structure relocation to a permanent site within the City Limits provided the following conditions can be met:

a) The house or structure shall be found to be compatible with the surrounding houses or structures and neighborhood including, but not limited to, size, design or general architecture, lot location, and lot size;

b) The structure be made habitable within 6 months of relocation;

c) The applicant shall conform to the provisions of Article 6. "Removal of Structures" of the Leawood City Code.

37) Adult uses or adult businesses, as defined in 4-9.2 of this ordinance, which holds and unexpired and unrevoked Special Use Permit as provided in 4-9.7 of this Ordinance. Said adult uses or adult businesses are subject to the locational limitations of 4-9.4 of this Ordinance. Notwithstanding any other provisions of this section, no other conditions as to operation, site development, signs or time limits may be imposed except as required by 4-9.1 to 4-9.17 of this ordinance.

4-3.2 Revocation of Special Use Permits

1) Basis for Revocation

Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

a) Non-compliance with any applicable requirement set forth in Section 4-3.1.

b) Non-compliance with any special conditions imposed at the time of approval of the special use permit.

c) Violation of any provisions of the code pertaining to the use of the land, construction or uses of buildings or structures or

activities conducted on the premises by the applicant or agents of the applicant.

d) Violation of any other applicable Code provisions or any state or federal law or regulation by the applicant or agents of the applicant, provided that such violations relate to the conduct or activity authorized by the special use permit or the qualifications of the applicant or its agents to engage in such conduct or activity.

2) Procedure for Revocation

a) Revocation proceedings may be initiated by a majority vote of the Governing Body.

b) Unless the applicant and landowner agree in writing that the permit may be revoked, the Governing Body shall hold a public hearing to consider the revocation of the special use permit.

c) the City shall give the applicant and landowner certified mail notice, return receipt requested, of the scheduled revocation hearing at least five days prior to the date scheduled for such hearing. Notice must be published in the official newspaper a minimum of 5 days but not greater than 20 days prior to the hearing.

d) No special use permit shall be revoked unless a majority of the governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion of the revocation must clearly state the grounds for revocation. Adoption of any motion to revoke a special use permit may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.

e) An appeal of any decision of the Governing Body to revoke a special use permit may be filed in the District court of Johnson

Section 2. Existing Section Repealed. That existing Section 4-3 of the "Amendment to Leawood Development Ordinance" is hereby repealed. (Prior law: Ordinance No. 1805)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 4th day of October, 1999.

Approved by the Mayor the 4th day of October, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett
City Attorney

ORD1820

Publication Fees: $459.76

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1820--10/12/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 13, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$459.76

ORDINANCE NO. 1820

First published in The Legal Record, Tuesday, October 12, 1999.

ORDINANCE NO. 1820

AN ORDINANCE AMENDING SECTION 4-3 OF THE "AMENDMENT TO LEAWOOD DEVELOPMENT ORDINANCE," AND PROVIDING AN AMENDMENT TO THE SPECIAL USE PROVISIONS FOR THE SUBSECTION REGARDING "DRIVE THRU BANKING FACILITIES"; AND REPEALING THE EXISTING SECTION.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. "Amendment to Leawood Development Ordinance" Amended. That Section 4-3 of *the "Amendment to Leawood Development Ordinance," is hereby amended to read as follows:*

4-3 SPECIAL USE PROVISIONS

4-3.1 Special Uses Designated

Any of the following uses may be located in any district by Special Use Permit of the Governing Body after notification of adjacent and abutting property owners, public hearing, and after recommendation of the Plan Commission, under such conditions as to operation, site development, signs, and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of the neighboring property, and will conform to the general intent and purpose of this Ordinance and shall comply with the height and area regulations of the district in which they may be located unless a variance is specifically granted by the Board of Zoning Appeals.

1) Amusement parks, privately-owned baseball or athletic fields, race tracks;
2) Aviation fields or airports, under such restrictions as may be imposed to control noise, promote safety, and prevent undue danger to aircraft or to surrounding property;
3) Cemeteries, mausoleums, or crematories for the disposal of the dead;
4) Public and private schools;
5) Churches, synagogues and other places of worship;
6) Clubs, including those where alcoholic beverages are consumed;
7) Drive-in theaters;
8) Golf driving ranges, commercial or illuminated;
9) Gun clubs, skeet shoots, or target ranges;
10) Tennis courts and paved play areas, commonly referred to as "Sport Courts," hereinafter referred to as courts, may be approved as a special use. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance use the following conditions shall be considered minimum requirements to be met.
    a) Courts will only be considered as a special use if said court is accessory to the principal use it is intended to serve. Courts on separate lots will not be considered as stand alone structures.
    b) Plans shall be submitted for approval and shall be based upon compliance with the following standards: 1) The need for screening to protect the privacy of adjoining properties, including noise and lighting, if proposed, and 2) surface runoff. These standards are to be considered minimums and other factors may be considerations for approval by the Plan Commission and/or Governing Body.
    c) Courts shall not be constructed within a required front yard and shall be located a minimum of 10 feet from any rear or side lot line. Screen plantings of a height necessary to muffle noise and block lights may be required as a condition to the special use approval.
    d) Fences for courts may be up to 12 feet in height and shall be of a green or black PVC coated chain link fabric. Said fences shall be located a minimum of 10 feet from any rear or interior side lot line.
    e) Courts shall be designed so that the surface water will be carried to the street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.
    f) All court lighting shall be subject to approval as a special use either in conjunction with the application for a sport court or separately as an addition at a later date. Existing courts requesting lighting must apply for same as a separate special use. A lighting plan shall be submitted which indicates the lumins (footcandles) at the property line and distance to the nearest structures. Footcandles shall not exceed .5 measured anywhere along the adjacent property lines. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. A lighted court may be required to have additional screening in order to mitigate the effect of lighting on any adjoining properties.
    g) No court lighting shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.
    h) A landscape plan shall be submitted at time of application for special use indicating plant material, size, location and spacing proposed.
    i) All courts shall require a building permit prior to grading and/or installation.
11) Hospitals; special care facilities for humans; not to include group homes as defined herein.
12) Campgrounds, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only;
13) Nursery sales office, building greenhouse, or area (wholesale or retail);
14) Nursing and convalescent homes; housing for the elderly; retirement centers and communities; not to include group homes as defined herein.
15) Outdoor poster panels or billboards; off-site promotional signs;
16) Veterinary clinics, dog kennels;
17) Radio, television and microwave towers;
18) **Regulations for the Siting and Construction of Wireless Communication Facilities, Towers and Antennae.**

    a) ***Statement of Intent.***

    The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City of Leawood has many diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount.

    Accordingly, the Governing Body finds that the unregulated placement and design of wireless communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character that Leawood is built around. This ordinance is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time protecting the general safety and welfare of the community.

    b) **Purpose.**

    A wireless communication facility, tower or antenna may be sited, constructed, designed or maintained in the City of Leawood provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance.

    More specifically, these regulations are necessary to:

    1. Provide for suitable location of wireless communication facilities, towers and antennae so as to mitigate their effect on residential neighborhoods and land uses;
    2. Maintain community aesthetics by minimizing the visual effects of wireless communication facilities, towers and antennae through specific design and siting criteria;
    3. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;
    4. Encourage co-location among wireless service providers on existing and newly constructed sites in order to reduce the overall number of towers needed;
    5. Promote the use of innovative camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City of Leawood.

    c) **Special Use Permit Required.**

    1. Special Use Permit Requirement. Wireless communication facilities, towers, and antennae shall be allowed, subject to approval of a special use permit granted by the Governing Body, after notification of adjacent and abutting property owners

CONTINUED FROM PRECEDING PAGE

within 1000 feet of said property parcel, after a public hearing, and after recommendation on the matter by the Plan Commission. Written notification shall be conducted by certified return receipt mail to those parcels within 200 feet of said property and via regular mail as a courtesy to parcels beyond the 200-foot mark. "Said property parcel" shall be defined as the perimeter of any parcel recognized by the Johnson County Appraiser's Office and recorded with a real estate identification number established for the parcel by Johnson County. As determined and evaluated by the Plan Commission and Governing Body, wireless communication facilities, towers and antennae may occupy a smaller leased area on the property parcel, provided that adequate space is afforded for all facilities, landscaping, berming, and screening, and provided that proper notice is provided from the perimeter of the property parcel and not the smaller leased area.

Consideration of the special use shall be in accordance with the following as established by this ordinance:

A) Suitable location in accordance to the zoning districts and comprehensive (master) planned areas in which wireless communication facilities, towers or antennae are allowed;

B) Design, landscape, and screening of the wireless communication facility, tower, or antenna;

C) Maximum tower height required by the wireless service provider(s), with consideration for co-location possibilities;

D) Co-location among wireless service providers on the proposed tower;

E) Minimum separation distance of the proposed tower from other towers within the City of Leawood;

F) Minimum setbacks of the proposed tower and related facilities from the property line; and

G) Minimum buffer distance between the proposed tower and related facilities from surrounding comprehensive (master) planned and existing residential areas.

2. Bond. Prior to the issuance of the special use permit for the operation of a wireless communication facility, tower or antenna, the applicant will provide a performance or cash bond in an amount equal to twenty (20%) percent of total construction costs for the facility, tower or antenna. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility, tower or antenna should it become necessary to do so. The bond will be secured for the term of the special use permit plus one year.

3. Pre-existing Wireless Communication Facilities, Towers and Antennae. Pre-existing wireless communication facilities, towers and antennae, shall be considered legal non-conforming structures and shall not be required to meet the mandates of this ordinance with the exception of 4-3.1 18)k) until the expiration of their applicable special use permit.

Routine maintenance shall be permitted on a non-conforming structure. Any replacement of a pre-existing antenna on a non-conforming structure shall be permitted. Any placement of an additional antenna on a non-conforming structure shall be considered an expansion of the non-conforming structure unless prior approval specifically contemplated multiple antennae. Any such replacement antenna or additional antenna placed on a non-conforming structure shall require an appropriate application as required by 4-3.1 18)j)2 and 3, and shall meet any and all current applicable design and technical standards and requirements for new antennae. The cumulative effect of any additional antennae and related facilities placed upon a non-conforming structure must comply with the radio frequency radiation emission guidelines established by the FCC.

d) **Zoning Location Requirements.**

1. Allowable Areas. Wireless communication facilities, towers, and antennae shall be allowed, subject to approval of a special use permit, within the following comprehensive (master) planned or existing areas and districts:

A) CP-O, Planned Office;

B) CP-1, Planned Neighborhood Retail;

C) CP-2, Planned General Retail;

D) BP, Planned Business Park;

E) PI, Planned Industrial;

F) SD, Special Development;

G) REC, Planned Recreation; and

H) AG, Agricultural (when comprehensive (master) planned for commercial, industrial, or recreational / open space uses).

All districts delineated within this ordinance shall be defined by the current, approved Zoning and Comprehensive (Master) Development Plan maps established for the City of Leawood.

2. Residential Areas. Newly proposed wireless communication facilities, antennae and towers shall not be permitted within any comprehensive (master) planned or existing residential area to include RP-A, RP-A5, R-1, RP-1, RP-2, RP-3, and RP-4 zoning districts. Exceptions to this may be provided for the following, upon approval of a special use permit:

A) Church sites, when camouflaged as steeples, bell towers, etc.;

B) Park sites, when camouflaged to be compatible with the natural elements of the park; and

C) Pre-existing nonresidential alternative tower structures when designed to be architecturally integral and compatible with said structure.

No exception shall be made that will inhibit or infringe upon any historic or scenic views as designated by the Governing Body or any state or federal law or agency.

3. Tower Inventory. In order to construct a new tower within any permitted area, the applicant must provide an inventory of all existing and proposed tower and antennae locations within a three-mile radius of the proposed site. The applicant must also demonstrate, using technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a "reasonable" co-location lease agreement could not be reached with the owners of said alternative sites. Finally, the applicant must provide evidence that the proposed site is necessary for the provision of wireless service. For the purpose of this ordinance "reasonable" shall be defined as the total of all costs related to the construction of a new tower. The applicant shall be responsible for updating the inventory to include all subsequently proposed, approved and/or constructed tower or antenna locations that occur within the three-mile study area during the special use permit process.

4. Grid Information. At the time of site selection, the applicant shall demonstrate how the proposed wireless communication facility, tower or antenna will impact the overall network of the wireless service provider within the City of Leawood and adjacent Cities on both sides of the state line, and shall provide evidence that the proposed site is necessary for the provision of wireless service. The applicant shall be required to update this information as necessary during the special use permit process.

e) **Tower Height.**

Evidence shall be supplied at the time of site selection that

the proposed tower height is necessary to meet coverage needs. Approved tower height will be based upon need demonstrated by the applicant, as well as potential co-location by other wireless service providers. Any proposed tower, within any allowed area, shall not exceed 150 feet in height (excluding lighting arrestor rods not to exceed 5 feet in height).

f) **Tower Setback and Buffer Requirements.**

1. Setbacks. Towers and related facilities shall meet the applicable building setback limits of the zoning district in which the tower and facilities are to be sited.

2. Distance From Residential Areas. Any proposed tower and related facilities shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or comprehensive (master) planned residential area. Note: This 500-foot buffer requirement applies only to towers as defined herein and not to other wireless communication facilities or alternative tower structures.

g) **Design Requirements.**

1. Tower Design.

A) Design. All towers will be constructed of a monopole design. Guy and lattice-type towers will not be allowed. Towers that are less than 75 feet in height must be designed so that their antennae are internally placed, thus creating a smooth, non-projecting appearance. Towers that are 75 feet or greater in height must be designed and engineered to accommodate at least two wireless service providers' antennae. Antenna bridges and platforms are not allowed.

B) Color and Finish. Exterior finish of the monopole will provide for a non-segmented, tapered appearance. Towers and related facilities shall be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment.

2. Antenna Design.

A) Design on Towers. All antennae installed on towers shall be internal or shall panel antennae of "slim-line" design and shall be mounted parallel with the tower. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Leawood are exempt from this requirement.

B) Design on Alternative Tower Structures. All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed.

C) Color and Finish. Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or structure. The antennae and related facilities shall be of a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.

3. Site Plan and Photo Simulations Required. Any application for construction of a new wireless communication facility, tower or antenna must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development.

4. Operational Standards. Wireless communication facilities, towers, and antennae shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all wireless communication facilities, towers and antennae shall be brought into compliance with the revised standards and regulations within six (6) months of the effective date of the standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring wireless communication facilities, towers and antennae into compliance with any revised standards and regulations shall constitute grounds for the removal of the facility, tower or antenna at the owner or provider's expense. Any such removal by the City shall be in the manner provided within 4-3.1 18)k) of this ordinance.

5. Radiation Certification. An engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and related facilities on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antenna.

6. Electromagnetic Interference Problems. It is the responsibility of the wireless service provider to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.

7. Protective Devices. All wireless communication facilities, towers or antennae shall be equipped with any appropriate anti-climbing device or other similar protective device to prevent unauthorized access.

8. Parking Areas. All parking areas and drives associated with any wireless communication facility, tower or antenna shall comply with applicable provisions for such facilities in each zoning district, except that the Plan Commission or Governing Body may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

h) **Screening, Landscaping, Tree Trimming and Lighting Requirements.**

1. Screening Wall. All wireless communication facilities will be screened with a full perimeter wall when deemed necessary by the Plan Commission or Governing Body. This wall is to be constructed of concrete block and surfaced with a material (stucco, brick, etc.) designed to match the architecture of surrounding structures. The minimum height of the wall will be 6 feet from ground level.

2. Landscape Materials. Landscaping in the form of pines and other flowering and deciduous trees is required on the outside perimeter of the screening wall. The standard buffer shall consist of a landscaped strip at least 6 feet wide outside the perimeter of the screening wall. Pines are to be a minimum of 6 feet in height, while other trees are to have a minimum 3 inch caliper. The owner or provider shall be responsible for maintenance of all related landscape and screening materials. Existing mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.

3. Authority to Trim Trees. A wireless service provider

CONTINUED FROM PRECEDING PAGE

shall have authority to trim trees and shrubbery upon and overhanging right-of-way, public utility easements and other public property so as to prevent the branches and foliage of such trees and shrubbery from coming in contact and interfering with the wires, cables and other facilities of the provider. All trimming shall be done only under the supervision and direction of the City Public Works Department, and in accordance with any applicable ordinance, including, but not limited to, the City's Right-of-Way ordinance.

4. Lighting. Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the Plan Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

i) **Separation Distances.**

No newly proposed tower shall be allowed to locate within 1000 feet of an existing tower unless technologically required or visually preferable. This distance shall be measured from the base of the existing tower to the base site location of the proposed tower.

j) **Co-location.**

1. Multiple User Towers. All approved towers 75 feet or greater in height must be designed to accommodate at least two wireless service providers' antennae. Prior to issuance of a building permit, the applicant and owner must provide either of the following: (1) signed, executed lease agreements with other wireless service providers who desire to co-locate on the proposed tower, or (2) a signed statement of intent that guarantees nondiscriminatory pricing for access to the tower by any competing provider, and that the price for access will be based on the current market rate for co-location. This market rate will be established by an independent research consultant hired at the expense of the applicant. Failure to provide co-location opportunities to (or negotiate in good faith with) alternative providers may constitute a finding of noncompliance with 4-3.1 18)c)1.D of this ordinance, and thus be grounds for revocation of the special use permit, and shall be cause for the withholding of future permits to same owner or provider to install, build, or modify wireless communication facilities, towers or antennae within the City of Leawood.

2. Existing Site Improvement. Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

   A) Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this ordinance. Unless otherwise provided for by the current special use permit, application for such an alteration or improvement to an existing site will require approval through a new special use permit. However, if provided for by the current special use permit, such application shall be considered a revised final site plan and will only require submission to and approval by the Plan Commission;

   B) Alter an existing facility, tower or antenna in a manner that makes the facility, tower or antennae less obtrusive, such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the antennae to a "slim line" or internal design. Such application shall be considered a revised final site plan and will only require submission to and approval by the Plan Commission.

   Any such alteration or improvement shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antenna and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

3. Additional Antennae. When provided for in the approved capacity limit of a multi-user tower's current special use permit, additional antennae or replacement of current antennae may be added through an application for a revised final site plan and will only require submission to and approval by the Plan Commission. Additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require a special use permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.

k) **Abandoned Or Unsafe Wireless Communication Facilities, Towers and Antennae.**

Any wireless communication facility, tower or antenna which is occupied by inactive antennae for a period of twelve (12) months shall be considered abandoned and a nuisance, and will be removed at the owner or provider's expense within ninety (90) days. Any wireless communication facility, tower or antenna which is not maintained to a suitable degree of safety and appearance (as determined by the Director of Planning, Chief Building Inspector, and any applicable code) will also be considered a nuisance and will be upgraded or removed at the owner or provider's expense. The construction bond, secured at the time of building permit, will be used to the remedy any nuisance.

In the future should the levels of radio frequency radiation emitted by a wireless communication facility, tower or antenna be determined to be a threat to human health or safety, the facility, tower or antenna shall be cured or immediately removed within ninety (90) days at the owner or provider's expense. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.

l) **Building Codes and Inspection.**

1. Construction and Maintenance Standards. To insure the structural integrity of any wireless communication facility, tower or antenna, the owner of the facility, tower or antenna shall ensure that it is constructed and maintained in compliance with standards contained in applicable local building codes and the applicable standards for wireless communication facilities, towers, and antennae that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a wireless communication facility, tower or antenna fails to comply with such codes and standards and constitutes a danger to persons or property, then upon proper notice, the owner and provider shall have thirty (30) days to bring such facility, tower or antenna into compliance with such standards. If the owner or provider fails to bring such facility, tower or antenna into compliance within the thirty (30) days, the City may order the removal or cause the removal of such facility, tower or antenna at the owner or provider's expense. Failure of the City to inspect the facility, tower or antenna shall not relieve the owner or provider of their responsibility to comply with any provision under this ordinance.

2. Inspection Requirement. At least every twenty-four (24) months, the wireless communication facility, tower, or antenna shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of wireless communication facilities, towers, or antennae. At a minimum, this inspection shall be conducted in accordance with the inspection check list provided in the Electronic Industries Association (EIA) Standard 222, 'Structural Standards for Steel Antenna Towers and Antenna Support Structures.' A copy of such inspection record shall be provided to the City. Said inspection shall be conducted at the owner or provider's expense.

3. Cables, Wire, and Other Such Facilities. In all areas of the City where the cables, wire, and other such facilities of public utilities are underground, or are required by the City to be placed underground, the owner or provider shall also place its cables, wires, or other such facilities underground. Further, the owner or provider shall abide by all applicable right-of-way or utility easement ordinance or standard.

CONTINUED FROM PRECEDING PAGE

4. Disturbance of Right-of-Way. In the case of any disturbance to right-of-way or other public property caused by an owner or provider during the course of constructing or maintaining its wireless communication facility, tower, or antenna, the owner or provider shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface any street or public property disturbed in as good or better condition as before the disturbance in accordance with applicable federal, state, and local laws, rules, regulations, administrative decisions or applicable right-of-way or utility easement ordinance or standard. The duty to restore the right-of-way or other public property shall include the repair of any area identified by the Director of Public Works as being weakened or damaged as a result of a cut or to other invasion of the pavement of a street or other public property.

m) **Exclusions.**

The following shall be exempt from this ordinance:

1. Any tower and antenna less than 70 feet in total height which is owned and operated by an amateur radio operator licensed by the FCC;

2. Any device designed for over the air reception of television broadcast signals, multi-channel, multi-point distribution service or direct broadcast satellite service.

n) **Penalties.**

This ordinance shall be in full force and effect upon its enactment and approval, and any person found to be in violation of any of the provisions of this ordinance shall be subject to a fine of up to $500 for of violation. Each day shall constitute a separate violation.

o) **Severability.**

If any section, subsection sentence, clause, phrase or portion of this ordinance 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 hereof.

p) **Repeal of Laws in Conflict.**

This ordinance supersedes all ordinances or part of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

q) **Definitions.**

Act: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include all future amendments.

Alternative tower structure: Manmade trees, clock towers, bell steeples, light poles, buildings and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or facilities.

Antenna: Any device used to transmit or receive electromagnetic signals for communication purposes, not to include satellite dishes used solely for home television purposes. For purposes of this ordinance, all references to antennae shall be applicable to micro-cells and repeaters.

Antenna support structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device or antenna used in the transmission or receipt of radio frequency energy.

Co-location: Placement of wireless communication facilities, towers or antennae by more than one wireless service provider on a single tower or alternative tower structure.

Effective radiated power (ERP): The product of the antenna power input and the numerically equal power output gain.

EPA: Environmental Protection Agency.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

Guyed tower: A tower that is supported, in whole or in part, by guy wires and ground anchors.

Interference: Disturbances in reception caused by intruding signals or electrical current.

Lattice tower: A three or four-sided tower constructed of open steel framing.

Micro-cell: A low power mobile radio service communication facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage. *(see antenna)*

Monopole: A tower of single-pole design, constructed without support (guy) wires or anchors.

Omnidirectional antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed. *(a.k.a. whip antenna)*

Panel antenna: An antenna that transmits signals in specific directions, and are typically square or rectangular in shape.

Repeater: A low power mobile radio service communication facility that extends coverage of a cell to areas not covered by the originating cell. *(see antenna)*

Slim-line antenna: A panel antenna which mounts directly to and parallel with a monopole or alternative tower structure.

Tower: A structure designed to support at least one or more antennae. This does not include structures owned and operated by amateur radio personnel licensed by the FCC.

Tower height: The vertical distance measured from the base of the tower or alternative tower structure at grade to the highest point of the tower or alternative tower structure. If the tower or alternative tower structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the tower height.

Wireless communication facility: Any complex, including tower, antenna, antenna support structure, cabinet, building, screen walls, transmission equipment, power source or other equipment constructed on the ground, and used to assist antennae in the generation or receipt of electromagnetic communication signals, or used for the transmission or receipt of electromagnetic communication signals.

Wireless service provider (provider): Any provider of cellular or wireless (digital, PCS, and PCN) communication service allowing customers to use mobile telephones to connect, via low power radio transmitter sites either to

CONTINUED FROM PRECEDING PAGE

the public switched network or to other mobile telephones. Such providers shall be licensed by the FCC in a specific geographical area in which the radio frequency spectrum is divided into discrete channels.

19) Television and amateur radio antennae exceeding district height limitations.

20) Reservoirs, towers, filter beds, or water treatment plants;

21) Riding stables and tracks;

22) Wastewater treatment plant;

23) Motor hotels, motels, hotels, and convention centers;

24) Banking facilities with accessory drive-through lanes

a) a minimum stacking distance of five car lengths must be provided for each drive-through lane,

b) drive through lanes must be attached and integral to a full-service banking facility;

c) the automobile movements in and out of the bank facility shall not interfere with the adjacent public street system.

25) Buildings, structures, and premises for public utility services, or public service corporations;

26) Temporary use of land or building for commercial or industrial purposes, provided that any building or structure constructed thereon which is not otherwise permitted in the District in which such land is situated shall be temporary, and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall be valid for not more than 2 years but may be renewed after public hearing;

27) Assembly halls, community centers, philanthropic organizations;

28) Child care centers, family day care homes, preschools, nursery schools, Montessori schools, private kindergartens, day care homes and group day care homes; not to include group homes as defined herein.

29) Off-street parking lots or off-street parking structures of a temporary or permanent nature;

30) Group boarding home for minors or adults; not to include group homes as defined herein.

31) Private ambulance service;

32) Bed and breakfast;

33) Horse pasturing on lots of less than 3 acres in residential districts.

34) Temporary self contained health care suites located within an attached garage are intended to provide an "in home" physical care facility as a temporary alternative to a nursing home environment. It is not intended to provide long term care lodging for anyone that would be better served by a more permanent solution. Such permanent alternate solutions may require an alteration to the home, an addition onto the home, or off-site care by a health care institution. Such use is allowed as a special use provided the following conditions are met:

a) The suites are to be freestanding self contained units including independent heating and air conditioning units and plumbing systems.

b) Not more than 2 persons shall be housed in such suite provided said housing is necessitated by a physical impairment or health care need of one or both persons and said health care need is being met by occupant or occupants of the existing home. Said person(s) residing in such health care suite shall be either an occupant or a relative of the occupant of the home except in cases when an overnight health care provider is required.

c) A letter from a licensed doctor of medicine or osteopathy shall be submitted, along with the application for special use, verifying the need for such health care suite by the applicant or prospective resident of said suite.

d) Health care suites shall be limited to a maximum of 2 years duration. Such use may only be continued for 1 additional year and only after review and approval by the Plan Commission and Governing Body. Any amount of time beyond 3 years will require a permanent solution to be specified at the time the additional year is requested. Such solution shall be made a condition of approval if granted. At the end of the special use, the unit shall be removed and the garage restored to its former condition.

e) Any exterior modification of the home necessitated by the suite, such as the temporary removal of the garage door(s) to facilitate a private entry, windows, or heating or cooling units, shall be replaced with materials of an architectural likeness to the existing home. Samples of materials proposed to be used shall be submitted with the application for approval by the Plan Commission.

f) Additional written notification shall be required to the applicant's homes association and to all property owners within 200 feet of the applicant's property.

g) Because the installation of such health care suite temporarily removes the enclosed off-street parking spaces required by ordinance, the applicant shall submit an interim plan for dealing with off-street parking for the duration of the special use.

35) The Director of Planning may upon application by the proponent issue an Administrative Special Use Permit for the use of a specified parcel of land for such temporary short-term uses as trade shows, street fairs, expositions, promotional ventures, entertainment, seasonal sales, balloons, search lights, and tents, provided the following conditions are met:

a) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.

b) The applicant shall submit a site plan showing the location of any proposed structure.

c) The short-term special use shall not be operated longer than 10 consecutive days.

d) No more than 6 special event permits per calendar year shall be issued administratively at any location. Any additional permits may be granted by the Governing Body.

1) Fees for administrative special use permits issued in accordance with Section 4-3.1 (33) d) shall be established by the fee schedule approved yearly by the governing body. If an applicant applies for all six allowable administrative special use permits at one time, the applicant's fee will be reduced to 2/3 of the total ordinary cost. (For example, if the ordinary fee is $50 per permit, an applicant applying for the six allowable permits at one time will pay only $200 instead of the $300 the applicant would pay is applying for the permits on separate occasions within an y given year.)

e) Upon the cessation of the short-term special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

f) Any structure used in conjunction with the special event shall be the subject of a valid building permit or tent permit.

g) The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.

h) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces used by the event itself.

i) The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

j) If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the Director of Planning deems the special use reasonable, the special use permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district.

k) Any applicant denied an Administrative Special Use Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

CONTINUED FROM PRECEDING PAGE

36) House or structure relocation to a permanent site within the City Limits provided the following conditions can be met:

a) The house or structure shall be found to be compatible with the surrounding houses or structures and neighborhood including, but not limited to, size, design or general architecture, lot location, and lot size;

b) The structure be made habitable within 6 months of relocation;

c) The applicant shall conform to the provisions of Article 6, "Removal of Structures" of the Leawood City Code.

37) Adult uses or adult businesses, as defined in 4-9.2 of this ordinance, which holds and unexpired and unrevoked Special Use Permit as provided in 4-9.7 of this Ordinance. Said adult uses or adult businesses are subject to the locational limitations of 4-9.4 of this Ordinance. Notwithstanding any other provisions of this section, no other conditions as to operation, site development, signs or time limits may be imposed except as required by 4-9.1 to 4-9.17 of this ordinance.

4-3.2 Revocation of Special Use Permits

1) Basis for Revocation

Any special use permit granted under the authority of this chapter is subject to revocation for any or all of the following reasons:

a) Non-compliance with any applicable requirement set forth in Section 4-3.1.

b) Non-compliance with any special conditions imposed at the time of approval of the special use permit.

c) Violation of any provisions of the code pertaining to the use of the land, construction or uses of buildings or structures or activities conducted on the premises by the applicant or agents of the applicant.

d) Violation of any other applicable Code provisions or any state or federal law or regulation by the applicant or agents of the applicant, provided that such violations relate to the conduct or activity authorized by the special use permit or the qualifications of the applicant or its agents to engage in such conduct or activity.

2) Procedure for Revocation

a) Revocation proceedings may be initiated by a majority vote of the Governing Body.

b) Unless the applicant and landowner agree in writing that the permit may be revoked, the Governing Body shall hold a public hearing to consider the revocation of the special use permit.

c) the City shall give the applicant and landowner certified mail notice, return receipt requested, of the scheduled revocation hearing at least five days prior to the date scheduled for such hearing. Notice must be published in the official newspaper a minimum of 5 days but not greater than 20 days prior to the hearing.

d) No special use permit shall be revoked unless a majority of the governing Body is satisfied by a preponderance of the evidence that grounds for revocation exist. Any motion of the revocation must clearly state the grounds for revocation. Adoption of any motion to revoke a special use permit may be made subject to subsequent adoption of written findings of fact and conclusions of law, at the discretion of the Governing Body.

e) An appeal of any decision of the Governing Body to revoke a special use permit may be filed in the District court of Johnson County, Kansas. Any appeal taken shall not suspend the order of revocation during the pending appeal unless so ordered by the District Court.

Section 2. Existing Section Repealed. That existing Section 4-3 of the "Amendment to Leawood Development Ordinance" is hereby repealed. (Prior law: Ordinance No. 1805)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 4th day of October, 1999.

Approved by the Mayor the 4th day of October, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett
City Attorney

ORDINANCE NO. 1819

AN ORDINANCE ACCEPTING 12 PERMANENT DRAINAGE EASEMENTS FROM NORMANDY PLACE SUBDIVISION RESIDENTS AND HOMES ASSOCIATION (FOR THE CONVERSION OF PRIVATE STREETS TO PUBLIC STREETS).

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

Section 1. That the City of Leawood hereby accepts 12 permanent drainage easements hereinafter more particularly described, to wit:

See Exhibit A

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(SEAL)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
Patricia A. Bennett City Attorney

EXHIBIT A

All that part of Lot 24, as shown on the Certificate of Survey of Resurvey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as shown on the Certificate of Survey as filed in Volume 3537 at Page 245 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 24; thence S 77° 05' 29" E, along the North line of said Lot 24, a distance of 5.46 feet; thence S 12° 59' 23" W, a distance of 46.88 feet, to a point on the West line of said Lot 24; thence Northerly, along the West line of said Lot 24, said line being a curve to the right having a radius of 150 feet, a central angle of 18° 05' 57" and whose initial tangent bearing is N 2° 42' 14" W, a distance of 47.38 feet, to the true point of beginning of subject tract, containing 187 square feet, more or less.

All that part of Lot 5, as shown on the Certificate of Survey of Resurvey of Part of Tract "H", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3673 at Page 710 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 5; thence N 77° 40' 40" E, along the North line of said Lot 5, a distance of 95.80 feet; thence S 58° 51' 18" E, a distance of 14.97 feet, to a point on the East line of said Lot 5; thence S 12° 19' 20" E, along the East line of said Lot 5, a distance of 13.78 feet; thence N 58° 51' 18" W, a distance of 28.46 feet; thence S 77° 47' 25" W, a distance of 86.04 feet, to a point on the West line of said Lot 5; thence N 11° 46' 30" W, along the West line of said Lot 5, a distance of 4.32 feet, to the point of beginning, containing 619 square feet, more or less.

All that part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Tract "D"; thence N 2° 15' 37" E, along the East line of said Tract "D", a distance of 148.10 feet; thence N 13° 24' 19" W, along the East line of said Tract "D", a distance of 255.13 feet; thence N 8° 33' 52" E, along the East line of said Tract "D", a distance of 4.15 feet; thence N 77° 05' 29" W, a distance of 117.44 feet, to the true point of beginning of subject tract; thence continuing N 77° 05' 29" W, a distance of 5.46 feet, to a point on the West line of said Tract "D"; thence Northeasterly, along the West line of said Tract "D", said line being a curve to the right having a radius of 150 feet, a central angle of 5° 27' 07" and whose initial tangent bearing is N 15° 23' 43" E, a distance of 14.26 feet, to a point of tangency; thence N 20° 50' 50" E, along the West line of said Tract "D", a distance of 30.60 feet, to a point hereinafter referred to as Point "A"; thence S 12° 59' 23" W, a distance of 44.52 feet, to the true point of beginning of subject tract . . . and also . . . All that part of said Tract "D", more particularly described as follows: Commencing at aforementioned Point "A"; thence N 20° 50' 50" E, along the West line of said Tract "D", a distance of 13.90 feet, to the true point of beginning of subject tract; thence continuing N 20° 50' 50" E, along the West line of said Tract "D", a distance of 6.75 feet; thence N 88° 37' 52" E, a distance of 12 feet; thence S 65° 24' 12" W, a distance of 15.84 feet, to the true point of beginning of subject tract, containing 171 square feet, more or less.

All that part of Lot 13, as shown on the Certificate of Survey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3686 at Page 112 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Lot 13; thence S 73° 33' 01" W, along the South line of said Lot 13, a distance of 3.34 feet, to the true point of beginning of subject tract; thence continuing S 73° 33' 01" W, along the South line of said Lot 13, a distance of 93.27 feet; thence N 35° 13' 21" W, a distance of 44.78 feet; thence N 54° 46' 39" E, a distance of 10 feet; thence S 35° 13' 21" E, a distance of 42.93 feet; thence N 74° 05' 30" E, a distance of 75.35 feet; thence N 7° 37' 41" E, a distance of 30.38 feet, to a point on the East line of said Lot 13; thence S 16° 26' 59" E, along the East line of said Lot 13, a distance of 24.51 feet; thence S 7° 37' 41" W, a distance of 8.19 feet, to the true point of beginning of subject tract, containing 1020 square feet, more or less.

EXHIBIT A

All that part of Lot 6, as shown on the Certificate of Survey of Resurvey of Part of Tract "H", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3673 at Page 710 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Southwest corner of said Lot 6; thence N 11° 46' 30" W, along the West line of said Lot 6, a distance of 5.68 feet; thence N 77° 47' 25" E, a distance of 89.94 feet; thence S 58° 51' 18" E, a distance of 7.99 feet, to a point on the South line of said Lot 6; thence S 77° 40' 40" W, along the South line of said Lot 6, a distance of 95.80 feet, to the true point of beginning of subject tract, containing 518 square feet, more or less.

All that part of Tract 7, as shown on the Certificate of Survey of Tracts 7, 8 and 9, NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 2355 at Page 949 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Southwest corner of said Tract 7; thence N 6° 45' 23" W, along the West line of said Tract 7, a distance of 1.18 feet, to the true point of beginning of subject tract; thence continuing N 6° 45' 23" W, along the West line of said Tract 7, a distance of 11.06 feet; thence S 71° 30' 43" E, a distance of 28.68 feet, to a point on the South line of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 23.45 feet; thence N 71° 30' 43" W, a distance of 2.76 feet, to the true point of beginning of subject tract, containing 157 square feet, more or less . . . and also . . . All that part of said Tract 7, more particularly described as follows: Beginning at the Southeast corner of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 19.83 feet; thence N 70° 09' 19" E, a distance of 20.36 feet, to a point on the East line of said Tract 7; thence S 6° 45' 23" E, along the East line of said Tract 7, a distance of 4.61 feet, to the point of beginning, containing 46 square feet, more or less.

All that part of Lot 12, as shown on the Certificate of Survey of Resurvey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3686 at Page 112 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of said Lot 12; thence S 73° 33' 01" W, along the North line of said Lot 12, a distance of 3.34 feet, to the true point of beginning of subject tract; thence continuing S 73° 33' 01" W, along the North line of said Lot 12, a distance of 93.27 feet; thence S 35° 13' 21" E, a distance of 5.25 feet; thence N 74° 05' 30" E, a distance of 88.99 feet; thence N 7° 37' 41" E, a distance of 6.36 feet, to the true point of beginning of subject tract, containing 491 square feet, more or less.

All of the South 7.50 feet of Lot 19A, as shown on the Certificate of Survey of Resurvey of Part of Lot 19, NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as shown on the Certificate of Survey as filed in Volume 4215 at Page 693 in the Office of the Register of Deeds, Johnson County, Kansas.

A tract of land 10 feet in width across a part of Tract "G", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "G"; thence S 11° 46' 30" E, along the West line of said Tract "G", a distance of 447.12 feet, to the true point of beginning of subject tract; thence N 77° 47' 25" E, a distance of 36.12 feet, to a point on the East line of said Tract "G" . . . and also . . . All that part of said Tract "G", more particularly described as follows: Commencing at the Southeast corner of said Tract "G"; thence N 68° 49' 20" W, along the South line of said Tract "G", a distance of 18.94 feet, to the true point of beginning of subject tract; thence continuing N 68° 49' 20" W, along the South line of said Tract "G", a distance of 32.65 feet; thence N 1° 25' 33" W, a distance of 33.14 feet; thence S 80° 38' 58" E, a distance of 41.19 feet; thence S 13° 46' 58" W, a distance of 39.37 feet, to the true point of beginning of subject tract.

EXHIBIT A

All that part of Tract "A", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Tract "A"; thence N 0° 04' 20" W, along the East line of said Tract "A", a distance of 295.70 feet; thence S 89° 55' 40" W, along a line perpendicular to the East line of said Tract "A", a distance of 72.94 feet, to the true point of beginning of subject tract; thence S 70° 09' 19" W, a distance of 16.91 feet, to a point on the East line of Tract 7, as shown on the Certificate of Survey of Tracts 7, 8 and 9, NORMANDY PLACE FIRST PLAT, as filed in Volume 2355 at Page 949 in the Office of the Register of Deeds, Johnson County, Kansas; thence S 6° 45' 23" E, along the East line of said Tract 7, a distance of 4.61 feet, to the Southeast corner thereof; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 19.83 feet; thence S 70° 09' 19" W, a distance of 32.08 feet; thence N 71° 30' 43" W, a distance of 17.04 feet, to a point on the South line of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 23.45 feet, to a point hereinafter referred to as Point "A"; thence S 71° 30' 43" E, a distance of 41.72 feet; thence N 70° 09' 19" E, a distance of 67.52 feet; thence Northeasterly, along a curve to the left having a radius of 40 feet, a central angle of 16° 16' 24" and whose initial tangent bearing is N 16° 15' 47" E, a distance of 11.36 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "A", lying 5 feet on each side of the following described centerline: Commencing at aforementioned Point "A", thence S 83° 14' 37" W, along the South line of said Tract "A", a distance of 2.50 feet, to the Southwest corner thereof; thence N 6° 45' 23" W, along the West line of said Tract "A", a distance of 6.70 feet, to the true point of beginning of subject tract; thence N 71° 30' 43" W, a distance of 16.61 feet; thence N 2° 18' 47" W, a distance of 124.34 feet; thence N 84° 20' 46" W, a distance of 39.41 feet, to a point on the Westerly line of said Tract "A".

A tract of land 10 feet in width across a part of Tract "F", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence S 11° 46' 30" E, along the West line of said Tract "F", a distance of 175.12 feet; thence S 18° 43' 43" W, along the West line of said Tract "F", a distance of 17.92 feet, to the true point of beginning of subject tract; thence N 88° 21' 05" E, a distance of 36.42 feet . . . and also . . . A tract of land 10 feet in width across a part of said Tract "F", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence N 89° 51' 50" E, along the North line of said Tract "F", a distance of 32.21 feet, to the Northeast corner thereof; thence S 11° 46' 30" E, along the East line of said Tract "F", a distance of 447.12 feet, to the true point of beginning of subject tract; thence S 77° 47' 25" W, a distance of 4.13 feet.

EXHIBIT A

All that part of Tract "B", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 43.72 feet, to the true point of beginning of subject tract; thence continuing S 68° 49' 20" E, along the North line of said Tract "B", a distance of 31.34 feet; thence S 32° 11' 28" W, a distance of 83.41 feet; thence N 11° 09' 30" W, a distance of 61.57 feet; thence N 51° 35' 51" E, a distance of 34.62 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "B", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 81.50 feet, to the Northeast corner thereof; thence S 21° 10' 40" W, along the Easterly line of said Tract "B", a distance of 87 feet; thence S 24° 06' 02" E, along the Easterly line of said Tract "B", a distance of 6.95 feet, to the true point of beginning of subject tract; thence N 84° 20' 46" W, a distance of 37.21 feet.

ORD1819

Publication Fees: $104.17

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1819--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$104.17

ORDINANCE NO. 1819

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1819

AN ORDINANCE ACCEPTING 12 PERMANENT DRAINAGE EASEMENTS FROM NORMANDY PLACE SUBDIVISION RESIDENTS AND HOMES ASSOCIATION (FOR THE CONVERSION OF PRIVATE STREETS TO PUBLIC STREETS).

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

Section 1. That the City of Leawood hereby accepts 12 permanent drainage easements hereinafter more particularly described, to wit:

See Exhibit A

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM: /s/ Patricia A. Bennett

Patricia A. Bennett — City Attorney

EXHIBIT A

All that part of Lot 24, as shown on the Certificate of Survey of Resurvey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as shown on the Certificate of Survey as filed in Volume 3537 at Page 245 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 24; thence S 77° 05' 29" E, along the North line of said Lot 24, a distance of 5.46 feet; thence S 12° 59' 23" W, a distance of 46.88 feet, to a point on the West line of said Lot 24; thence Northerly, along the West line of said Lot 24, said line being a curve to the right having a radius of 150 feet, a central angle of 18° 05' 57" and whose initial tangent bearing is N 2° 42' 14" W, a distance of 47.38 feet, to the true point of beginning of subject tract, containing 187 square feet, more or less.

All that part of Lot 5, as shown on the Certificate of Survey of Resurvey of Part of Tract "H", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3673 at Page 710 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Lot 5; thence N 77° 40' 40" E, along the North line of said Lot 5, a distance of 95.80 feet; thence S 58° 51' 18" E, a distance of 14.97 feet, to a point on the East line of said Lot 5; thence S 12° 19' 20" E, along the East line of said Lot 5, a distance of 13.78 feet; thence N 58° 51' 18" W, a distance of 28.46 feet; thence S 77° 47' 25" W, a distance of 86.04 feet, to a point on the West line of said Lot 5; thence N 11° 46' 30" W, along the West line of said Lot 5, a distance of 4.32 feet, to the point of beginning, containing 619 square feet, more or less.

All that part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Tract "D"; thence N 2° 15' 37" E, along the East line of said Tract "D", a distance of 148.10 feet; thence N 13° 24' 19" W, along the East line of said Tract "D", a distance of 255.13 feet; thence N 8° 33' 52" E, along the East line of said Tract "D", a distance of 4.15 feet; thence N 77° 05' 29" W, a distance of 117.44 feet, to the true point of beginning of subject tract; thence continuing N 77° 05' 29" W, a distance of 5.46 feet, to a point on the West line of said Tract "D"; thence Northeasterly, along the West line of said Tract "D", said line being a curve to the right having a radius of 150 feet, a central angle of 5° 27' 07" and whose initial tangent bearing is N 15° 23' 43" E, a distance of 14.25 feet, to a point of tangency; thence N 20° 50' 50" E, along the West line of said Tract "D", a distance of 30.60 feet, to a point hereinafter referred to as Point "A"; thence S 12° 59' 23" W, a distance of 44.52 feet, to the true point of beginning of subject tract . . . and also . . . All that part of said Tract "D", more particularly described as follows: Commencing at aforementioned Point "A"; thence N 20° 50' 50" E, along the West line of said Tract "D", a distance of 13.90 feet, to the true point of beginning of subject tract; thence continuing N 20° 50' 50" E, along the West line of said Tract "D", a distance of 6.75 feet; thence N 88° 37' 52" E, a distance of 12 feet; thence S 65° 24' 12" W, a distance of 15.84 feet, to the true point of beginning of subject tract, containing 171 square feet, more or less.

All that part of Lot 13, as shown on the Certificate of Survey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3686 at Page 112 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Lot 13; thence S 73° 33' 01" W, along the South line of said Lot 13, a distance of 3.34 feet, to the true point of beginning of subject tract; thence continuing S 73° 33' 01" W, along the South line of said Lot 13, a distance of 93.27 feet; thence N 35° 13' 21" W, a distance of 44.78 feet; thence N 54° 46' 39" E, a distance of 10 feet; thence S 35° 13' 21" E, a distance of 42.93 feet; thence N 74° 05' 30" E, a distance of 75.35 feet; thence N 7° 37' 41" E, a distance of 30.38 feet, to a point on the East line of said Lot 13; thence S 16° 26' 59" E, along the East line of said Lot 13, a distance of 24.51 feet; thence S 7° 37' 41" W, a distance of 8.19 feet, to the true point of beginning of subject tract, containing 1020 square feet, more or less.

All that part of Lot 6, as shown on the Certificate of Survey of Resurvey of Part of Tract "H", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3673 at Page 710 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Beginning at the Southwest corner of said Lot 6; thence N 11° 46' 30" W, along the West line of said Lot 6, a distance of 5.68 feet; thence N 77° 47' 25" E, a distance of 89.94 feet; thence S 58° 51' 18" E, a distance of 7.99 feet, to a point on the South line of said Lot 6; thence S 77° 40' 40" W, along the South line of said Lot 6, a distance of 95.80 feet, to the true point of beginning of subject tract, containing 518 square feet, more or less.

All that part of Tract 7, as shown on the Certificate of Survey of Tracts 7, 8 and 9, NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 2355 at Page 949 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Southwest corner of said Tract 7; thence N 6° 45' 23" W, along the West line of said Tract 7, a distance of 1.18 feet, to the true point of beginning of subject tract; thence continuing N 6° 45' 23" W, along the West line of said Tract 7, a distance of 11.06 feet; thence S 71° 30' 43" E, a distance of 28.68 feet, to a point on the South line of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 23.45 feet; thence N 71° 30' 43" W, a distance of 2.76 feet, to the true point of beginning of subject tract, containing 157 square feet, more or less . . . and also . . . All that part of said Tract 7, more particularly described as follows: Beginning at the Southeast corner of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 19.83 feet; thence N 70° 09' 19" E, a distance of 20.36 feet, to a point on the East line of said Tract 7; thence S 6° 45' 23" E, along the East line of said Tract 7, a distance of 4.61 feet, to the point of beginning, containing 46 square feet, more or less.

All that part of Lot 12, as shown on the Certificate of Survey of Resurvey of Part of Tract "D", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as filed in Volume 3686 at Page 112 in the Office of the Register of Deeds, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of said Lot 12; thence S 73° 33' 01" W, along the North line of said Lot 12, a distance of 3.34 feet, to the true point of beginning of subject tract; thence continuing S 73° 33' 01" W, along the North line of said Lot 12, a distance of 93.27 feet; thence S 35° 13' 21" E, a distance of 5.25 feet; thence N 74° 05' 30" E, a distance of 88.99 feet; thence N 7° 37' 41" E, a distance of 6.36 feet, to the true point of beginning of subject tract, containing 497 square feet, more or less.

All of the South 7.50 feet of Lot 19A, as shown on the Certificate of Survey of Resurvey of Part of Lot 19, NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as shown on the Certificate of Survey as filed in Volume 4215 at Page 693 in the Office of the Register of Deeds, Johnson County, Kansas.

A tract of land 10 feet in width across a part of Tract "G", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "G"; thence S 11° 46' 30" E, along the West line of said Tract "G", a distance of 447.12 feet, to the true point of beginning of subject tract; thence N 77° 47' 25" E, a distance of 36.12 feet, to a point on the East line of said Tract "G" . . . and also . . . All that part of said Tract "G", more particularly described as follows: Commencing at the Southeast corner of said Tract "G"; thence N 68° 49' 20" W, along the South line of said Tract "G", a distance of 18.94 feet, to the true point of beginning of subject tract; thence continuing N 68° 49' 20" W, along the South line of said Tract "G", a distance of 32.65 feet; thence N 1° 25' 33" W, a distance of 33.14 feet; thence S 80° 38' 58" E, a distance of 41.19 feet; thence S 13° 46' 58" W, a distance of 39.37 feet, to the true point of beginning of subject tract.

All that part of Tract "A", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Tract "A"; thence N 0° 04' 20" W, along the East line of said Tract "A", a distance of 295.70 feet; thence S 89° 55' 40" W, along a line perpendicular to the East line of said Tract "A", a distance of 72.94 feet, to the true point of beginning of subject tract; thence S 70° 09' 19" W, a distance of 16.91 feet, to a point on the East line of Tract 7, as shown on the Certificate of Survey of Tracts 7, 8 and 9, NORMANDY PLACE FIRST PLAT, as filed in Volume 2355 at Page 949 in the Office of the Register of Deeds, Johnson County, Kansas; thence S 6° 45' 23" E, along the East line of said Tract 7, a distance of 4.61 feet, to the Southeast corner thereof, thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 19.83 feet; thence S 70° 09' 19" W, a distance of 32.08 feet; thence N 71° 30' 43" W, a distance of 17.04 feet, to a point on the South line of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 23.45 feet, to a point hereinafter referred to as Point "A"; thence S 71° 30' 43" E, a distance of 41.72 feet; thence N 70° 09' 19" E, a distance of 67.52 feet; thence Northeasterly, along a curve to the left having a radius of 40 feet, a central angle of 16° 16' 24" and whose initial tangent bearing is N 16° 15' 47" E, a distance of 11.36 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "A", lying 5 feet on each side of the following described centerline: Commencing at aforementioned Point "A", thence S 83° 14' 37" W, along the South line of said Tract "A", a distance of 2.50 feet, to the Southwest corner thereof, thence N 6° 45' 23" W, along the West line of said Tract "A", a distance of 6.70 feet, to the true point of beginning of subject tract; thence N 71° 30' 43" W, a distance of 16.61 feet; thence N 2° 18' 47" W, a distance of 124.34 feet; thence N 84° 20' 46" W, a distance of 39.41 feet, to a point on the Westerly line of said Tract "A".

A tract of land 10 feet in width across a part of Tract "F", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence S 11° 46' 30" E, along the West line of said Tract "F", a distance of 175.12 feet; thence S 18° 43' 43" W, along the West line of said Tract "F", a distance of 17.92 feet, to the true point of beginning of subject tract; thence N 88° 21' 05" E, a distance of 36.42 feet . . . and also . . . A tract of land 10 feet in width across a part of said Tract "F", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence N 89° 51' 50" E, along the North line of said Tract "F", a distance of 32.21 feet, to the Northeast corner thereof; thence S 11° 46' 30" E, along the East line of said Tract "F", a distance of 447.12 feet, to the true point of beginning of subject tract; thence S 77° 47' 25" W, a distance of 4.13 feet.

All that part of Tract "B", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 43.72 feet, to the true point of beginning of subject tract; thence continuing S 68° 49' 20" E, along the North line of said Tract "B", a distance of 31.34 feet; thence S 32° 11' 28" W, a distance of 83.41 feet; thence N 11° 09' 30" W, a distance of 61.57 feet; thence N 51° 35' 51" E, a distance of 34.62 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "B", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 81.50 feet, to the Northeast corner thereof; thence S 21° 10' 40" W, along the Easterly line of said Tract "B", a distance of 87 feet; thence S 24° 06' 02" E, along the Easterly line of said Tract "B", a distance of 6.95 feet, to the true point of beginning of subject tract; thence N 84° 20' 46" W, a distance of 37.21 feet.

ORDINANCE NO. 1818

AN ORDINANCE ACCEPTING A DEED FOR STREET PURPOSES FROM NORMANDY PLACE SUBDIVISION (FOR THE CONVERSION OF PRIVATE STREETS TO PUBLIC STREETS).

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

Section 1. That the City of Leawood hereby accepts a deed for the following described real estate, to wit:

See Exhibit A

Section 2. That a copy of said deed is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

Patricia A. Bennett City Attorney

EXHIBIT A

All that part of Tract "A", NORMANDY PLACE FIRST PLAT; all that part of Tract "C", NORMANDY PLACE SECOND PLAT; all of Tract "E", NORMANDY PLACE THIRD PLAT; all that part of Tract "T", NORMANDY PLACE FOURTH PLAT, all subdivisions of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Beginning at the Northeast corner of said Tract "A"; thence S 0° 04' 20" E, along the East line of said Tract "A", a distance of 90.24 feet; thence S 54° 30' 02" W, a distance of 41.17 feet; thence S 13° 49' 21" E, a distance of 83.84 feet; thence S 76° 10' 39" W, a distance of 15.14 feet, to a point on a curve; thence Southeasterly and Southerly, along a curve to the right having a radius of 168 feet, a central angle of 16° 08' 59" and whose initial tangent bearing is S 12° 10' 36" E, a distance of 47.35 feet, to a point of reverse curvature; thence Southerly and Southeasterly, along a curve to the left having a radius of 80 feet, a central angle of 30° 05' 38" and whose initial tangent bearing is S 3° 58' 23" W, a distance of 42.02 feet, to a point of reverse curvature; thence Southeasterly, Southerly, Southwesterly and Westerly, along a curve to the right having a radius of 60 feet, a central angle of 116° 02' 55" and whose initial tangent bearing is S 26° 07' 15" E, a distance of 121.53 feet, to a point on the Southerly line of an existing Access and Utility Easement as shown on said NORMANDY PLACE FIRST PLAT; thence Westerly, Northwesterly, Northerly and Northeasterly, along the Southerly and Westerly line of said Access and Utility Easement, said line being a curve to the right having a radius of 60 feet, a central angle of 136° 02' 19" and whose initial tangent bearing is S 89° 55' 40" W, a distance of 142.46 feet, to a point of tangency; thence N 45° 57' 59" E, along the Westerly line and its extension of said Access and Utility Easement, a distance of 38.15 feet, to a point of curvature; thence Northeasterly and Northerly, along a curve to the left having a radius of 40 feet and a central angle of 59° 47' 20", a distance of 41.74 feet, to a point of tangency; thence N 13° 49' 21" W, a distance of 70 feet, to a point of curvature, said point also being on the Westerly line of said Access and Utility Easement; thence Northwesterly, along the Westerly line of said Access and Utility Easement, said line being a curve to the right having a radius of 173 feet and a central angle of 9° 37' 02", a distance of 29.04 feet; thence N 58° 00' 37" W, along the Westerly line of said Access and Utility Easement, a distance of 44.49 feet; thence N 21° 10' 40" E, along the Westerly line of said Access and Utility Easement, a distance of 42.81 feet; thence N 68° 49' 20" W, along the Southerly line of said Access and Utility Easement, and along the

North line of Tract "B" of said NORMANDY PLACE FIRST PLAT, a distance of 183 feet, to a point on the West line of said Tract "B", said point also being on the East line of said Tract "C", said point also being on the Southerly line of an existing Utility and Access Easement, as shown on said NORMANDY PLACE SECOND PLAT; thence continuing N 68° 49' 20" W, along the Southerly line of said Utility and Access Easement, a distance of 62 feet, to a point of curvature; thence Northwesterly, along the Southerly line of said Utility and Access Easement, said line being a curve to the left having a radius of 547.63 feet and a central angle of 4° 50' 31", a distance of 46.28 feet, to a point of compound curvature; thence Northwesterly, Westerly and Southwesterly, along the Southerly and Easterly line of said Utility and Access Easement, said line being a curve to the left having a radius of 15 feet, a central angle of 94° 11' 13" and whose initial tangent bearing is N 73° 39' 51" W, a distance of 24.66 feet, to a point of reverse curvature; thence Southwesterly, along the Easterly line of said Utility and Access Easement, said line being a curve to the right having a radius of 503 feet, a central angle of 16° 24' 06" and whose initial tangent bearing is S 12° 08' 54" W, a distance of 143.99 feet, to a point of tangency; thence S 28° 33' 01" W, along the Easterly line of said Utility and Access Easement, a distance of 180 feet, to a point of curvature; thence Southwesterly and Southerly, along the Easterly line of said Utility and Access Easement, said line being a curve to the left having a radius of 20 feet and a central angle of 59° 18' 58", a distance of 20.71 feet, to a point of tangency; thence S 30° 45' 57" E, along the Easterly line of said Utility and Access Easement, a distance of 39.40 feet, to a point of curvature; thence Southeasterly, Southerly, Southwesterly, Westerly, Northwesterly, Northerly and Northeasterly, along the Easterly, Southerly and Westerly line of said Utility and Access Easement, said line being a curve to the right having a radius of 55 feet and a central angle of 234° 40' 13", a distance of 225.27 feet; thence N 24° 11' 21" E, along the Westerly line of said Utility and Access Easement, a distance of 89.32 feet; thence N 28° 33' 01" E, along the Westerly line of said Utility and Access Easement, a distance of 195 feet, to a point of curvature; thence Northeasterly and Northerly, along a curve to the left having a radius of 360 feet and a central angle of 18° 35' 48", a distance of 116.85 feet, to a point of compound curvature; thence Northerly and Northeasterly, along a curve to the left having a radius of 15 feet, a central angle of 92° 45' 48" and whose initial tangent bearing is N 9° 57' 13" E, a distance of 24.29 feet, to a point of tangency; thence N 82° 48' 35" W, along the South line and its extension of said Utility and Access Easement, a distance of 111.20 feet, to a point on the West line of said Tract "C"; thence Northeasterly, along the West line of said Tract "C", and along the West line of said Tract "E", said line being a curve to the left having a radius of 330 feet, a central angle of 7° 58' 46" and whose initial tangent bearing is N 11° 11' 12" E, a distance of 45.96 feet, to a point on the Northerly line of said Tract "E"; thence S 82° 49' 01" E, along the Northerly line of said Tract "E", a distance of 110.94 feet, to a point of curvature; thence Easterly and Northeasterly, along the Northerly and Westerly line of said Tract "E", said line being a curve to the left having a radius of 15 feet and a central angle of 95° 46' 02", a distance of 25.07 feet; thence Northerly and Northwesterly, along the Westerly line of said Tract "E", said line being a curve to the left having a radius of 457 feet, a central angle of 18° 43' and whose initial tangent bearing is N 2° 16' 01" E, a distance of 149.29 feet, to a point of tangency; thence N 16° 26' 59" W, along the Westerly line of said Tract "E", a distance of 297 feet, to a point of curvature; thence Northwesterly, Northerly, Northeasterly, Easterly, Southeasterly and Southerly, along the Westerly, Northerly and Easterly line of said Tract "E", said line being a curve to the

EXHIBIT A

right having a radius of 60 feet and a central angle of 217° 17' 49", a distance of 227.55 feet, to a point of tangency; thence S 20° 50' 50" W, along the Easterly line of said Tract "E", a distance of 51.25 feet, to a point of curvature; thence Southerly and Southeasterly, along the Easterly line of said Tract "E", said line being a curve to the left having a radius of 150 feet and a central angle of 37° 17' 49", a distance of 97.64 feet, to a point of tangency; thence S 16° 26' 59" E, along the Easterly line of said Tract "E", a distance of 128.98 feet, to a point of curvature; thence Southeasterly and Southerly, along the Easterly line of said Tract "E", said line being a curve to the right having a radius of 503 feet and a central angle of 20° 06' 14", a distance of 176.49 feet; thence S 49° 19' 06" E, along the Northerly line of said Tract "E", a distance of 16.27 feet, to a point on a curve; thence Southeasterly, along the Northerly line of said Tract "E", said line being a curve to the right having a radius of 598.63 feet, a central angle of 5° 54' 05" and whose initial tangent bearing is S 74° 43' 26" E, a distance of 61.66 feet, to a point of tangency; thence S 68° 49' 20" E, along the Northerly line of said Tract "E", and along the Northerly line of said Tract "T", a distance of 235.23 feet; thence N 70° 13' 14" E, along the Northerly line of said Tract "T", a distance of 48.58 feet, to a point on a curve, said point also being on the Westerly line of said Tract "T"; thence Northeasterly and Northerly, along the Westerly line of said Tract "T", said line being a curve to the left having a radius of 317 feet, a central angle of 32° 12' 14" and whose initial tangent bearing is N 19° 52' 54" E, a distance of 178.17 feet, to a point of tangency; thence N 12° 19' 20" W, along the Westerly line of said Tract "T", a distance of 160 feet, to a point of curvature; thence Northerly and Northeasterly, along the Westerly line of said Tract "T", said line being a curve to the right having a radius of 378 feet and a central angle of 23°, a distance of 151.74 feet, to a point of reverse curvature; thence Northerly and Northwesterly, along the Westerly line of said Tract "T", said line being a curve to the left having a radius of 40 feet, a central angle of 62° 02' 50" and whose initial tangent bearing is N 10° 40' 40" E, a distance of 43.32 feet, to a point of reverse curvature; thence Northwesterly, Northerly, Northeasterly, Easterly, Southeasterly, Southerly and Southwesterly, along the Westerly and Northerly line and its extension of said Tract "T", said line being a curve to the right having a radius of 60 feet, a central angle of 273° 21' 38" and whose initial tangent bearing is N 51° 22' 10" W, a distance of 286.26 feet, to a point of reverse curvature; thence Southwesterly and Southerly, along a curve to the left having a radius of 80 feet, a central angle of 27° 46' 13" and whose initial tangent bearing is S 41° 59' 28" W, a distance of 38.77 feet, to a point of compound curvature; thence Southerly and Southeasterly, along a curve to the left having a radius of 332 feet, a central angle of 26° 32' 35" and whose initial tangent bearing is S 14° 13' 15" W, a distance of 153.80 feet, to a point of tangency; thence S 12° 19' 20" E, a distance of 160 feet, to a point of curvature; thence Southeasterly, along a curve to the right having a radius of 363 feet and a central angle of 5° 13' 54", a distance of 33.15 feet, to a point on the East line of said Tract "T"; thence S 0° 04' 20" E, along the East line of said Tract "T", a distance of 174.78 feet, to the point of beginning, containing 154,254 square feet, more or less, equal to 3.541 acres, more or less.

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1818

Publication Fees: $69.83

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1818--11/2/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 3, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$69.83

ORDINANCE NO. 1818

First published in The Legal Record, Tuesday, November 2, 1999.

ORDINANCE NO. 1818

AN ORDINANCE ACCEPTING A DEED FOR STREET PURPOSES FROM NORMANDY PLACE SUBDIVISION (FOR THE CONVERSION OF PRIVATE STREETS TO PUBLIC STREETS).

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

Section 1. That the City of Leawood hereby accepts a deed for the following described real estate, to wit:

See Exhibit A

Section 2. That a copy of said deed is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM: /s/ Patricia A. Bennett
Patricia A. Bennett — City Attorney

EXHIBIT A

All that part of Tract "A", NORMANDY PLACE FIRST PLAT; all that part of Tract "C", NORMANDY PLACE SECOND PLAT; all of Tract "E", NORMANDY PLACE THIRD PLAT; all that part of Tract "T", NORMANDY PLACE FOURTH PLAT, all subdivisions of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Beginning at the Northeast corner of said Tract "A"; thence S 0° 04' 20" E, along the East line of said Tract "A", a distance of 90.24 feet; thence S 54° 30' 02" W, a distance of 41.17 feet; thence S 13° 49' 21" E, a distance of 83.84 feet; thence S 76° 10' 39" W, a distance of 15.14 feet, to a point on a curve; thence Southeasterly and Southerly, along a curve to the right having a radius of 168 feet, a central angle of 16° 08' 59" and whose initial tangent bearing is S 12° 10' 36" E, a distance of 47.35 feet, to a point of reverse curvature; thence Southerly and Southeasterly, along a curve to the left having a radius of 80 feet, a central angle of 30° 05' 38" and whose initial tangent bearing is S 3° 58' 23" W, a distance of 42.02 feet, to a point of reverse curvature; thence Southeasterly, Southerly, Southwesterly and Westerly, along a curve to the right having a radius of 60 feet, a central angle of 116° 02' 55" and whose initial tangent bearing is S 26° 07' 15" E, a distance of 121.53 feet, to a point on the Southerly line of an existing Access and Utility Easement as shown on said NORMANDY PLACE FIRST PLAT; thence Westerly, Northwesterly, Northerly and Northeasterly, along the Southerly and Westerly line of said Access and Utility Easement, said line being a curve to the right having a radius of 60 feet, a central angle of 136° 02' 19" and whose initial tangent bearing is S 89° 55' 40" W, a distance of 142.46 feet, to a point of tangency; thence N 45° 57' 59" E, along the Westerly line and its extension of said Access and Utility Easement, a distance of 38.15 feet, to a point of curvature; thence Northeasterly and Northerly, along a curve to the left having a radius of 40 feet and a central angle of 59° 47' 20", a distance of 41.74 feet, to a point of tangency; thence N 13° 49' 21" W, a distance of 70 feet, to a point of curvature, said point also being on the Westerly line of said Access and Utility Easement; thence Northwesterly, along the Westerly line of said Access and Utility Easement, said line being a curve to the right having a radius of 173 feet and a central angle of 9° 37' 02", a distance of 29.04 feet; thence N 58° 00' 37" W, along the Westerly line of said Access and Utility Easement, a distance of 44.49 feet; thence N 21° 10' 40" E, along the Westerly line of said Access and Utility Easement, a distance of 42.81 feet; thence N 68° 49' 20" W, along the Southerly line of said Access and Utility Easement, and along the North line of Tract "B" of said NORMANDY PLACE FIRST PLAT, a distance of 183 feet, to a point on the West line of said Tract "B", said point also being on the East line of said Tract "C", said point also being on the Southerly line of an existing Utility and Access Easement, as shown on said NORMANDY PLACE SECOND PLAT; thence continuing N 68° 49' 20" W, along the Southerly line of said Utility and Access Easement, a distance of 62 feet, to a point of curvature; thence Northwesterly, along the Southerly line of said Utility and Access Easement, said line being a curve to the left having a radius of 547.63 feet and a central angle of 4° 50' 31", a distance of 46.28 feet, to a point of compound curvature; thence Northwesterly, Westerly and Southwesterly, along the Southerly and Easterly line of said Utility and Access Easement, said line being a curve to the left having a radius of 15 feet, a central angle of 94° 11' 13" and whose initial tangent bearing is N 73° 39' 51" W, a distance of 24.66 feet, to a point of reverse curvature; thence Southwesterly, along the Easterly line of said Utility and Access Easement, said line being a curve to the right having a radius of 503 feet, a central angle of 16° 24' 06" and whose initial tangent bearing is S 12° 08' 54" W, a distance of 143.99 feet, to a point of tangency; thence S 28° 33' 01" W, along the Easterly line of said Utility and Access Easement, a distance of 180 feet, to a point of curvature; thence Southwesterly and Southerly, along the Easterly line of said Utility and Access Easement, said line being a curve to the left having a radius of 20 feet and a central angle of 59° 18' 58", a distance of 20.71 feet, to a point of tangency; thence S 30° 45' 57" E, along the Easterly line of said Utility and Access Easement, a distance of 39.40 feet, to a point of curvature; thence Southeasterly, Southerly, Southwesterly, Westerly, Northwesterly, Northerly and Northeasterly, along the Easterly, Southerly and Westerly line of said Utility and Access Easement, said line being a curve to the right having a radius of 55 feet and a central angle of 234° 40' 13", a distance of 225.27 feet; thence N 24° 11' 21" E, along the Westerly line of said Utility and Access Easement, a distance of 89.32 feet; thence N 28° 33' 01" E, along the Westerly line of said Utility and Access Easement, a distance of 195 feet, to a point of curvature; thence Northeasterly and Northerly, along a curve to the left having a radius of 360 feet and a central angle of 18° 35' 48", a distance of 116.85 feet, to a point of compound curvature; thence Northerly and Northeasterly, along a curve to the left having a radius of 15 feet, a central angle of 92° 45' 48" and whose initial tangent bearing is N 9° 57' 13" E, a distance of 24.29 feet, to a point of tangency; thence N 82° 48' 35" W, along the South line and its extension of said Utility and Access Easement, a distance of 111.20 feet, to a point on the West line of said Tract "C"; thence Northeasterly, along the West line of said Tract "C", and along the West line of said Tract "E", said line being a curve to the left having a radius of 330 feet, a central angle of 7° 58' 46" and whose initial tangent bearing is N 11° 11' 12" E, a distance of 45.96 feet, to a point on the Northerly line of said Tract "E"; thence S 82° 49' 01" E, along the Northerly line of said Tract "E", a distance of 110.94 feet, to a point of curvature; thence Easterly and Northeasterly, along the Northerly and Westerly line of said Tract "E", said line being a curve to the left having a radius of 15 feet and a central angle of 95° 46' 02", a distance of 25.07 feet; thence Northerly and Northwesterly, along the Westerly line of said Tract "E", said line being a curve to the left having a radius of 457 feet, a central angle of 18° 43' and whose initial tangent bearing is N 2° 16' 01" E, a distance of 149.29 feet, to a point of tangency; thence N 16° 26' 59" W, along the Westerly line of said Tract "E", a distance of 297 feet, to a point of curvature; thence Northwesterly, Northerly, Northeasterly, Easterly, Southeasterly and Southerly, along the Westerly, Northerly and Easterly line of said Tract "E", said line being a curve to the right having a radius of 60 feet and a central angle of 217° 17' 49", a distance of 227.55 feet, to a point of tangency; thence S 20° 50' 50" W, along the Easterly line of said Tract "E", a distance of 51.25 feet, to a point of curvature; thence Southerly and Southeasterly, along the Easterly line of said Tract "E", said line being a curve to the left having a radius of 150 feet and a central angle of 37° 17' 49", a distance of 97.64 feet, to a point of tangency; thence S 16° 26' 59" E, along the Easterly line of said Tract "E", a distance of 128.98 feet, to a point of curvature; thence Southeasterly and Southerly, along the Easterly line of said Tract "E", said line being a curve to the right having a radius of 503 feet and a central angle of 20° 06' 14", a distance of 176.49 feet; thence S 49° 19' 06" E, along the Northerly line of said Tract "E", a distance of 16.27 feet, to a point on a curve; thence Southeasterly, along the Northerly line of said Tract "E", said line being a curve to the right having a radius of 598.63 feet, a central angle of 5° 54' 05" and whose initial tangent bearing is S 74° 43' 26" E, a distance of 61.66 feet, to a point of tangency; thence S 68° 49' 20" E, along the Northerly line of said Tract "E", and along the Northerly line of said Tract "T", a distance of 235.23 feet; thence N 70° 13' 14" E, along the Northerly line of said Tract "T", a distance of 48.58 feet, to a point on a curve, said point also being on the Westerly line of said Tract "T"; thence Northeasterly and Northerly, along the Westerly line of said Tract "T", said line being a curve to the left having a radius of 317 feet, a central angle of 32° 12' 14" and whose initial tangent bearing is N 19° 52' 54" E, a distance of 178.17 feet, to a point of tangency; thence N 12° 19' 20" W, along the Westerly line of said Tract "T", a distance of 160 feet, to a point of curvature; thence Northerly and Northeasterly, along the Westerly line of said Tract "T", said line being a curve to the right having a radius of 378 feet and a central angle of 23°, a distance of 151.74 feet, to a point of reverse curvature; thence Northerly and Northwesterly, along the Westerly line of said Tract "T", said line being a curve to the left having a radius of 40 feet, a central angle of 62° 02' 50" and whose initial tangent bearing is N 10° 40' 40" E, a distance of 43.32 feet, to a point of reverse curvature; thence Northwesterly, Northerly, Northeasterly, Easterly, Southeasterly, Southerly and Southwesterly, along the Westerly and Northerly line and its extension of said Tract "T", said line being a curve to the right having a radius of 60 feet, a central angle of 273° 21' 38" and whose initial tangent bearing is N 51° 22' 10" W, a distance of 286.26 feet, to a point of reverse curvature; thence Southwesterly and Southerly, along a curve to the left having a radius of 80 feet, a central angle of 27° 46' 13" and whose initial tangent bearing is S 41° 59' 28" W, a distance of 38.77 feet, to a point of compound curvature; thence Southerly and Southeasterly, along a curve to the left having a radius of 332 feet, a central angle of 26° 32' 35" and whose initial tangent bearing is S 14° 13' 15" W, a distance of 153.80 feet, to a point of tangency; thence S 12° 19' 20" E, a distance of 160 feet, to a point of curvature; thence Southeasterly, along a curve to the right having a radius of 363 feet and a central angle of 5° 13' 54", a distance of 33.15 feet, to a point on the East line of said Tract "T"; thence S 0° 04' 20" E, along the East line of said Tract "T", a distance of 174.78 feet, to the point of beginning, containing 154,254 square feet, more or less, equal to 3.541 acres, more or less.

EXHIBIT A

All of the South 7.50 feet of Lot 19A, as shown on the Certificate of Survey of Resurvey of Part of Lot 19, NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, as shown on the Certificate of Survey as filed in Volume 4215 at Page 693 in the Office of the Register of Deeds, Johnson County, Kansas.

A tract of land 10 feet in width across a part of Tract "G", NORMANDY PLACE FOURTH PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "G"; thence S 11° 46' 30" E, along the West line of said Tract "G", a distance of 447.12 feet, to the true point of beginning of subject tract; thence N 77° 47' 25" E, a distance of 36.12 feet, to a point on the East line of said Tract "G" . . . and also . . . All that part of said Tract "G", more particularly described as follows: Commencing at the Southeast corner of said Tract "G"; thence N 68° 49' 20" W, along the South line of said Tract "G", a distance of 18.94 feet, to the true point of beginning of subject tract; thence continuing N 68° 49' 20" W, along the South line of said Tract "G", a distance of 32.65 feet; thence N 1° 25' 33" W, a distance of 33.14 feet; thence S 80° 38' 58" E, a distance of 41.19 feet; thence S 13° 46' 58" W, a distance of 39.37 feet, to the true point of beginning of subject . . . tract.

EXHIBIT A

All that part of Tract "A", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Southeast corner of said Tract "A"; thence N 0° 04' 20" W, along the East line of said Tract "A", a distance of 295.70 feet; thence S 89° 55' 40" W, along a line perpendicular to the East line of said Tract "A", a distance of 72.94 feet, to the true point of beginning of subject tract; thence S 70° 09' 19" W, a distance of 16.91 feet, to a point on the East line of Tract 7, as shown on the Certificate of Survey of Tracts 7, 8 and 9, NORMANDY PLACE FIRST PLAT, as filed in Volume 2355 at Page 949 in the Office of the Register of Deeds, Johnson County, Kansas; thence S 6° 45' 23" E, along the East line of said Tract 7, a distance of 4.61 feet, to the Southeast corner thereof; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 19.83 feet; thence S 70° 09' 19" W, a distance of 32.08 feet; thence N 71° 30' 43" W, a distance of 17.04 feet, to a point on the South line of said Tract 7; thence S 83° 14' 37" W, along the South line of said Tract 7, a distance of 23.45 feet, to a point hereinafter referred to as Point "A"; thence S 71° 30' 43" E, a distance of 41.72 feet; thence N 70° 09' 19" E, a distance of 67.52 feet; thence Northeasterly, along a curve to the left having a radius of 40 feet, a central angle of 16° 16' 24" and whose initial tangent bearing is N 16° 15' 47" E, a distance of 11.36 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "A", lying 5 feet on each side of the following described centerline: Commencing at aforementioned Point "A", thence S 83° 14' 37" W, along the South line of said Tract "A", a distance of 2.50 feet, to the Southwest corner thereof; thence N 6° 45' 23" W, along the West line of said Tract "A", a distance of 6.70 feet, to the true point of beginning of subject tract; thence N 71° 30' 43" W, a distance of 16.61 feet; thence N 2° 18' 47" W, a distance of 124.34 feet; thence N 84° 20' 46" W, a distance of 39.41 feet, to a point on the Westerly line of said Tract "A".

A tract of land 10 feet in width across a part of Tract "F", NORMANDY PLACE THIRD PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence S 11° 46' 30" E, along the West line of said Tract "F", a distance of 175.12 feet; thence S 18° 43' 43" W, along the West line of said Tract "F", a distance of 17.92 feet, to the true point of beginning of subject tract; thence N 88° 21' 05" E, a distance of 36.42 feet . . . and also . . . A tract of land 10 feet in width across a part of said Tract "F", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "F"; thence N 89° 51' 50" E, along the North line of said Tract "F", a distance of 32.21 feet, to the Northeast corner thereof; thence S 11° 46' 30" E, along the East line of said Tract "F", a distance of 447.12 feet, to the true point of beginning of subject tract; thence S 77° 47' 25" W, a distance of 4.13 feet.

EXHIBIT A

All that part of Tract "B", NORMANDY PLACE FIRST PLAT, a subdivision of land now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 43.72 feet, to the true point of beginning of subject tract; thence continuing S 68° 49' 20" E, along the North line of said Tract "B", a distance of 31.34 feet; thence S 32° 11' 28" W, a distance of 83.41 feet; thence N 11° 09' 30" W, a distance of 61.57 feet; thence N 51° 35' 51" E, a distance of 34.62 feet, to the true point of beginning of subject tract . . . and also . . . A tract of land 10 feet in width across a part of said Tract "B", lying 5 feet on each side of the following described centerline: Commencing at the Northwest corner of said Tract "B"; thence S 68° 49' 20" E, along the North line of said Tract "B", a distance of 81.50 feet, to the Northeast corner thereof; thence S 21° 10' 40" W, along the Easterly line of said Tract "B", a distance of 87 feet; thence S 24° 06' 02" E, along the Easterly line of said Tract "B", a distance of 6.95 feet, to the true point of beginning of subject tract; thence N 84° 20' 46" W, a distance of 37.21 feet.

ORDINANCE NO. 1817

AN ORDINANCE REZONING PROPERTY (MISSION FARMS) LOCATED AT APPROXIMATELY 105TH STREET AND MISSION ROAD FROM AG (AGRICULTURAL) TO RP-A (PLANNED LARGE LOT SINGLE FAMILY RESIDENTIAL) AND SD(C-R) (SPECIAL DEVELOPMENT DISTRICT SUB-DISTRICT COMMERCIAL RETAIL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

The North 115 acres of the West half of the West half of Section 10, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, except the North 770 feet thereof, and except a tract of land in the West half of the West half of Section 10, Township 13 South, Range 25 East, Johnson County, Kansas, bounded by the following described line: Beginning at the Southeast corner of the North 115 acres of the West half of said West half; thence West along the existing property line fence for a distance of 260.0 feet; thence North, parallel with the East line of said West half to the South right-of-way line of Interstate Highway I-435 frontage road; thence Easterly along said South right-of-way line to the East line of said West half; thence South along the East line of said West half to the point of beginning, and except that part in roads and highways, except

All that part of the W1/2 of the NW1/4 of Section 10, Township 13, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the NW1/4 of said Section 10; thence S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 2315.46 feet, to the true point of beginning of subject tract; thence continuing S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 347.10 feet, to the Southwest corner thereof; thence S 0°25'40" W, along the West line of the SW1/4 of said Section 10, a distance of 548.77 feet measured (548.9 feet deeded), to a point on the Northerly right-of-way line of Interstate Highway No. 435, as now established; thence S 88°59'40" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 636.94 feet; thence N 74° 18'23" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 104.40 feet; thence S 86° 04'03" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 587.50 feet, to a point on the W1/2 of the W1/2 of said Section 10, said point

also being on the West line of LEAWOOD ESTATES, a subdivision of land now in the City of Leawood, Johnson County, Kansas; thence N 0° 23'50" E, along the East line of the W1/2 of the W1/2 of said Section 10 and along the West line of said Leawood Estates, a distance of 985.20 feet; thence N 89° 29'42" W, a distance of 508.63 feet; thence N 89° 27'57" W, a distance of 106.72 feet, to a point of curvature; thence Westerly and Southwesterly along a curve to the left having a radius of 686 feet and a central angle of 13° 49'30", a distance of 165.53 feet, to a point of tangency; thence S 76° 42'33" W, a distance of 152.88 feet, to a point of curvature; thence Southwesterly and Westerly, along a curve to the right having a radius of 736 feet and a central angle of 13° 42'32", a distance of 176.10 feet, to a point of tangency; thence N 89° 34'55" W, a distance of 220.88 feet, to the true point of beginning of subject tract

now zoned AG, is hereby rezoned RP-A,

AND

All that part of the W1/2 of the NW1/4 of Section 10, Township 13, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the NW1/4 of said Section 10; thence S 0° 25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 2315.46 feet, to the true point of beginning of subject tract; thence continuing S 0° 25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 347.10 feet, to the Southwest corner thereof; thence S 0° 25'40" W, along the West line of the SW1/4 of said Section 10, a distance of 548.77 feet measured (548.9 feet deeded), to a point on the Northerly right-of-way line of Interstate Highway No. 435, as now established; thence S 88° 59'40" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 636.94 feet; thence N 74° 18'23" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 104.40 feet; thence S 86° 04'03" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 587.50 feet, to a point on the W1/2 of the W1/2 of said Section 10, said point also being on the West line of LEAWOOD ESTATES, a subdivision of land now in the City of Leawood, Johnson County, Kansas; thence N 0° 23'50" E, along the East line of the W1/2 of the W1/2 of said Section 10 and along the West line of said Leawood Estates, a distance of 985.20 feet; thence N 89° 29'42" W, a distance of 508.63 feet; thence N 89° 27'57" W, a dis-

tance of 106.72 feet, to a point of curvature; thence Westerly and Southwesterly along a curve to the left having a radius of 686 feet and a central angle of 13° 49'30", a distance of 165.53 feet, to a point of tangency; thence S 76° 42'33" W, a distance of 152.88 feet, to a point of curvature; thence Southwesterly and Westerly, along a curve to the right having a radius of 736 feet and a central angle of 13° 42'32", a distance of 176.10 feet, to a point of tangency; thence N 89° 34'55" W, a distance of 220.88 feet, to the true point of beginning of subject tract

now zoned AG, is hereby rezoned SD(C-R).

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

R.S. Wetzler City Attorney

ORD1817

Publication Fees: $52.66

The Legal Record

Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1817--10/5/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 6, 1999

Patricia A. Dziadura
Notary Public

PATRICIA A. DZIADURA
Notary Public - State of Kansas
My appointment expires: February 9, 2001.

$52.66

"So go ahead and sue! It's just your computer's word against our computer's word."

ORDINANCE NO. 1817

First published in The Legal Record, Tuesday, October 5, 1999.

ORDINANCE NO. 1817

AN ORDINANCE REZONING PROPERTY (MISSION FARMS) LOCATED AT APPROXIMATELY 105TH STREET AND MISSION ROAD FROM AG (AGRICULTURAL) TO RP-A (PLANNED LARGE LOT SINGLE FAMILY RESIDENTIAL) AND SD(C-R) (SPECIAL DEVELOPMENT DISTRICT SUB-DISTRICT COMMERCIAL RETAIL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

The North 115 acres of the West half of the West half of Section 10, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, except the North 770 feet thereof, and except a tract of land in the West half of the West half of Section 10, Township 13 South, Range 25 East, Johnson County, Kansas, bounded by the following described line: Beginning at the Southeast corner of the North 115 acres of the West half of said West half; thence West along the existing property line fence for a distance of 260.0 feet; thence North, parallel with the East line of said West half to the South right-of-way line of Interstate Highway I-435 frontage road; thence Easterly along said South right-of-way line to the East line of said West half; thence South along the East line of said West half to the point of beginning, and except that part in roads and highways, except

All that part of the W1/2 of the NW1/4 of Section 10, Township 13, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the NW1/4 of said Section 10; thence S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 2315.46 feet, to the true point of beginning of subject tract; thence continuing S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 347.10 feet, to the Southwest corner thereof; thence S 0°25'40" W, along the West line of the SW1/4 of said Section 10, a distance of 548.77 feet measured (548.9 feet deeded), to a point on the Northerly right-of-way line of Interstate Highway No. 435, as now established; thence S 88°59'40" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 636.94 feet; thence N 74° 18'23" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 104.40 feet; thence S 86°04'03" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 587.50 feet, to a point on the W1/2 of the W1/2 of said Section 10, said point

also being on the West line of LEAWOOD ESTATES, a subdivision of land now in the City of Leawood, Johnson County, Kansas; thence N 0°23'50" E, along the East line of the W1/2 of the W1/2 of said Section 10 and along the West line of said Leawood Estates, a distance of 985.20 feet; thence N 89°29'42" W, a distance of 508.63 feet; thence N 89°27'57" W, a distance of 106.72 feet, to a point of curvature; thence Westerly and Southwesterly along a curve to the left having a radius of 686 feet and a central angle of 13°49'30", a distance of 165.53 feet, to a point of tangency; thence S 76°42'33" W, a distance of 152.88 feet, to a point of curvature; thence Southwesterly and Westerly, along a curve to the right having a radius of 736 feet and a central angle of 13°42'32", a distance of 176.10 feet, to a point of tangency; thence N 89° 34'55" W, a distance of 220.88 feet, to the true point of beginning of subject tract

now zoned AG, is hereby rezoned RP-A,

AND

All that part of the W1/2 of the NW1/4 of Section 10, Township 13, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the NW1/4 of said Section 10; thence S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 2315.46 feet, to the true point of beginning of subject tract; thence continuing S 0°25'05" W, along the West line of the NW1/4 of said Section 10, a distance of 347.10 feet, to the Southwest corner thereof; thence S 0°25'40" W, along the West line of the SW1/4 of said Section 10, a distance of 548.77 feet measured (548.9 feet deeded), to a point on the Northerly right-of-way line of Interstate Highway No. 435, as now established; thence S 88°59'40" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 636.94 feet; thence N 74° 18'23" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 104.40 feet; thence S 86°04'03" E, along the Northerly right-of-way line of said Interstate Highway No. 435, a distance of 587.50 feet, to a point on the W1/2 of the W1/2 of said Section 10, said point also being on the West line of LEAWOOD ESTATES, a subdivision of land now in the City of Leawood, Johnson County, Kansas; thence N 0°23'50" E, along the East line of the W1/2 of the W1/2 of said Section 10 and along the West line of said Leawood Estates, a distance of 985.20 feet; thence N 89°29'42" W, a distance of 508.63 feet; thence N 89°27'57" W, a distance of 106.72 feet, to a point of curvature; thence Westerly and Southwesterly along a curve to the left having a radius of 686 feet and a central angle of 13°49'30", a distance of 165.53 feet, to a point of tangency; thence S 76°42'33" W, a distance of 152.88 feet, to a point of curvature; thence Southwesterly and Westerly, along a curve to the right having a radius of 736 feet and a central angle of 13°42'32", a distance of 176.10 feet, to a point of tangency; thence N 89° 34'55" W, a distance of 220.88 feet, to the true point of beginning of subject tract

now zoned AG, is hereby rezoned SD(C-R).

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

R.S. Wetzler — City Attorney

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1816

AN ORDINANCE REZONING PROPERTY LOCATED AT THE SOUTHEAST CORNER OF 143RD STREET AND NALL AVENUE (HIGHLANDS CREEK), FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

NW1/4 of Section 4, Township 14, Range 25 in Johnson County, Kansas except that part for streets and roads; total area of the 1/4 Section being 159.74 acres

now zoned AG, is hereby rezoned to RP-1.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance."

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

The Legal Record

Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1816

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1816--10/5/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 6, 1999

Patricia A. Dziadura
Notary Public

PATRICIA A. DZIADURA
Notary Public - State of Kansas
My Appt. Expires February 9, 2001

My appointment expires:

ORDINANCE NO. 1816

First published in The Legal Record, Tuesday, October 5, 1999.

ORDINANCE NO. 1816

AN ORDINANCE REZONING PROPERTY LOCATED AT THE SOUTHEAST CORNER OF 143RD STREET AND NALL AVENUE (HIGHLANDS CREEK), FROM AG (AGRICULTURAL) TO RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

NW1/4 of Section 4, Township 14, Range 25 in Johnson County, Kansas except that part for streets and roads; total area of the 1/4 Section being 159.74 acres

now zoned AG, is hereby rezoned to RP-1.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance."

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 27th day of September, 1999.

Approved by the Mayor the 27th day of September, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn — Mayor

Attest:

Martha Heizer
Martha Heizer — City Clerk

APPROVED FOR FORM:

Rhs. Wetzler
Rhs. Wetzler — City Attorney

$18.32

ORDINANCE NO. 1815

AN ORDINANCE ACCEPTING 2 PERMANENT UTILITY EASEMENTS FOR THE INSTALLATION OF UTILITY LINES, VILLAS OF IRON HORSE, 2ND PLAT, LOCATED AT APPROXIMATELY 152ND TERRACE AND NALL AVENUE.

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

Section 1. That the City of Leawood hereby accepts 2 permanent utility easements hereinafter more particularly designated and described, to wit:

From Bedford Court, L.L.C. The East 5.00 feet of Lot 21, VILLAS OF IRON HORSE, 2ND PLAT, a subdivision in the City of Leawood, Johnson County, Kansas;

AND

The West 5.00 feet of Lot 22, VILLAS OF IRON HORSE, 2ND PLAT, a subdivision in the City of Leawood, Johnson County, Kansas.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of September, 1999.

Approved by the Mayor the 7th day of September, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1815

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1815--9/14/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

SEPTEMBER 15, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

ORDINANCE NO. 1815

First published in The Legal Record; Tuesday, September 14, 1999.

ORDINANCE NO. 1815

AN ORDINANCE ACCEPTING 2 PERMANENT UTILITY EASEMENTS FOR THE INSTALLATION OF UTILITY LINES, VILLAS OF IRON HORSE, 2ND PLAT, LOCATED AT APPROXIMATELY 152ND TERRACE AND NALL AVENUE.

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

Section 1. That the City of Leawood hereby accepts 2 permanent utility easements hereinafter more particularly designated and described, to wit:

From Bedford Court, L.L.C. The East 5.00 feet of Lot 21, VILLAS OF IRON HORSE, 2ND PLAT, a subdivision in the City of Leawood, Johnson County, Kansas;

AND

The West 5.00 feet of Lot 22, VILLAS OF IRON HORSE, 2ND PLAT, a subdivision in the City of Leawood, Johnson County, Kansas.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of September, 1999.

Approved by the Mayor the 7th day of September, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM: R.S. Wetzler — City Attorney

$18.32

ORDINANCE NO. 1814

AN ORDINANCE GRANTING TO AMERICAN COMMUNICATION SERVICES OF KANSAS CITY, INC. A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ("City"), a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City;

WHEREAS, American Communication Services of Kansas City, Inc., desires to operate telecommunication facilities for the purposes of providing local telephone services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities;

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. 12-2001 et. al;

WHEREAS, the City intends to execute a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements which will apply to all franchisees and other service providers;

WHEREAS, the terms and provisions of this franchise ordinance will be in addition to the requirements set forth in the City's Right-of-Way ordinance;

WHEREAS, pursuant to K.S.A. 12-2001, the Governing Body of the City did order publication of a notice of a hearing to be held on July 19, 1999 to afford the public in the franchise area, as well as the public-at-large, an opportunity to comment on the proposed franchise ordinance, a copy of which was on file in the office of the City Clerk; and

WHEREAS, said notice of hearing was published in the *Legal Record* on July 6, 1999;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:
   "Cable" includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.
   "Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 U.S.C. §522(6), any successor statute of similar import.
   "City" means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.
   "Facilities" means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

"Franchise ordinance" means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.
"Franchisee" means American Communication Services of Kansas City, Inc., or its successors, transferees, or assigns.
"Franchise fee" means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. 12-2001. It shall not include: (1) any tax, fee, or assessment of general applicability including any which are imposed on franchisee; (2) requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (3) any permit fee or other fee imposed under any valid right-of-way ordinance, or (4) any other fee imposed by federal, state, or local law.
"Gross revenues" means those revenues less uncollectible, derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from "gross revenues." Further, "gross revenues" shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within "gross revenues." If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of "gross revenues," such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.
"Open video system" means the provision of video programming service as described in and subject to 47 U.S.C. § 573, or any successor statute of similar import.
"Person" means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
"Right-of-way" means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.
"Service" means a commodity used by the public and provided through franchisee's facilities.
"Subscriber" means any person who receives services from franchisee services.
"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 U.S.C. §153(43), any successor statute of similar import.
"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 U.S.C. §153(46), any successor statute of similar import.
"Utility Easement" means, for the purposes of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein setforth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license,

certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Upon franchisee's request for a franchise to provide cable serve as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

At the time of the enactment of this franchise ordinance, the City is currently in the process of completing a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements. Upon adoption of this ordinance, franchisee will register and abide by the terms and provisions of this ordinance, subject to franchisee's right to challenge the provisions of this ordinance in good faith. Until the adoption of such Right-of-Way ordinance and franchisee's compliance thereof, the following provisions shall apply:

a. Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate the placement of its facilities in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City.

b. All earth, materials, sidewalks, pavings, crossings, utilities, public improvements or improvements of any kind damaged or removed by franchisee in its activities under this franchise shall be fully repaired or replaced promptly by franchisee at its sole expense and to the reasonable satisfaction of the City.

c. All facilities constructed, reconstructed or relocated in the right-of-way shall be placed underground, unless otherwise agreed to by the City. Any vaults, boxes, pedestals and similar facilities placed above ground in right-of-way shall be located behind the sidewalk where feasible. Ordinary repairs to current above ground facilities shall be allowed, unless the repair is to the extent as to qualify as a reconstruction of the facilities.

d. Franchisee shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or relocated in the right-of-way. Within ten (10) days after request by the City, Franchisee will provide to the City such information regarding such location as may be reasonably requested. When available to franchisee, Franchisee shall provide to the City a complete set of plans with accurate and complete information in AutoCAD format compatible with the City's Geographic Information System (GIS) showing and describing the exact locations, both horizontal and vertical, of all facilities constructed and existing within the right-of-way and within private easements; such mapping and identification shall be at the sole expense of franchisee. Franchisee shall have a person familiar with the facilities who is responsible for timely satisfying information needs of the City and other users of the right-of-way.

e. Prior to construction, reconstruction or relocation of any facilities in the right-of-way, franchisee shall submit to the Public Works Director for approval and permit, plans and specifications of the proposed installation. Such approval and permit shall not be unreasonably withheld, delayed or conditioned.

f. Franchisee shall relocate or adjust any facilities in the right-of-way for any public funded improvement or public funded project. Such relocation or adjustment shall be performed by franchisee at its sole expense without expense to the City, its employees agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of franchisee's failure to timely relocate or adjust its facilities shall be borne by franchisee.

g. It shall be the sole responsibility of franchisee to take reasonable measures to protect and defend its facilities in the right-of-way from harm or damage. If franchisee fails to accurately or timely relocate facilities when requested, it shall have no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way unless such party is solely responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of franchisee to perform its obligations under this franchise ordinance unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm.

h. Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.

i. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and city laws and regulations, including but not limited to, the most recent editions of the National Electric Code, the National Electrical Safety Code, and Fiber Optic Cable Installation Standard for the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this franchise ordinance may be in addition to, or stricter than, such minimum standards.

j. Franchisee, upon request of any appropriate applicant, shall remove or raise or lower its overhead facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of overhead facilities shall be paid by the party or parties requesting the same, and franchisee may require such payment in advance. Franchisee shall be given not less than fifteen (15) days written notice from the applicant detailing the time and location of the moving operations, and not less than twenty-four (24) hours advance notice from the applicant advising of the actual operation. The City shall not be liable for any such expense or notice requirement for the moving of houses or structures by the City or its contractors.

k. Permission is hereby granted to franchisee to trim trees upon and overhanging the right-of-way and utility easements upon the Public Works Director's review and approval of franchisee's plan and details for the trimming. Care shall be taken to protect the health and aesthetic value of such trees, and when required by the Public Works Director, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours notice to both the Public Works Director and any adjacent property owner.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way and in City owned parks and golf courses. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five (5%) percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five (45) days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten (10%) percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City a Leawood gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. 45-221 (18), as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event the City is required by

law to disclose such information, the City shall provide franchisee seven (7) days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten (10%) percent.

Regardless of whether franchisee is providing service within the City, 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 or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchise ordinance shall be effective for a term of one (1) year from the effective date. Thereafter, this franchise ordinance will renew for ten (10) renewable one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise prior to one hundred and eighty (180) days before the termination of the then current term.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services (other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance), franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by section 5 herein (only if franchisee is providing service within the City);

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's public works director to discuss these issues; and

c. Information as to the number of subscribers in the City of Leawood (only if franchisee is providing service within the City). Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the city clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the city clerk by first class United States mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States mail or by personal delivery to:

e.spireTM Communications, Inc.
c/o D'Juan Hernandez
1250 Poydras, Suite 500
New Orleans, LA 70113

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement**. Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirement**. Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: (a) that it is in the public interest to do so, and (b) that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

a. For violations concerning the use of the right-of-way and/or utility easements as described in section 3 of this franchise ordinance and deemed by the public works director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen (14) days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty (30) days subsequent to receipt of notice unless otherwise agreed to by the City. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty (30) days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. Revocation of Franchise. In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise

ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. Miscellaneous Provisions.

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three (3) regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of 60 days from the date of final passage by the governing body and after publication in the official City newspaper for two consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the 60 day period.

First Reading: June 21, 1999; Second Reading: July 6, 1999;

Third Reading: July 19, 1999; Fourth Reading: August 16, 1999.

Passed by the Council the 16th day of August, 1999.

Approved by the Mayor the 16th day of August, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler
City Attorney

ORD1814

Publication Fees: $414.38

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight,of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 2 consecutive week(s), as follows:

ORDINANCE NO. 1814--8/24/99, 8/31/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

SEPTEMBER 1, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$414.38

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR E.SPIRE TM COMMUNICATIONS, INC.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) P.M., or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by e.spireTM Communications, Inc.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Heizer

Martha Heizer, City Clerk
City of Leawood

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

00144560

Publication Fees: $10.25

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

NOTICE OF HEARING, E.SPIRE TM COMMUNICATIONS--7/6/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 7, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

NOTICE OF HEARING

First published in The Legal Record, Tuesday, July 6, 1999.

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR E.SPIRE TM COMMUNICATIONS, INC.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) P.M., or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by e.spireTM Communications, Inc.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Heizer
Martha Heizer, City Clerk
City of Leawood

$10.25

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for One consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of July 1999, with subsequent publication being made on the following dates:

_____, 19___ _____, 19___

_____, 19___ _____, 19___

Georgiann Thacker

Subscribed and sworn to before me this 7th day of July 1999

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires 1/25/2000

Printer's Fee 7.99

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

(20816) NO. 8

First Published in the Johnson County Sun, Wednesday, July 7, 1999.

CITY OF LEAWOOD, KANSAS
NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR E.SPIRE TM COMMUNICATIONS, INC.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) p.m. or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by e.spireTM Communications, Inc.
Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.
/s/Martha Heizer
Martha Heizer, City Clerk
City of Leawood
(20816 1W-JC)

ORDINANCE NO. 1813

AN ORDINANCE GRANTING TO BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC. A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ("City"), a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City;

WHEREAS, Brooks Fiber Communications of Missouri, Inc., desires to operate telecommunication facilities for the purposes of providing local telephone services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities;

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. 12-2001 et. al;

WHEREAS, the City intends to execute a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements which will apply to all franchisees and other service providers;

WHEREAS, the terms and provisions of this franchise ordinance will be in addition to the requirements set forth in the City's Right-of-Way ordinance;

WHEREAS, pursuant to K.S.A. 12-2001, the Governing Body of the City did order publication of a notice of a hearing to be held on July 19, 1999 to afford the public in the franchise area, as well as the public-at-large, an opportunity to comment on the proposed franchise ordinance, a copy of which was on file in the office of the City Clerk; and

WHEREAS, said notice of hearing was published in the *Legal Record* on July 6, 1999;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:
   "Cable" includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.
   "Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 U.S.C. §522(6), any successor statute of similar import.
   "City" means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.
   "Facilities" means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

"Franchise ordinance" means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

"Franchisee" means Brooks Fiber Communications of Missouri, Inc., or its successors, transferees, or assigns.

"Franchise fee" means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. 12-2001. It shall not include: (1) any tax, fee, or assessment of general applicability including any which are imposed on franchisee; (2) requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (3) any permit fee or other fee imposed under any valid right-of-way ordinance, or (4) any other fee imposed by federal, state, or local law.

"Gross revenues" means those revenues less uncollectible, derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from "gross revenues." Further, "gross revenues" shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within "gross revenues." If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of "gross revenues," such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

"Open video system" means the provision of video programming service as described in and subject to 47 U.S.C. § 573, or any successor statute of similar import.

"Person" means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

"Right-of-way" means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

"Service" means a commodity used by the public and provided through franchisee's facilities.

"Subscriber" means any person who receives services from franchisee services.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 U.S.C. §153(43), any successor statute of similar import.

"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 U.S.C. §153(46), any successor statute of similar import.

"Utility Easement" means, for the purposes of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein setforth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license,

certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Upon franchisee's request for a franchise to provide cable serve as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

At the time of the enactment of this franchise ordinance, the City is currently in the process of completing a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements. Upon adoption of this ordinance, franchisee will register and abide by the terms and provisions of this ordinance, subject to franchisee's right to challenge the provisions of this ordinance in good faith. Until the adoption of such Right-of-Way ordinance and franchisee's compliance thereof, the following provisions shall apply:

a. Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate the placement of its facilities in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City.

b. All earth, materials, sidewalks, pavings, crossings, utilities, public improvements or improvements of any kind damaged or removed by franchisee in its activities under this franchise shall be fully repaired or replaced promptly by franchisee at its sole expense and to the reasonable satisfaction of the City.

c. All facilities constructed, reconstructed or relocated in the right-of-way shall be placed underground, unless otherwise agreed to by the City. Any vaults, boxes, pedestals and similar facilities placed above ground in right-of-way shall be located behind the sidewalk where feasible. Ordinary repairs to current above ground facilities shall be allowed, unless the repair is to the extent as to qualify as a reconstruction of the facilities.

d. Franchisee shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or relocated in the right-of-way. Within ten (10) days after request by the City, Franchisee will provide to the City such information regarding such location as may be reasonably requested. When available to franchisee, Franchisee shall provide to the City a complete set of plans with accurate and complete information in AutoCAD format compatible with the City's Geographic Information System (GIS) showing and describing the exact locations, both horizontal and vertical, of all facilities constructed and existing within the right-of-way and within private easements; such mapping and identification shall be at the sole expense of franchisee. Franchisee shall have a person familiar with the facilities who is responsible for timely satisfying information needs of the City and other users of the right-of-way.

e. Prior to construction, reconstruction or relocation of any facilities in the right-of-way, franchisee shall submit to the Public Works Director for approval and permit, plans and specifications of the proposed installation. Such approval and permit shall not be unreasonably withheld, delayed or conditioned.

f. Franchisee shall relocate or adjust any facilities in the right-of-way for any public funded improvement or public funded project. Such relocation or adjustment shall be performed by franchisee at its sole expense without expense to the City, its employees agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of franchisee's failure to timely relocate or adjust its facilities shall be borne by franchisee.

g. It shall be the sole responsibility of franchisee to take reasonable measures to protect and defend its facilities in the right-of-way from harm or damage. If franchisee fails to accurately or timely relocate facilities when requested, it shall have no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way unless such party is solely responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of franchisee to perform its obligations under this franchise ordinance unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm.

h. Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.

i. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and city laws and regulations, including but not limited to, the most recent editions of the National Electric Code, the National Electrical Safety Code, and Fiber Optic Cable Installation Standard for the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this franchise ordinance may be in addition to, or stricter than, such minimum standards.

j. Franchisee, upon request of any appropriate applicant, shall remove or raise or lower its overhead facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of overhead facilities shall be paid by the party or parties requesting the same, and franchisee may require such payment in advance. Franchisee shall be given not less than fifteen (15) days written notice from the applicant detailing the time and location of the moving operations, and not less than twenty-four (24) hours advance notice from the applicant advising of the actual operation. The City shall not be liable for any such expense or notice requirement for the moving of houses or structures by the City or its contractors.

k. Permission is hereby granted to franchisee to trim trees upon and overhanging the right-of-way and utility easements upon the Public Works Director's review and approval of franchisee's plan and details for the trimming. Care shall be taken to protect the health and aesthetic value of such trees, and when required by the Public Works Director, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours notice to both the Public Works Director and any adjacent property owner.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way and in City owned parks and golf courses. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five (5%) percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five (45) days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten (10%) percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City a Leawood gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. 45-221 (18), as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event the City is required by

law to disclose such information, the City shall provide franchisee seven (7) days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten (10%) percent.

Regardless of whether franchisee is providing service within the City, 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 or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchise ordinance shall be effective for a term of one (1) year from the effective date. Thereafter, this franchise ordinance will renew for ten (10) renewable one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise prior to one hundred and eighty (180) days before the termination of the then current term.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services (other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance), franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by section 5 herein (only if franchisee is providing service within the City);

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's public works director to discuss these issues; and

c. Information as to the number of subscribers in the City of Leawood (only if franchisee is providing service within the City). Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the city clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the city clerk by first class United States mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States mail or by personal delivery to:

MCI-WorldCom
Manager, Municipal Affairs ROWS
2270 Lakeside Blvd., Apt. 1103\642
Richmond, TX 75082

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement**. Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirement**. Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: (a) that it is in the public interest to do so, and (b) that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

a. For violations concerning the use of the right-of-way and/or utility easements as described in section 3 of this franchise ordinance and deemed by the public works director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen (14) days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty (30) days subsequent to receipt of notice unless otherwise agreed to by the City. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty (30) days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. Revocation of Franchise. In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise

ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. Miscellaneous Provisions.

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three (3) regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of 60 days from the date of final passage by the governing body and after publication in the official City newspaper for two consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the 60 day period.

First Reading: June 21, 1999; Second Reading: July 6, 1999;

Third Reading: July 19, 1999; Fourth Reading: August 16, 1999.

Passed by the Council the 16th day of August, 1999.

Approved by the Mayor the 16th day of August, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler
City Attorney

ORD1813

Publication Fees: $414.38

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 2 consecutive week(s), as follows:

ORDINANCE NO. 1813--8/24/99, 8/31/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

SEPTEMBER 1, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$414.38

ORDINANCE NO. 1813

First published in The Legal Record, Tuesday, August 24, 1999.

ORDINANCE NO. 1813

AN ORDINANCE GRANTING TO BROOKS FIBER COMMUNICATIONS OF MISSOURI, INC. A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ("City"), a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City;

WHEREAS, Brooks Fiber Communications of Missouri, Inc., desires to operate telecommunication facilities for the purposes of providing local telephone services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities;

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. 12-2001 et. al;

WHEREAS, the City intends to execute a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements which will apply to all franchisees and other service providers;

WHEREAS, the terms and provisions of this franchise ordinance will be in addition to the requirements set forth in the City's Right-of-Way ordinance;

WHEREAS, pursuant to K.S.A. 12-2001, the Governing Body of the City did order publication of a notice of a hearing to be held on July 19, 1999 to afford the public in the franchise area, as well as the public-at-large, an opportunity to comment on the proposed franchise ordinance, a copy of which was on file in the office of the City Clerk; and

WHEREAS, said notice of hearing was published in the *Legal Record* on July 6, 1999;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:
"Cable" includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.
"Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 U.S.C. §522(6), any successor statute of similar import.
"City" means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.
"Facilities" means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.
"Franchise ordinance" means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.
"Franchisee" means Brooks Fiber Communications of Missouri, Inc., or its successors, transferees, or assigns.
"Franchise fee" means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. 12-2001. It shall not include: (1) any tax, fee, or assessment of general applicability including any which are imposed on franchisee; (2) requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (3) any permit fee or other fee imposed under any valid right-of-way ordinance, or (4) any other fee imposed by federal, state, or local law.
"Gross revenues" means those revenues less uncollectible, derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from "gross revenues." Further, "gross revenues" shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within "gross revenues." If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of "gross revenues," such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.
"Open video system" means the provision of video programming service as described in and subject to 47 U.S.C. § 573, or any successor statute of similar import.
"Person" means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
"Right-of-way" means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.
"Service" means a commodity used by the public and provided through franchisee's facilities.
"Subscriber" means any person who receives services from franchisee services.
"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 U.S.C. §153(43), any successor statute of similar import.
"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 U.S.C. §153(46), any successor statute of similar import.
"Utility Easement" means, for the purposes of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein setforth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Upon franchisee's request for a franchise to provide cable serve as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

At the time of the enactment of this franchise ordinance, the City is currently in the process of completing a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements. Upon adoption of this ordinance, franchisee will register and abide by the terms and provisions of this ordinance, subject to franchisee's right to challenge the provisions of this ordinance in good faith. Until the adoption of such Right-of-Way ordinance and franchisee's compliance thereof, the following provisions shall apply:

a. Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate the placement of its facilities in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City.

b. All earth, materials, sidewalks, pavings, crossings, utilities, public improvements or improvements of any kind damaged or removed by franchisee in its activities under this franchise shall be fully repaired or replaced promptly by franchisee at its sole expense and to the reasonable satisfaction of the City.

c. All facilities constructed, reconstructed or relocated in the right-of-way shall be placed underground, unless otherwise agreed to by the City. Any vaults, boxes, pedestals and similar facilities placed above ground in right-of-way shall be located behind the sidewalk where feasible. Ordinary repairs to current above ground facilities shall be allowed, unless the repair is to the extent as to qualify as a reconstruction of the facilities.

d. Franchisee shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or relocated in the right-of-way. Within ten (10) days after request by the City, Franchisee will provide to the City such information regarding such location as may be reasonably requested. When available to franchisee, Franchisee shall provide to the City a complete set of plans with accurate and complete information in AutoCAD format compatible with the City's Geographic Information System (GIS) showing and describing the exact locations, both horizontal and vertical, of all facilities constructed and existing within the right-of-way and within private easements; such mapping and identification shall be at the sole expense of franchisee. Franchisee shall have a person familiar with the facilities who is responsible for timely satisfying information needs of the City and other users of the right-of-way.

e. Prior to construction, reconstruction or relocation of any facilities in the right-of-way, franchisee shall submit to the Public Works Director for approval and permit, plans and specifications of the proposed installation. Such approval and permit shall not be unreasonably withheld, delayed or conditioned.

f. Franchisee shall relocate or adjust any facilities in the right-of-way for any public funded improvement or public funded project. Such relocation or adjustment shall be performed by franchisee at its sole expense without expense to the City, its employees agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of franchisee's failure to timely relocate or adjust its facilities shall be borne by franchisee.

g. It shall be the sole responsibility of franchisee to take reasonable measures to protect and defend its facilities in the right-of-way from harm or damage. If franchisee fails to accurately or timely relocate facilities when requested, it shall have no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way unless such party is solely responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of franchisee to perform its obligations under this franchise ordinance unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm.

h. Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.

ORDINANCE NO. 1813

CONTINUED FROM PRECEDING PAGE

i. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and city laws and regulations, including but not limited to, the most recent editions of the National Electric Code, the National Electrical Safety Code, and Fiber Optic Cable Installation Standard for the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this franchise ordinance may be in addition to, or stricter than, such minimum standards.

j. Franchisee, upon request of any appropriate applicant, shall remove or raise or lower its overhead facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of overhead facilities shall be paid by the party or parties requesting the same, and franchisee may require such payment in advance. Franchisee shall be given not less than fifteen (15) days written notice from the applicant detailing the time and location of the moving operations, and not less than twenty-four (24) hours advance notice from the applicant advising of the actual operation. The City shall not be liable for any such expense or notice requirement for the moving of houses or structures by the City or its contractors.

k. Permission is hereby granted to franchisee to trim trees upon and overhanging the right-of-way and utility easements upon the Public Works Director's review and approval of franchisee's plan and details for the trimming. Care shall be taken to protect the health and aesthetic value of such trees, and when required by the Public Works Director, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours notice to both the Public Works Director and any adjacent property owner.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way and in City owned parks and golf courses. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five (5%) percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five (45) days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten (10%) percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City a Leawood gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. 45-221 (18), as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event the City is required by law to disclose such information, the City shall provide franchisee seven (7) days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten (10%) percent.

Regardless of whether franchisee is providing service within the City, 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 or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchise ordinance shall be effective for a term of one (1) year from the effective date. Thereafter, this franchise ordinance will renew for ten (10) renewable one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise prior to one hundred and eighty (180) days before the termination of the then current term.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a seperate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services (other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance), franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

a. A report of the franchisee's gross revenues as referenced by section 5 herein (only if franchisee is providing service within the City);

b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's public works director to discuss these issues; and

c. Information as to the number of subscribers in the City of Leawood (only if franchisee is providing service within the City). Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the city clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the city clerk by first class United States mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States mail or by personal delivery to:

MCI-WorldCom
Manager, Municipal Affairs ROWS
2270 Lakeside Blvd., Apt. 1105\642
Richmond, TX 75082

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirement.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: (a) that it is in the public interest to do so, and (b) that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

ORDINANCE NO. 1813

CONTINUED FROM PRECEDING PAGE

a. For violations concerning the use of the right-of-way and/or utility easements as described in section 3 of this franchise ordinance and deemed by the public works director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen (14) days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty (30) days subsequent to receipt of notice unless otherwise agreed to by the City. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty (30) days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three (3) regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of 60 days from the date of final passage by the governing body and after publication in the official City newspaper for two consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the 60 day period.

First Reading: June 21, 1999; Second Reading: July 6, 1999;

Third Reading: July 19, 1999; Fourth Reading: August 16, 1999.

Passed by the Council the 16th day of August, 1999.

Approved by the Mayor the 16th day of August, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer
City Clerk

APPROVED AS TO FORM:

/s/ Richard S. Wetzler

Richard S. Wetzler
City Attorney

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR BROOKS FIBER COMMUNICATIONS/MCI WORLD COM.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) P.M., or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by Brooks Fiber Communications/MCI World Com.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Heizer

Martha Heizer, City Clerk
City of Leawood

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

00144561

Publication Fees: $10.25

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

NOTICE OF HEARING, BROOKS FIBER COMMUNICATIONS--7/6/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 7, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

NOTICE OF HEARING

First published in The Legal Record, Tuesday, July 6, 1999.

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR BROOKS FIBER COMMUNICATIONS/MCI WORLD COM.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) P.M., or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by Brooks Fiber Communications/MCI World Com.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Hetzer
Martha Hetzer, City Clerk
City of Leawood

$10.25

(20815) NO. 7

First Published in the Johnson County Sun, Wednesday, July 7, 1999.

CITY OF LEAWOOD, KANSAS
NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED TELECOMMUNICATIONS FRANCHISE ORDINANCE FOR BROOKS FIBER COMMUNICATIONS/MCI WORLD COM.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of July, 1999, at seven-thirty (7:30) p.m. or shortly thereafter, at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider the proposed franchise ordinance regarding the continued operation of a telecommunications system network by Brooks Fiber Communications/MCI World Com.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

/s/Martha Heizer
Martha Heizer, City Clerk
City of Leawood

(20815 1W-JC)

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes and says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly newspaper printed in the State of Kansas, and published in and of general paid circulation in JOHNSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal publication.

Said newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for One **consecutive** day **(weeks/days), the first publication thereof being made as aforesaid on the** 7th **day of** July **19**99**, with subsequent publication being made on the following dates:**

_____, 19____ _____, 19____

_____, 19____ _____, 19____

Georgiann Thacker

Subscribed and sworn to before me this 7th **day of** July **19**99

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires 1/25/2000

Printer's Fee 8.33

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

ORDINANCE NO. 1812

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 166 (LEE BOULEVARD - 103RD STREET TO MISSION ROAD), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF LEE BOULEVARD BETWEEN 103RD STREET AND MISSION ROAD IN THE CITY, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1807, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement and reimprovement of Lee Boulevard between 103rd Street and Mission Road within the City

(the "Project") at an estimated cost of $2,203,460; and

WHEREAS, the Project has commenced and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of not less than $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 166 (Lee Boulevard - 103rd Street to Mission Road), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with

other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provisions for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.68% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORD1812

Publication Fees: $76.09

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1812--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$76.09

ORDINANCE NO. 1812

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1812

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 166 (LEE BOULEVARD - 103RD STREET TO MISSION ROAD), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF LEE BOULEVARD BETWEEN 103RD STREET AND MISSION ROAD IN THE CITY, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1807, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

improvement and reimprovement of Lee Boulevard between 103rd Street and Mission Road within the City

(the "Project") at an estimated cost of $2,203,460; and

WHEREAS, the Project has commenced and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of not less than $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 166 (Lee Boulevard - 103rd Street to Mission Road), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provisions for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.68% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORDINANCE NO. 1811

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $300,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located in the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated November 15, 1998, in the principal amount of $300,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of Three Hundred Thousand Dollars ($300,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 3 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May

1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to

Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.71 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORD1811

Publication Fees: $73.00

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight,of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1811--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$73.00

ORDINANCE NO. 1811

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1811

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $300,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located in the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated November 15, 1998, in the principal amount of $300,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of Three Hundred Thousand Dollars ($300,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 3 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.71 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORDINANCE NO. 1810

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 151 (FIRE STATION NO. 3), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $500,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF ACQUISITION OF CERTAIN REAL PROPERTY WITHIN THE CITY AND ACQUISITION, CONSTRUCTION AND INSTALLATION OF A NEW FIRE STATION THEREON, INCLUDING PARKING FACILITIES AND ACCESS ROADS, AND FURNISHING AND EQUIPPING THE SAME.

WHEREAS, pursuant to K.S.A. 12/1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> acquisition of certain real property in Leawood South Park leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads, and furnishing and equipping the same

(the "Project") at an estimated cost of $3,195,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 151 (Fire Station No. 3), dated November 15, 1998, in the principal amount of $500,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 151 (Fire Station No. 3), in the aggregate principal amount of Five Hundred Thousand Dollars ($500,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 5 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and

substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.78 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORD1810

Publication Fees: $74.03

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1810--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$74.03

ORDINANCE NO. 1810

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1810

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 151 (FIRE STATION NO. 3), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $500,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF ACQUISITION OF CERTAIN REAL PROPERTY WITHIN THE CITY AND ACQUISITION, CONSTRUCTION AND INSTALLATION OF A NEW FIRE STATION THEREON, INCLUDING PARKING FACILITIES AND ACCESS ROADS, AND FURNISHING AND EQUIPPING THE SAME.

WHEREAS, pursuant to K.S.A. 12/1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> acquisition of certain real property in Leawood South Park leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads, and furnishing and equipping the same

(the "Project") at an estimated cost of $3,195,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 151 (Fire Station No. 3), dated November 15, 1998, in the principal amount of $500,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 151 (Fire Station No. 3), in the aggregate principal amount of Five Hundred Thousand Dollars ($500,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 5 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.78 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City not take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORDINANCE NO. 1809

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being hereby declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the City has incurred or expects to incur costs payable in respect of the improvements to existing City parks (the "Project") within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon

redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price

therefor which shall not be less than 99.68 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORD1809

Publication Fees: $71.97

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1809--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$71.97

ORDINANCE NO. 1809

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1809

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being hereby declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the City has incurred or expects to incur costs payable in respect of the improvements to existing City parks (the "Project") within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.68 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORDINANCE NO. 1808

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 108 (COLLEGE BOULEVARD), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $2,100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF COLLEGE BOULEVARD, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1488, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement or reimprovement of College Boulevard located within the City of Leawood

(the "Project") at an estimated cost of $13,795,873.00; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 108 (College Boulevard), dated November 15, 1998, in the principal amount of $2,900,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 108 (College Boulevard), in the aggregate principal amount of Two Million One Hundred Thousand Dollars ($2,100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 21, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of the Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provisions for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable

tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.860 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948.

2. Since January 1, 1999, the City, any related issuer on behalf of the City and any subordinate issuing entity to the City have not issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Findings and Representation as to Use. The Governing Body hereby finds, determines, represents and warrants that no portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

Section Ten. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Eleven. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORD1808

Publication Fees: $82.10

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1808--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$82.10

ORDINANCE NO. 1808

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1808

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 108 (COLLEGE BOULEVARD), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $2,100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF COLLEGE BOULEVARD, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1488, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

improvement or reimprovement of College Boulevard located within the City of Leawood

(the "Project") at an estimated cost of $13,795,873.00; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 108 (College Boulevard), dated November 15, 1998, in the principal amount of $2,900,000 (the "Prior Notes") to provide funds to pay the costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 108 (College Boulevard), in the aggregate principal amount of Two Million One Hundred Thousand Dollars ($2,100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated costs of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 21, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated August 1, 1999, shall mature by their stated terms and become due and payable on May 1, 2000. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.60 % per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after November 1, 1999, at a redemption price of 100% of the principal amount so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of the Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provisions for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Gold Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.860 % of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948.

2. Since January 1, 1999, the City, any related issuer on behalf of the City and any subordinate issuing entity to the City have not issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Findings and Representation as to Use. The Governing Body hereby finds, determines, represents and warrants that no portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

Section Ten. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Eleven. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor the 19th day of July, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

City Attorney

ORDINANCE NO. 1807

AN ORDINANCE AUTHORIZING THE IMPROVEMENT OF A SECTION OF LEE BOULEVARD, A MAIN TRAFFICWAY, BETWEEN 103RD STREET AND MISSION ROAD WITHIN THE CITY OF LEAWOOD; AND PROVIDING FOR THE PAYMENT OF COSTS THEREOF AND EXPRESSING THE INTENT TO REIMBURSE COSTS OF THE PROJECT SO INCURRED FROM PROCEEDS OF GENERAL OBLIGATION BONDS.

WHEREAS, the City of Leawood (the "City") has previously by Section 14-206 of the "Code of the City of Leawood, Kansas," designated that portion of Lee Boulevard which is located within this City as a main trafficway pursuant to the provisions of K.S.A. 12-685; and

WHEREAS, K.S.A. 12-687 provides that the Governing Body of any city shall have power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and such improvement or reimprovement, may include grading, regrading, curbing, recurbing, guttering, reguttering, paving, repaving, macadamizing, remacadamizing, constructing, reconstructing, opening, widening, extending, rounding corners, straightening, relocating, construction or reconstruction of any necessary bridges and approaches thereto, viaducts, overpasses, underpasses, culverts, storm drainage, trafficway illumination, traffic control devices, pedestrian way, bicycle ways, or other improvements or any two or more of such improvements or reimprovements and the acquisition of right-of-way by purchase or condemnation when necessary for any of such purposes; and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the City at-large and may be funded among other methods, by the issuance of general obligation bonds; and

WHEREAS, Section 1.150-2 of the Income Tax Regulations issued by the Internal Revenue Service (the "Regulations") requires that the City make a prior declaration of its intent to reimburse itself for project expenditures made by the City prior to the date of issuance of notes or bonds, and the City desires to comply with the requirements of the Regulations with respect to this Project; and

WHEREAS, said Governing body finds and determines that it is necessary to improve and reimprove a certain portion of Lee Boulevard between 103rd Street and Mission Road within the City of Leawood, as provided by and under the authority of K.S.A. 12-687, and to provide for the payment of the costs thereof as provided by and under the authority of K.S.A. 12-689.

THEREFORE, BE IT ORDAINED by the Governing Body of the City of Leawood, Kansas:

Section 1. It is hereby deemed and declared to be necessary to improve and reimprove that certain portion of Lee Boulevard between 103rd Street and Mission Road located

within the City of Leawood, and it is hereby authorized, ordered, and directed that said main trafficway improvements be undertaken pursuant to the authority of K.S.A. 12-687. The City Engineer is hereby authorized and directed to proceed with development of definitive plans for the Project.

Section 2. The total estimated cost of the above described main trafficway improvements or reimprovements, including construction, engineering fees, acquisition of right-of-way and easments, and contingencies, is $2,203,460, and said cost shall be chargeable to the City at-large and may be paid by the issuance of general obligation bonds of the City of Leawood under the authority of K.S.A. 12-689.

Section 3. That the costs so incurred in connection with the Project shall be paid for from the proceeds of temporary notes to be issued from time to time as said costs are so incurred, and the Project shall be permanently financed with the proceeds of the sale of general obligation bonds of the City in an amount not to exceed $2,203,460.00.

Section 4. That to the extent the City shall pay all or any portion of the costs of the Project from available funds on hand prior to the issuance of temporary notes or bonds, the City hereby declares that it reasonably expects to reimburse such expenditures out of the proceeds of such temporary notes and such general obligation bonds. All such expenditures so reimbursed shall be capital expenditures with the meaning of Section 1.150-2(d)(3) of the Regulations.

This declaration is a declaration of official intent adopted pursuant to Section 1.150-2 of the Regulations.

Section 5. That as of the date hereof, there are not City funds reserved, allocated on a long term basis or otherwise set aside (or reasonable expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of temporary notes or the bonds. This Ordinance, therefore is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

Section 6. That this Ordinance shall be filed within 30 days of its adoption in the publicly available official books and records of the City. This Ordinance shall be available for inspection at the office of the City Clerk at City Hall during normal business hours of the City on every business day until the date of issuance of the bonds.

Section 7. That the City's Director of Finance shall be responsible for making any "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the notes or the bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the notes or the bonds, shall specifically identify the actual reimbursement of a fund or account in accordance with Section 1.150-2, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the notes or the bonds from any restriction under the

ordinance or other documents authorizing the issuance of such notes or the bonds, and under any applicable state statute, which would apply to the unspent proceeds of the notes or the bonds.

Section 8. This ordinance shall take effect and be of force from and after its passage and approval and publication one time in the official City newspaper.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor this 19th day of July, 1999.

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM

City Attorney

ORD1807

Publication Fees: $52.92

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight,of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1807--7/20/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 21, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$52.92

ORDINANCE NO. 1807

First published in The Legal Record, Tuesday, July 20, 1999.

ORDINANCE NO. 1807

AN ORDINANCE AUTHORIZING THE IMPROVEMENT OF A SECTION OF LEE BOULEVARD, A MAIN TRAFFICWAY, BETWEEN 103RD STREET AND MISSION ROAD WITHIN THE CITY OF LEAWOOD; AND PROVIDING FOR THE PAYMENT OF COSTS THEREOF AND EXPRESSING THE INTENT TO REIMBURSE COSTS OF THE PROJECT SO INCURRED FROM PROCEEDS OF GENERAL OBLIGATION BONDS.

WHEREAS, the City of Leawood (the "City") has previously by Section 14-206 of the "Code of the City of Leawood, Kansas," designated that portion of Lee Boulevard which is located within this City as a main trafficway pursuant to the provisions of K.S.A. 12-685; and

WHEREAS, K.S.A. 12-687 provides that the Governing Body of any city shall have power to improve or reimprove or cause to be improved or reimproved, any main trafficway or trafficway connection designated and established under the provisions of K.S.A. 12-685 et seq., and such improvement or reimprovement, may include grading, regrading, curbing, recurbing, guttering, reguttering, paving, repaving, macadamizing, remacadamizing, constructing, reconstructing, opening, widening, extending, rounding corners, straightening, relocating, construction or reconstruction of any necessary bridges and approaches thereto, viaducts, overpasses, underpasses, culverts, storm drainage, trafficway illumination, traffic control devices, pedestrian way, bicycle ways, or other improvements or any two or more of such improvements or reimprovements and the acquisition of right-of-way by purchase or condemnation when necessary for any of such purposes; and

WHEREAS, K.S.A. 12-689 provides that all costs of improvements or reimprovements authorized under the provisions of K.S.A. 12-687, including acquisition of right-of-way, engineering costs, and all other costs properly attributable to such projects, shall be paid by the City at-large and may be funded among other methods, by the issuance of general obligation bonds; and

WHEREAS; Section 1.150-2 of the Income Tax Regulations issued by the Internal Revenue Service (the "Regulations") requires that the City make a prior declaration of its intent to reimburse itself for project expenditures made by the City prior to the date of issuance of notes or bonds, and the City desires to comply with the requirements of the Regulations with respect to this Project; and

WHEREAS, said Governing body finds and determines that it is necessary to improve and reimprove a certain portion of Lee Boulevard between 103rd Street and Mission Road within the City of Leawood, as provided by and under the authority of K.S.A. 12-687, and to provide for the payment of the costs thereof as provided by and under the authority of K.S.A. 12-689.

THEREFORE, BE IT ORDAINED by the Governing Body of the City of Leawood, Kansas:

Section 1. It is hereby deemed and declared to be necessary to improve and reimprove that certain portion of Lee Boulevard between 103rd Street and Mission Road located within the City of Leawood, and it is hereby authorized, ordered, and directed that said main trafficway improvements be undertaken pursuant to the authority of K.S.A. 12-687. The City Engineer is hereby authorized and directed to proceed with development of definitive plans for the Project.

Section 2. The total estimated cost of the above described main trafficway improvements or reimprovements, including construction, engineering fees, acquisition of right-of-way and easments, and contingencies, is $2,203,460, and said cost shall be chargeable to the City at-large and may be paid by the issuance of general obligation bonds of the City of Leawood under the authority of K.S.A. 12-689.

Section 3. That the costs so incurred in connection with the Project shall be paid for from the proceeds of temporary notes to be issued from time to time as said costs are so incurred, and the Project shall be permanently financed with the proceeds of the sale of general obligation bonds of the City in an amount not to exceed $2,203,460.00.

Section 4. That to the extent the City shall pay all or any portion of the costs of the Project from available funds on hand prior to the issuance of temporary notes or bonds, the City hereby declares that it reasonably expects to reimburse such expenditures out of the proceeds of such temporary notes and such general obligation bonds. All such expenditures so reimbursed shall be capital expenditures with the meaning of Section 1.150-2(d)(3) of the Regulations.

This declaration is a declaration of official intent adopted pursuant to Section 1.150-2 of the Regulations.

Section 5. That as of the date hereof, there are not City funds reserved, allocated on a long term basis or otherwise set aside (or reasonable expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of temporary notes or the bonds. This Ordinance, therefore is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

Section 6. That this Ordinance shall be filed within 30 days of its adoption in the publicly available official books and records of the City. This Ordinance shall be available for inspection at the office of the City Clerk at City Hall during normal business hours of the City on every business day until the date of issuance of the bonds.

Section 7. That the City's Director of Finance shall be responsible for making any "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the notes or the bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the notes or the bonds, shall specifically identify the actual reimbursement of a fund or account in accordance with Section 1.150-2, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the notes or the bonds from any restriction under the ordinance or other documents authorizing the issuance of such notes or the bonds, and under any applicable state statute, which would apply to the unspent proceeds of the notes or the bonds.

Section 8. This ordinance shall take effect and be of force from and after its passage and approval and publication one time in the official City newspaper.

PASSED by the Council the 19th day of July, 1999.

APPROVED by the Mayor this 19th day of July, 1999.

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM

City Attorney

ORDINANCE NO. 1806

AN ORDINANCE ACCEPTING 4 PERMANENT DRAINAGE EASEMENTS FOR THE PROJECT DEVELOPMENT CHRIST COMMUNITY CHURCH LOCATED AT APPROXIMATELY 143RD AND KENNETH ROAD.

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

Section 1. That the City of Leawood hereby accepts 4 permanent drainage easements hereinafter more particularly designated and described, to wit:

From Christ Community Evangelical Free Church, Inc. A tract of land in the Southeast Quarter of Section 34, Township 13 South, Range 25 East of the 6th Principal Meridian in the City of Leawood, Johnson County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the Southeast Quarter of said Section 34; thence South 02° -01'-11" East 1919.76 feet along the East line of the Southeast Quarter of said Section 34; thence South 88° -18'-52" West 799.08 feet to the Southwest corner of Lot 1, "Christ Community Evangelical Free Church," a proposed subdivision of land in the City of Leawood, Johnson County, Kansas, said point being the "True Point of Beginning"; thence North 02°-01'-08" West 13.34 feet along the West line of said Lot 1; thence North 67°-58'-21" East 7.27 feet; thence South 22° -01'-39" East 15.00 feet; thence South 67° -58'-21" West 5.19 feet to a point on the South line of said Lot 1; thence South 88° -18'-52" West 7.09 feet, along the South line of said Lot 1, to the "True Point of Beginning" of the tract herein described containing 141 square feet or 0.0032 acres, more or less. Subject to all easements and restrictions of record.

AND

From Cornelius J. and Judith F. Giblin. Part of the Southeast 1/4 of Section 34, Township 13, Range 25, in Leawood, Johnson County, Kansas: Commencing at the Northeast of Tract A, "Highlands Ranch," a subdivision of land in said City, County and State; thence South 0°-02'-08" East along the East line of said Tract A, a distance of 16.39 feet to the point of beginning of the easement to be herein described; thence continuing South 0° -02'-08" along said East line, a distance of 2.62 feet; thence North 69° -57'-21" East departing said East line, a distance of 7.54 feet; thence North 89° -41'-58" West, a distance of 7.09 feet to the point of beginning. Containing 9 square feet more or less.

AND

From Graham G. Giblin, Sr., and Barbara A. Giblin. Part of the Southeast 1/4 of Section 34, Township 13, Range 25, in Leawood, Johnson County, Kansas: Commencing at the Northeast of Tract A, "Highlands Ranch," a subdivision of land in said City, County and State; thence South 0°-02'-08" East along the East line of said Tract A, a distance of 16.39 feet to the point of beginning of the easement to be herein described; thence continuing South 0°-02'-08" along said East line, a distance of 2.62 feet; thence North 69°-57'-21" East departing said East line, a distance of 7.54 feet; thence North 89°-41'-58" West, a distance of 7.09 feet to the point of beginning. Containing 9 square feet more or less.

AND

From the Highlands Group. A 15.0 foot permanent drainage easement in "Highlands Ranch, Lots 1 through 76," a subdivision of land in Leawood, Johnson County, Kansas, and part of the Southeast 1/4 of Section 34, Township 13, Range 25, lying 7.5 feet on each side of the following described centerline: Commencing at the Southeast corner of said Lot 61; thence South 0°-02'-08" East along the East line of said Lot 61 and along the East line of Tract A, in said subdivision, a distance of 11.03 feet to the point of beginning of the centerline to be herein described; thence South 69°-57'-21" West, a distance of 118.40 feet to the point of termination. The permanent drainage easement contains 1,776 square feet.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 6th day of July, 1999.

Approved by the Mayor the 6th day of July, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

R.S. Wetzler — City Attorney

ORD1806

Publication Fees: $35.49

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight,of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1806--7/13/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 14, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$35.49

ORDINANCE NO. 1806

AN ORDINANCE ACCEPTING 4 PERMANENT DRAINAGE EASEMENTS FOR THE PROJECT DEVELOPMENT CHRIST COMMUNITY CHURCH LOCATED AT APPROXIMATELY 143RD AND KENNETH ROAD.

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

Section 1. That the City of Leawood hereby accepts 4 permanent drainage easements hereinafter more particularly designated and described, to wit:

From Christ Community Evangelical Free Church, Inc. A tract of land in the Southeast Quarter of Section 34, Township 13 South, Range 25 East of the 6th Principal Meridian in the City of Leawood, Johnson County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the Southeast Quarter of said Section 34; thence South 02°-01'-11" East 1919.76 feet along the East line of the Southeast Quarter of said Section 34; thence South 88°-18'-52" West 799.08 feet to the Southwest corner of Lot 1, "Christ Community Evangelical Free Church," a proposed subdivision of land in the City of Leawood, Johnson County, Kansas, said point being the "True Point of Beginning"; thence North 02°-01'-08" West 13.34 feet along the West line of said Lot 1; thence North 67°-58'-21" East 7.27 feet; thence South 22°-01'-39" East 15.00 feet; thence South 67°-58'-21" West 5.19 feet to a point on the South line of said Lot 1; thence South 88°-18'-52" West 7.09 feet, along the South line of said Lot 1, to the "True Point of Beginning" of the tract herein described containing 141 square feet or 0.0032 acres, more or less. Subject to all easements and restrictions of record.

AND

From Cornelius J. and Judith F. Giblin. Part of the Southeast 1/4 of Section 34, Township 13, Range 25, in Leawood, Johnson County, Kansas: Commencing at the Northeast of Tract A, "Highlands Ranch," a subdivision of land in said City, County and State; thence South 0°-02'-08" East along the East line of said Tract A, a distance of 16.39 feet to the point of beginning of the easement to be herein described; thence continuing South 0°-02'-08" along said East line, a distance of 2.62 feet; thence North 69°-57'-21" East departing said East line, a distance of 7.54 feet; thence North 89°-41'-58" West, a distance of 7.09 feet to the point of beginning. Containing 9 square feet more or less.

AND

From Graham G. Giblin, Sr., and Barbara A. Giblin. Part of the Southeast 1/4 of Section 34, Township 13, Range 25, in Leawood, Johnson County, Kansas: Commencing at the Northeast of Tract A, "Highlands Ranch," a subdivision of land in said City, County and State; thence South 0°-02'-08" East along the East line of said Tract A, a distance of 16.39 feet to the point of beginning of the easement to be herein described; thence continuing South 0°-02'-08" along said East line, a distance of 2.62 feet; thence North 69°-57'-21" East departing said East line, a distance of 7.54 feet; thence North 89°-41'-58" West, a distance of 7.09 feet to the point of beginning. Containing 9 square feet more or less.

AND

From the Highlands Group. A 15.0 foot permanent drainage easement in "Highlands Ranch, Lots 1 through 76," a subdivision of land in Leawood, Johnson County, Kansas, and part of the Southeast 1/4 of Section 34, Township 13, Range 25, lying 7.5 feet on each side of the following described centerline: Commencing at the Southeast corner of said Lot 61; thence South 0°-02'-08" East along the East line of said Lot 61 and along the East line of Tract A, in said subdivision, a distance of 11.03 feet to the point of beginning of the centerline to be herein described; thence South 69°-57'-21" West, a distance of 118.40 feet to the point of termination. The permanent drainage easement contains 1,776 square feet.

Section 2. That copies of said easements are attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 6th day of July, 1999.

Approved by the Mayor the 6th day of July, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

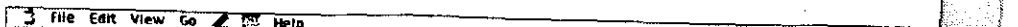
APPROVED FOR FORM:

R.S. Wetzler — City Attorney

Get Your Opinion Summaries Even Faster!

Subscribe to Kansas Lawyer on the Web at

kslawyer.com



ORDINANCE NO. 1805

AN ORDINANCE AMENDING SECTION 4-3 OF THE "AMENDMENT TO LEAWOOD DEVELOPMENT ORDINANCE," AND REPEALING THE EXISTING SECTION.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. "Amendment to Leawood Development Ordinance" Amended. That Section 4-3 of the "Amendment to Leawood Development Ordinance," is hereby amended to read as follows:

4-3 SPECIAL USE PROVISIONS

4-3.1 Special Uses Designated

Any of the following uses may be located in any district by Special Use Permit of the Governing Body after notification of adjacent and abutting property owners, public hearing, and after recommendation of the Plan Commission, under such conditions as to operation, site development, signs, and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of the neighboring property, and will conform to the general intent and purpose of this Ordinance and shall comply with the height and area regulations of the district in which they may be located unless a variance is specifically granted by the Board of Zoning Appeals.

1) Amusement parks, privately-owned baseball or athletic fields, race tracks;
2) Aviation fields or airports, under such restrictions as may be imposed to control noise, promote safety, and prevent undue danger to aircraft or to surrounding property;
3) Cemeteries, mausoleums, or crematories for the disposal of the dead;
4) Public and private schools;
5) Churches, synagogues and other places of worship;

6) Clubs, including those where alcoholic beverages are consumed;

7) Drive-in theaters;

8) Golf driving ranges, commercial or illuminated;

9) Gun clubs, skeet shoots, or target ranges;

10) Tennis courts and paved play areas, commonly referred to as "Sport Courts," hereinafter referred to as courts, may be approved as a special use. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance use the following conditions shall be considered minimum requirements to be met.

    a) Courts will only be considered as a special use if said court is accessory to the principal use it is intended to serve. Courts on separate lots will not be considered as stand alone structures.

    b) Plans shall be submitted for approval and shall be based upon compliance with the following standards: 1) The need for screening to protect the privacy of adjoining properties, including noise and lighting, if proposed, and 2) surface runoff. These standards are to be considered minimums and other factors may be considerations for approval by the Plan Commission and/or Governing Body.

    c) Courts shall not be constructed within a required front yard and shall be located a minimum of 10 feet from any rear or side lot line. Screen plantings of a height necessary to muffle noise and block lights may be required as a condition to the special use approval.

    d) Fences for courts may be up to 12 feet in height and shall be of a green or black PVC coated chain link fabric. Said fences shall be located a minimum of 10 feet from any rear or interior side lot line.

    e) Courts shall be designed so that the surface water will be carried to the street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.

    f) All court lighting shall be subject to approval as a special use either in conjunction with the application for a sport court or separately as an addition at a later date. Existing courts requesting lighting must apply for same as a separate

special use. A lighting plan shall be submitted which indicates the lumins (footcandles) at the property line and distance to the nearest structures. Footcandles shall not exceed **.5** measured anywhere along the adjacent property lines. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. A lighted court may be required to have additional screening in order to mitigate the effect of lighting on any adjoining properties.

g) No court lighting shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

h) A landscape plan shall be submitted at time of application for special use indicating plant material, size, location and spacing proposed.

i) All courts shall require a building permit prior to grading and/or installation.

11) Hospitals; special care facilities for humans; not to include group homes as defined herein.

12) Campgrounds, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only;

13) Nursery sales office, building greenhouse, or area (wholesale or retail);

14) Nursing and convalescent homes; housing for the elderly; retirement centers and communities; not to include group homes as defined herein.

15) Outdoor poster panels or billboards; off-site promotional signs;

16) Veterinary clinics, dog kennels;

17) Radio, television and microwave towers;

18) Regulations for the Siting and Construction of Wireless Communication Antennae and Support Equipment

a) Statement of Intent.

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City of Leawood has many diverse and unique landscapes that perpetuate the

identity of its residential neighborhoods, protection of these valuable resources is paramount.

Accordingly, the governing body finds that the unregulated placement and design of wireless communication equipment results in visual clutter that adversely affects community aesthetics and damages the character that Leawood is built around. This ordinance is intended to provide minimum standards that ensure the communication needs of residents and business are met, while at the same time protecting the general safety and welfare of the community.

b) Purpose

A wireless communication facility or tower may be sited, constructed, designed or maintained in the City of Leawood provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance.

More specifically, these regulations are necessary to:

1. Provide for suitable location of wireless communication antennae, towers, and supporting ground equipment as to mitigate their effect on residential neighborhoods and land uses;

2. Maintain community aesthetics by minimizing the visual effects of towers through specific design and siting criteria;

3. Maximize the use of existing towers and other structures as to minimize the need for new tower locations;

4. Encourage co-location among wireless communication providers on existing and newly constructed sites in order to reduce the overall number of towers needed;

5. Promote the use of innovative camouflage and disguise techniques for antennae support structures as to integrate their appearance with the many architectural and natural themes found throughout the City of Leawood.

c) Special Use Permit Required

1. Communication towers shall be allowed, subject to approval of a special use permit granted by the Governing Body, after notification of adjacent and abutting property owners within 1000 feet of said property, public hearing, and after recommendation on the matter by the Plan Commission. Written notification shall be conducted by certified return receipt mail for those parcels within 200 feet said property and via regular mail for parcels beyond the 200 foot mark.

Consideration of the special use shall be in accordance with the following as established by this ordinance:

A) Suitable location in accordance to the zoning districts and planned areas in which wireless communication facilities are allowed;

B) Maximum tower height;

C) Minimum setbacks of the wireless communication tower and supporting equipment from the property line;

D) Minimum buffer distance between the wireless communication tower and base supporting equipment from surrounding planned and existing residential areas;

E) Design, landscape, and screening of the wireless communication facility and all related equipment;

F) Co-location among users on newly proposed towers;

G) Minimum separation distances among towers to be constructed within the City of Leawood.

2. Prior to issuance of the special use permit for the operation of a wireless communication facility, the applicant will provide a performance or cash bond in an amount equal to twenty (20) percent of total construction costs for the facility. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility should it become

necessary to do so. The bond will be secured for the term of the special use permit plus one year.

3. Pre-existing Wireless Communication Equipment. Pre-existing wireless communication towers, antennae, and related equipment shall be considered a legal non-conforming use and shall not be required to meet the mandates of this ordinance (with the exception of 4-3.1 18)k) until the expiration of their applicable special use permit. Routine maintenance, including the replacement of new antennae of like construction shall be permitted on such existing telecommunication facilities. A telecommunications facility that has received City approval as of the effective date of this ordinance in the form of a special use exception, but has not yet been constructed or placed in operation, shall be considered an existing telecommunications facility so long as such approval is current and not expired.

4. Placement of an antenna on a non-conforming structure shall be considered an expansion of the non-conforming structure unless prior approval specifically contemplated multiple antennae. The cumulative effect of any additional antennae and transmission equipment placed upon a non-conforming structure must comply with the radio frequency radiation emission guidelines established by the FCC.

d) Zoning Location Requirements

1. Newly proposed wireless communication antennae, towers and supporting ground equipment shall not be permitted within any planned or existing residential area to include RP-A, RP-A5, R-1, RP-1, RP-2, RP-3, and RP-4 zoning districts. Exceptions to this may be provided for the following, upon approval of a special use permit:

A) Church sites, when camouflaged as steeples, bell towers, etc.;

B) Park sites, when camouflaged to be compatible with the natural elements of the park;

C) Existing non-residential structures when designed to be architecturally integral and compatible with said structure.

2. Wireless communication towers, antennae, and supporting ground equipment shall be allowed, subject to approval of a special use permit, within the following planned or existing areas and districts:

A) CP-O, Planned Office;

B) CP-1, Planned Neighborhood Retail;

C) CP-2, Planned General Retail;

D) BP, Planned Business Park;

E) PI, Planned Industrial;

F) SD, Special Development;

G) REC, Planned Recreation;

H) AG, Agricultural (when master planned for commercial, industrial, or recreational uses).

All districts delineated within this ordinance shall be defined by the current, approved Zoning and Master Development Plan maps established for the City of Leawood.

3. Necessary Site. In order to construct a new wireless communication tower within any permitted area, the applicant must provide an inventory of existing antennae locations within a three mile radius of the proposed site. The applicant must also demonstrate, using technological and written evidence, that these sites are inadequate to fulfill the grid needs of the carrier, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites. For the purpose of this ordinance "reasonable" shall be defined as the total of all costs related to the construction of a new tower.

4. Grid Information. At the time of site selection, the applicant shall demonstrate how the facility will impact the overall network of the carrier within the City of Leawood and adjacent Cities on both sides of the state line.

e) Tower Height

Evidence shall be supplied at the time of site selection that the proposed tower height is necessary to meet coverage needs. Any proposed wireless communication tower, within any allowed area, shall not exceed 150 feet in height (including lightning rod). However, exception to this rule may be granted provided that the applicant show clear evidence that additional height is needed to provide necessary signal coverage. However, no exception shall be granted in excess of thirty (30) feet above the prescribed height limit, thus establishing an absolute excepted height of 180 feet (unless specifically necessary for City directed Public Safety equipment). This evidence must be supported by radio frequency engineered documentation and the opinion of a qualified, non-biased telecommunications consultant hired by the City at the expense of the applicant.

This written opinion shall include a finding of concurrence that: (1) no other existing tower or structure can satisfy the coverage needs of the applicant, (2) no other location can fulfill the coverage needs of the applicant at the maximum tower height as established by this ordinance, (3) all costs associated with co-location on an acceptable existing tower or structure are substantially greater than the related construction costs of a new tower.

f) Setback and Buffer Requirements

1. Setbacks. Wireless communication towers and support equipment shall meet the applicable building setback limits of the zoning district in which the facility is to be sited. Communication towers may occupy a leased parcel on a site meeting the minimum lot size requirements for the zoning district in which the tower is located.

2. Distance From Residential Areas. Any proposed wireless communication tower shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or planned residential neighborhood, as shown on the approved City of Leawood Zoning or Master Development Plan Maps.

g) Design Requirements

1. Site Plan and Photo Simulations Required. Any application for construction of a new wireless communication facility and tower must provide a detailed site plan of the

proposed project. This properly scaled site plan will include one page (including ground contours) that portrays layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development.

2. Color and Finish. Any approved wireless communication tower will be constructed of a monopole design. Guy and lattice-type towers will not be allowed within the City of Leawood. Exterior finish of the monopole will provide for a non-segmented, tapered appearance. Communication towers and related support buildings and equipment will be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

3. All approved towers greater than 75 feet in height must be designed and engineered to accommodate at least two sets of wireless communication antennae. Antennae bridges or platforms will only be allowed on communication towers that are designed for multiple users.

4. Towers less than 75 feet in height must be designed so that their antennae are internally placed, thus creating a smooth, non-projecting appearance. No antenna bridge or platform will be allowed on any tower less than 75 feet in height.

5. Antennae on Structures Other Than Towers. *Antennae and communication support* equipment located on any existing tower or suitable structure shall be of materials and color that are consistent with the surrounding elements so as to blend architecturally with said structure. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen.

Microwave antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed. If an accessory equipment shelter is present, it must blend with the surrounding building(s) in architectural character and color.

6. Towers, antennae and cabinet equipment used for wireless communication purposes shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the owners of the towers and antennae governed by this ordinance shall bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. Any such removal by the governing authority shall be in the manner provided within 4-3.1 18)k) of this ordinance.

7. An engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and transmitting equipment on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antennae.

8. All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

9. It is the responsibility of the carrier to promptly resolve any electromagnetic interference problems created per FCC regulations.

10. All parking areas and drives associated with any wireless communications facility shall comply with applicable provisions for such facilities in each zoning district, except that the

Plan Commission or Governing Body may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

h) Lighting, Landscaping, and Screening Requirements

1. Screening Wall. All buildings, cabinets, and other ground support equipment associated with a wireless communication site will be screened with a full perimeter wall. This wall is to be constructed of concrete block and surfaced with a material (stucco, brick, etc.) to match the architecture of surrounding structures. The minimum height of the wall will be 6 feet from ground level.

2. Landscape Materials. Landscaping in the form of pines and other flowering and deciduous trees is required to the outside of the perimeter screening wall. The standard buffer shall consist of a landscaped strip at least six (six) feet wide outside the perimeter screening wall. Pines are to be a minimum of 6 feet in height , while other trees are to have a minimum 2 inch caliper. The owner of the wireless communication facility shall be responsible for maintenance of all related landscape and screening materials. Existing mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.

3. Authority to Trim Trees. An operator shall have authority to trim trees and shrubbery upon and overhanging streets and other public property so as to prevent the branches and foliage of such trees and shrubbery from coming in contact and interfering with the wires, cables and other facilities of an operator. All trimming shall be done under the supervision and direction of the City.

4. Lighting. Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

i) Separation Distances

No newly proposed wireless communication tower shall be allowed to locate within 1000 feet of an existing tower. This distance shall be measured from the base of the existing tower to the base site location of the proposed tower.

j) Co-location

1. Multiple User Towers. All approved towers greater than 75 feet in height must be designed to accommodate at least two sets of wireless communication antennae. Prior to issuance of a building permit, the applicant and property owner must provide either of the following: (1) signed, executed lease agreements with other wireless service providers who desire to co-locate on the proposed tower, or (2) a signed statement of intent that guarantees non-discriminatory pricing for access to the tower by any competing carrier, and that the price for access will be based on the current market rate for co-location. This market rate will be established by an independent research consultant hired at the expense of the applicant. Failure to provide co-location opportunities to (or negotiate in good faith with) alternative carriers may constitute a finding of non-compliance with 4-3.1 18)c)1.F of this ordinance, and thus be grounds for revocation of the special use permit, and shall be cause for the withholding of future permits to same owners to install, build, or modify antennae or support structures within the City of Leawood.

2. Existing Site Improvement. Alterations or improvements to existing wireless communication sites shall be allowed, provided that these modifications are implemented to accommodate additional users and provided that tower height does not exceed the maximum established by this ordinance. Application for alteration to an existing site will require approval of new special use permit, including notification and public hearing.

3. Antennae may be added 'as of right' to any approved multi-user tower after securing proper building permits, provided that their addition does not exceed the tower capacity approved by the original special use permit. Any proposed antenna that exceeds the originally approved capacity limit shall be considered a revised application, and shall require a special use permit to locate.

k) Abandoned Or Unsafe Towers and Antenna Support Structures

Any tower or antenna support structure which is occupied by inactive antennae for a period of 12 (twelve) months shall be considered abandoned and a nuisance, and will be removed at the owner's expense within 90 (ninety) days. Any tower or antenna support

structure which is not maintained to a suitable degree of safety and appearance (as determined by the Director of Planning, Chief Building Inspector, and any applicable code) will also be considered a nuisance and will be upgraded or removed at the owner's expense. In the future should the levels of radio frequency radiation emitted by a wireless communication facility be determined a threat to human health or safety, the facility shall be cured or immediately removed (within 90 days) at the owner's expense. This finding must be either mandated by federal legislative action, or based on regulatory guidelines established by the FCC.

I) Building Codes and Inspection

1. To insure the structural integrity of towers, the owner of a tower shall ensure that it is (constructed and) maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may order the removal or cause the removal of such tower at the owner's expense.

2. At least every 24 months, the tower shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of communication towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection check list provided in the Electronic Industries Association (EIA) Standard 222, 'Structural Standards for Steel Antenna Towers and Antenna Support Structures.' A copy of such inspection record shall be provided to the City. Said inspection shall be conducted at the facility owner's expense.

3. In all areas of the city where the cables, wire, and other like facilities of public utilities exist underground, or are required by the City to be placed underground, an operator shall also place its cables, wires, or other facilities underground.

4. In the case of any disturbance to a street or other public property, caused by an operator during the course of constructing or maintaining its system facilities, an operator shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface any street or public property disturbed in as good or better condition as before the disturbance in accordance with applicable federal, state, and local laws, rules, regulations or administrative decisions. The duty to restore the street or other public property shall include the repair of any area identified by the Director of Public Works as being weakened or damaged as a result of a cut or to other invasion of the pavement of a street or other public property.

m) Exclusions

The following shall be exempt from this ordinance:

1. Any tower and antenna under seventy (70) feet in total height which is owned and operated by an amateur radio operator licensed by the FCC;

2. Any device designed for over the air reception of television broadcast signals, multi-channel, multi-point distribution service or direct broadcast satellite service.

n) Penalties

This ordinance shall be in full force and effect upon its enactment and approval, and any person found to be in violation of any of the provisions of this ordinance shall be subject to a fine of up to $500 for each day of violation.

o) Severability

If any section, subsection sentence, clause, phrase or portion of this ordinance 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 hereof.

p) Repeal of Laws in Conflict

This ordinance supersedes all ordinances or part of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

q) Definitions

Act: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934.

Alternative tower structure: Manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna: *Any device used to transmit or receive electromagnetic signals for communication purposes, not to include satellite dishes used solely for home television purposes.*

Antenna support structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmission or receipt of radio frequency energy.

Cell site: A tract or parcel of land that contains cellular communication antennae, their support structure, accessory buildings, and parking, and may include the other uses associated with an ancillary to cellular communication transmission.

Cellular service: A telecommunication service that permits customers to use wireless, mobile telephones to connect, via low power radio transmitter sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular telecommunications: A commercial low power mobile radio service licensed by the Federal Communications Commission in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Co-location: *Placement of wireless communication equipment by more than one provider on a single tower or other type of antenna support structure.*

Directional antenna: An antenna or array of antennae designed to concentrate a radio signal in a particular area.

Effective radiated power: (ERP) The product of the antenna power input and the numerically equal power output gain.

Enhanced specialized mobile radio: (ESMR) A specialized mobile radio network which utilizes integrated digital enhanced network.

EPA: *Environmental Protection Agency.*

FAA: *Federal Aviation Administration.*

FCC: *Federal Communications Commission.*

Governing body: *Shall mean the governing authority of the City of Leawood, Kansas.*

Guyed tower: *A wireless communication tower that is supported, in whole or in part, by guy wires and ground anchors.*

Interference: Disturbances in reception caused by intruding signals or electrical current.

Lattice tower: *A three or four sided tower constructed of open steel framing.*

License: The rights and obligations extended by the City to an operator to own, construct, maintain, and operate its system within the boundaries of the City for the sole purpose of providing services t persons or areas outside the City.

Low power telecom facility: An unmaned facility consisting of equipment for the reception, switching and/or receiving of wireless telecommunications operating at 1,000 watts or less effective radiated power (ERP), including but not limited to the following:

- Point-to-point microwave signals;
- Signals through FM radio translators;
- Signals through FM radio boosters under 10 watts ERP;
- Cellular, ESMR, and Personal Communication Services (Networks);
- Private low power mobile radio service.

Micro-cell: A low power mobile radio service telecommunications facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

Microwave: Electromagnetic radiation with frequencies higher than 300 MHz; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

Microwave antenna: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Monopole: *A wireless communication tower of single-pole design, constructed without support (guy) wires or anchors.*

Omnidirectional antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed. (a.k.a. whip antenna).

Panel antenna: An antenna that transmits signals in specific directions, and are typically square or rectangular in shape.

Personal communications services (PCS): Digital wireless telephone technology such as portable phones, pagers, fax, and computers. Such mobile technology promises to allow each consumer to use the same telephone number wherever he or she goes. Also known as personal communications networks (PCN).

Public property: Any real property, easement, right-of-way, air space, or other interest in real estate owned by any governmental entity.

Repeater: A low power mobile radio service telecommunications facility that extends coverage of a cell to areas not covered by the originating cell.

Specialized Mobile Radio: A mobile radio which is utilized in conjunction with ESMR, which includes interconnect and dispatch services.

(Ground) support equipment: *Any cabinet, building, power source or other equipment constructed on the ground, and used to assist antennae in the generation or receipt of electromagnetic communication signals.*

Telecommunications: The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.

Tower: *A structure designed to support at least one or more communication antenna. This does not include structures owned and operated by amateur radio personnel licensed by the FCC.*

Tower height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average

between the highest and lowest grades shall be used in calculating the tower height.

Wireless communication facility: *Any complex, including tower, antennae, and ground support equipment, used for the transmission or receipt of electromagnetic communication signals.*

19) Television and amateur radio antennae exceeding district height limitations.

20) Reservoirs, towers, filter beds, or water treatment plants;

21) Riding stables and tracks;

22) Wastewater treatment plant;

23) Motor hotels, motels, hotels, and convention centers;

24) Buildings, structures, and premises for public utility services, or public service corporations;

25) Temporary use of land or building for commercial or industrial purposes, provided that any building or structure constructed thereon which is not otherwise permitted in the District in which such land is situated shall be temporary, and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall be valid for not more than 2 years but may be renewed after public hearing;

26) Assembly halls, community centers, philanthropic organizations;

27) Child care centers, family day care homes, preschools, nursery schools, Montessori schools, private kindergartens, day care homes and group day care homes; not to include group homes as defined herein.

28) Off-street parking lots or off-street parking structures of a temporary or permanent nature;

29) Group boarding home for minors or adults; not to include group homes as defined herein.

30) Private ambulance service;

31) Bed and breakfast;

32) Horse pasturing on lots of less than 3 acres in residential districts.

33) Temporary self contained health care suites located within an attached garage are intended to provide an "in home" physical care facility as a temporary alternative to a nursing home environment. It is not intended to provide long term care lodging for anyone that would be better served by a more permanent solution. Such permanent alternate solutions may require an alteration to the home, an addition onto the home, or off-site care by a health care institution. Such use is allowed as a special use provided the following conditions are met:

a) The suites are to be freestanding self contained units including independent heating and air conditioning units and plumbing systems.

b) Not more than 2 persons shall be housed in such suite provided said housing is necessitated by a physical impairment or health care need of one or both persons and said health care need is being met by occupant or occupants of the existing home. Said person(s) residing in such health care suite shall be either an occupant or a relative of the occupant of the home except in cases when an overnight health care provider is required.

c) A letter from a licensed doctor of medicine or osteopathy shall be submitted, along with the application for special use, verifying the need for such health care suite by the applicant or prospective resident of said suite.

d) Health care suites shall be limited to a maximum of 2 years duration. Such use may only be continued for 1 additional year and only after review and approval by the Plan Commission and Governing Body. Any amount of time beyond 3 years will require a permanent solution to be specified at the time the additional year is requested. Such solution shall be made a condition of approval if granted. At the end of the special use, the unit shall be removed and the garage restored to its former condition.

e) Any exterior modification of the home necessitated by the suite, such as the temporary removal of the garage door(s) to facilitate a private entry, windows, or heating or cooling units, shall be replaced with materials of an architectural likeness to the existing home. Samples of materials proposed to be used shall be submitted with the application for approval by the Plan Commission.

f) Additional written notification shall be required to the applicant's homes association and to all property owners within 200 feet of the applicant's property.

g) Because the installation of such health care suite temporarily removes the enclosed off-street parking spaces

required by ordinance, the applicant shall submit an interim plan for dealing with off-street parking for the duration of the special use.

34) The Director of Planning may upon application by the proponent issue an Administrative Special Use Permit for the use of a specified parcel of land for such temporary short-term uses as trade shows, street fairs, expositions, promotional ventures, entertainment, seasonal sales, balloons, search lights, and tents, provided the following conditions are met:

a) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.

b) The applicant shall submit a site plan showing the location of any proposed structure.

c) The short-term special use shall not be operated longer than 10 consecutive days.

d) No more than 3 special event permits per calendar year shall be issued administratively at any location. Any additional permits may be granted by the Governing Body.

e) Upon the cessation of the short-term special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

f) Any structure used in conjunction with the special event shall be the subject of a valid building permit or tent permit.

g) The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.

h) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces used by the event itself.

i) The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

j) If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the Director of Planning deems the special use reasonable, the special use permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district.

k) Any applicant denied an Administrative Special Use Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

35) House or structure relocation to a permanent site within the City Limits provided the following conditions can be met:

a) The house or structure shall be found to be compatible with the surrounding houses or structures and neighborhood including, but not limited to, size, design or general architecture, lot location, and lot size;

b) The structure be made habitable within 6 months of relocation;

c) The applicant shall conform to the provisions of Article 6. "Removal of Structures" of the Leawood City Code.

Section 2. Existing Section Repealed. That existing Section 4-3 of the "Amendment to Leawood Development Ordinance" is hereby repealed. (Prior law: Ordinance No. 1734)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 6th day of July, 1999.

Approved by the Mayor the 6th day of July, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler

ORD1805

Publication Fees: $361.72

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight,of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1805--7/13/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

JULY 14, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$361.72

ORDINANCE NO. 1805

AN ORDINANCE AMENDING SECTION 4-3 OF THE "AMENDMENT TO LEAWOOD DEVELOPMENT ORDINANCE," AND REPEALING THE EXISTING SECTION.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

Section 1. "Amendment to Leawood Development Ordinance" Amended. That Section 4-3 of the "Amendment to Leawood Development Ordinance," is hereby amended to read as follows:

4-3 SPECIAL USE PROVISIONS

4-3.1 Special Uses Designated

Any of the following uses may be located in any district by Special Use Permit of the Governing Body after notification of adjacent and abutting property owners, public hearing, and after recommendation of the Plan Commission, under such conditions as to operation, site development, signs, and time limit as may be deemed necessary in order that such use will not seriously injure the appropriate use of the neighboring property, and will conform to the general intent and purpose of this Ordinance and shall comply with the height and area regulations of the district in which they may be located unless a variance is specifically granted by the Board of Zoning Appeals.

1) Amusement parks, privately-owned baseball or athletic fields, race tracks;

2) Aviation fields or airports, under such restrictions as may be imposed to control noise, promote safety, and prevent undue danger to aircraft or to surrounding property;

3) Cemeteries, mausoleums, or crematories for the disposal of the dead;

4) Public and private schools;

5) Churches, synagogues and other places of worship;

6) Clubs, including those where alcoholic beverages are consumed;

7) Drive-in theaters;

8) Golf driving ranges, commercial or illuminated;

9) Gun clubs, skeet shoots, or target ranges;

10) Tennis courts and paved play areas, commonly referred to as "Sport Courts," hereinafter referred to as courts, may be approved as a special use. In order to prevent a negative influence on the neighborhood and creation of a potential nuisance use the following conditions shall be considered minimum requirements to be met.

a) Courts will only be considered as a special use if said court is accessory to the principal use it is intended to serve. Courts on separate lots will not be considered as stand alone structures.

b) Plans shall be submitted for approval and shall be based upon compliance with the following standards: 1) The need for screening to protect the privacy of adjoining properties, including noise and lighting, if proposed, and 2) surface runoff. These standards are to be considered minimums and other factors may be considerations for approval by the Plan Commission and/or Governing Body.

c) Courts shall not be constructed within a required front yard and shall be located a minimum of 10 feet from any rear or side lot line. Screen plantings of a height necessary to muffle noise and block lights may be required as a condition to the special use approval.

d) Fences for courts may be up to 12 feet in height and shall be of a green or black PVC coated chain link fabric. Said fences shall be located a minimum of 10 feet from any rear or interior side lot line.

e) Courts shall be designed so that the surface water will be carried to the street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownership's, easements must be obtained. A statement along with a detailed drawing from a professional engineer, P.E., shall be submitted showing and stating that these drainage requirements have been or will be met.

f) All court lighting shall be subject to approval as a special use either in conjunction with the application for a sport court or separately as an addition at a later date. Existing courts requesting lighting must apply for same as a separate special use. A lighting plan shall be submitted which indicates the lumins (footcandles) at the property line and distance to the nearest structures. Footcandles shall not exceed .5 measured anywhere along the adjacent property lines. Illumination levels shall be measured with a photoelectric photometer having a spectral response similar to that of the human eye, following the standard spectral luminous efficiency curve adopted by the International Commission on Illumination. A lighted court may be required to have additional screening in order to mitigate the effect of lighting on any adjoining properties.

g) No court lighting shall be permitted between the hours of 10:00 p.m. and 7:00 a.m.

h) A landscape plan shall be submitted at time of application for special use indicating plant material, size, location and spacing proposed.

i) All courts shall require a building permit prior to grading and/or installation.

11) Hospitals; special care facilities for humans; not to include group homes as defined herein.

12) Campgrounds, picnic groves and fishing lakes, including minor and incidental concession facilities for patrons only;

13) Nursery sales office, building greenhouse, or area (wholesale or retail);

14) Nursing and convalescent homes; housing for the elderly; retirement centers and communities; not to include group homes as defined herein.

15) Outdoor poster panels or billboards; off-site promotional signs;

16) Veterinary clinics, dog kennels;

17) Radio, television and microwave towers;

18) Regulations for the Siting and Construction of Wireless Communication Antennae and Support Equipment

a) Statement of Intent.

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities, towers and antennae. As the City of Leawood has many diverse and unique landscapes that perpetuate the

identity of its residential neighborhoods, protection of these valuable resources is paramount.

Accordingly, the governing body finds that the unregulated placement and design of wireless communication equipment results in visual clutter that adversely affects community aesthetics and damages the character that Leawood is built around. This ordinance is intended to provide minimum standards that ensure the communication needs of residents and business are met, while at the same time protecting the general safety and welfare of the community.

b) Purpose

A wireless communication facility or tower may be sited, constructed, designed or maintained in the City of Leawood provided that it is in conformance with the stated standards, procedures, and other requirements of this ordinance.

More specifically, these regulations are necessary to:

1. Provide for suitable location of wireless communication antennae, towers, and supporting ground equipment as to mitigate their effect on residential neighborhoods and land uses;

2. Maintain community aesthetics by minimizing the visual effects of towers through specific design and siting criteria;

3. Maximize the use of existing towers and other structures as to minimize the need for new tower locations;

4. Encourage co-location among wireless communication providers on existing and newly constructed sites in order to reduce the overall number of towers needed;

5. Promote the use of innovative camouflage and disguise techniques for antennae support structures as to integrate their appearance with the many architectural and natural themes found throughout the City of Leawood.

c) Special Use Permit Required

1. Communication towers shall be allowed, subject to approval of a special use permit granted by the Governing Body, after notification of adjacent and abutting property owners within 1000 feet of said property, public hearing, and after recommendation on the matter by the Plan Commission. Written notification shall be conducted by certified return receipt mail for those parcels within 200 feet said property and via regular mail for parcels beyond the 200 foot mark.

Consideration of the special use shall be in accordance with the following as established by this ordinance:

A) Suitable location in accordance to the zoning districts and planned areas in which wireless communication facilities are allowed;

B) Maximum tower height;

C) Minimum setbacks of the wireless communication tower and supporting equipment from the property line;

D) Minimum buffer distance between the wireless communication tower and base supporting equipment from surrounding planned and existing residential areas;

E) Design, landscape, and screening of the wireless communication facility and all related equipment;

F) Co-location among users on newly proposed towers;

G) Minimum separation distances among towers to be constructed within the City of Leawood.

2. Prior to issuance of the special use permit for the operation of a wireless communication facility, the applicant will provide a performance or cash bond in an amount equal to twenty (20) percent of total construction costs for the facility. This bond will be secured for discretionary use by the City of Leawood for maintenance and / or removal of the facility should it become necessary to do so. The bond will be secured for the term of the special use permit plus one year.

3. Pre-existing Wireless Communication Equipment. Pre-existing wireless communication towers, antennae, and related equipment shall be considered a legal non-conforming use and shall not be required to meet the mandates of this ordinance (with the exception of 4-3.1 18)k) until the expiration of their applicable special use permit. Routine maintenance, including the replacement of new antennae of like construction shall be permitted on such existing telecommunication facilities. A telecommunications facility that has received City approval as of the effective date of this ordinance in the form of a special use exception, but has not yet been constructed or placed in operation, shall be considered an existing telecommunications facility so long as such approval is current and not expired.

4. Placement of an antenna on a non-conforming structure shall be considered an expansion of the non-conforming structure unless prior approval specifically contemplated multiple antennae. The cumulative effect of any additional antennae and transmission equipment placed upon a non-conforming structure must comply with the radio frequency radiation emission guidelines established by the FCC.

d) Zoning Location Requirements

1. Newly proposed wireless communication antennae, towers and supporting ground equipment shall not be permitted within any planned or existing residential area to include RP-A, RP-A5, R-1, RP-1, RP-2, RP-3, and RP-4 zoning districts. Exceptions to this may be provided for the following, upon approval of a special use permit:

A) Church sites, when camouflaged as steeples, bell towers, etc.;

B) Park sites, when camouflaged to be compatible with the natural elements of the park;

C) Existing non-residential structures when designed to be architecturally integral and compatible with said structure.

2. Wireless communication towers, antennae, and supporting ground equipment shall be allowed, subject to approval of a special use permit, within the following planned or existing areas and districts:

A) CP-O, Planned Office;

B) CP-1, Planned Neighborhood Retail;

C) CP-2, Planned General Retail;

D) BP, Planned Business Park;

E) PI, Planned Industrial;

F) SD, Special Development;

G) REC, Planned Recreation;

H) AG, Agricultural (when master planned for commercial, industrial, or recreational uses).

All districts delineated within this ordinance shall be defined by the current, approved Zoning and Master Development Plan maps established for the City of Leawood.

3. Necessary Site. In order to construct a new wireless communication tower within any permitted area, the applicant must provide an inventory of existing antennae locations within a three mile radius of the proposed site. The applicant must also demonstrate, using technological and written evidence, that these sites are inadequate to fulfill the grid needs of the carrier, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites. For the purpose of this ordinance

"reasonable" shall be defined as the total of all costs related to the construction of a new tower.

4. Grid Information. At the time of site selection, the applicant shall demonstrate how the facility will impact the overall network of the carrier within the City of Leawood and adjacent Cities on both sides of the state line.

e) Tower Height

Evidence shall be supplied at the time of site selection that the proposed tower height is necessary to meet coverage needs. Any proposed wireless communication tower, within any allowed area, shall not exceed 150 feet in height (including lightning rod). However, exception to this rule may be granted provided that the applicant show clear evidence that additional height is needed to provide necessary signal coverage. However, no exception shall be granted in excess of thirty (30) feet above the prescribed height limit, thus establishing an absolute excepted height of 180 feet (unless specifically necessary for City directed Public Safety equipment). This evidence must be supported by radio frequency engineered documentation and the opinion of a qualified, non-biased telecommunications consultant hired by the City at the expense of the applicant.

This written opinion shall include a finding of concurrence that: (1) no other existing tower or structure can satisfy the coverage needs of the applicant, (2) no other location can fulfill the coverage needs of the applicant at the maximum tower height as established by this ordinance, (3) all costs associated with co-location on an acceptable existing tower or structure are substantially greater than the related construction costs of a new tower.

f) Setback and Buffer Requirements

1. Setbacks. Wireless communication towers and support equipment shall meet the applicable building setback limits of the zoning district in which the facility is to be sited. Communication towers may occupy a leased parcel on a site meeting the minimum lot size requirements for the zoning district in which the tower is located.

2. Distance From Residential Areas. Any proposed wireless communication tower shall be sited at a distance of at least 500 feet, in all directions, from the base of the tower to the property line of any existing or planned residential neighborhood, as shown on the approved City of Leawood Zoning or Master Development Plan Maps.

g) Design Requirements

1. Site Plan and Photo Simulations Required. Any application for construction of a new wireless communication facility and tower must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays layout of the site, as well as proposed and existing structures within 150 feet of the tower base. Access to and from the site, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number and species of plant materials must be included for review by Planning and Development.

2. Color and Finish. Any approved wireless communication tower will be constructed of a monopole design. Guy and lattice-type towers will not be allowed within the City of Leawood. Exterior finish of the monopole will provide for a non-segmented, tapered appearance. Communication towers and related support buildings and equipment will be designed, camouflaged, and colored so that their appearance blends with the surrounding natural and built environment. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

3. All approved towers greater than 75 feet in height must be designed and engineered to accommodate at least two sets of wireless communication antennae. Antennae bridges or platforms will only be allowed on communication towers that are designed for multiple users.

4. Towers less than 75 feet in height must be designed so that their antennae are internally placed, thus creating a smooth, non-projecting appearance. No antenna bridge or platform will be allowed on any tower less than 75 feet in height.

5. Antennae on Structures Other Than Towers. Antennae and communication support equipment located on any existing tower or suitable structure shall be of materials and color that are consistent with the surrounding elements so as to blend architecturally with said structure. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached. Antennae mounted on the side of a building or structure shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Microwave antennae exceeding 12 inches in diameter on a roof or building-mounted facility shall not exceed the height of the structure to which they are attached, unless fully enclosed. If an accessory equipment shelter is present, it must blend with the surrounding building(s) in architectural character and color.

6. Towers, antennae and cabinet equipment used for wireless communication purposes shall meet or exceed all minimum structural and operational standards as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then the owners of the towers and antennae governed by this ordinance shall bring such towers and antennae into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennae into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense. Any such removal by the governing authority shall be in the manner provided within 4-3.1 18)k) of this ordinance.

7. An engineer's certification that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and transmitting equipment on a site will also comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna, along with directional data concerning the pointing of any directive antennae.

8. All telecommunications facilities shall be equipped with an appropriate anti-climbing device or other similar protective device to prevent unauthorized access to the telecommunications facility.

9. It is the responsibility of the carrier to promptly resolve any electromagnetic interference problems created per FCC regulations.

10. All parking areas and drives associated with any wireless communications facility shall comply with applicable provisions for such facilities in each zoning district, except that the Plan Commission or Governing Body may waive the requirements for curbing and guttering when they are not needed for drainage purposes.

h) Lighting, Landscaping, and Screening Requirements

1. Screening Wall. All buildings, cabinets, and other ground support equipment associated with a wireless communication site will be screened with a full perimeter wall. This wall is to be constructed of concrete block and surfaced with a material (stucco, brick, etc.) to match the architecture of surrounding structures. The minimum height of the wall will be 6 feet from ground level.

2. Landscape Materials. Landscaping in the form of pines and other flowering and deciduous trees is required to the outside of the perimeter screening wall. The standard buffer shall consist of a landscaped strip at least six (six) feet wide outside the perimeter screening wall. Pines are to be a minimum of 6 feet in height ; while other trees are to have a minimum 2 inch caliper. The owner of the wireless communication facility shall be responsible for maintenance of all related landscape and screening materials. Existing

mature tree growth and natural forms on the site shall be preserved to the maximum extent possible.

3. Authority to Trim Trees. An operator shall have authority to trim trees and shrubbery upon and overhanging streets and other public property so as to prevent the branches and foliage of such trees and shrubbery from coming in contact and interfering with the wires, cables and other facilities of an operator. All trimming shall be done under the supervision and direction of the City.

4. Lighting. Towers shall not be artificially lighted, unless required by the FAA or applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

i) Separation Distances

No newly proposed wireless communication tower shall be allowed to locate within 1000 feet of an existing tower. This distance shall be measured from the base of the existing tower to the base site location of the proposed tower.

j) Co-location

1. Multiple User Towers. All approved towers greater than 75 feet in height must be designed to accommodate at least two sets of wireless communication antennae. Prior to issuance of a building permit, the applicant and property owner must provide either of the following: (1) signed, executed lease agreements with other wireless service providers who desire to co-locate on the proposed tower, or (2) a signed statement of intent that guarantees non-discriminatory pricing for access to the tower by any competing carrier, and that the price for access will be based on the current market rate for co-location. This market rate will be established by an independent research consultant hired at the expense of the applicant. Failure to provide co-location opportunities to (or negotiate in good faith with) alternative carriers may constitute a finding of non-compliance with 4-3.1 (8)c)1.F of this ordinance, and thus be grounds for revocation of the special use permit, and shall be cause for the withholding of future permits to same owners to install, build, or modify antennae or support structures within the City of Leawood.

2. Existing Site Improvement. Alterations or improvements to existing wireless communication sites shall be allowed, provided that these modifications are implemented to accommodate additional users and provided that tower height does not exceed the maximum established by this ordinance. Application for alteration to an existing site will require approval of new special use permit, including notification and public hearing.

3. Antennae may be added 'as of right' to any approved multi-user tower after securing proper building permits, provided that their addition does not exceed the tower capacity approved by the original special use permit. Any proposed antenna that exceeds the originally approved capacity limit shall be considered a revised application, and shall require a special use permit to locate.

k) Abandoned Or Unsafe Towers and Antenna Support Structures

Any tower or antenna support structure which is occupied by inactive antennae for a period of 12 (twelve) months shall be considered abandoned and a nuisance, and will be removed at the owner's expense within 90 (ninety) days. Any tower or antenna support structure which is not maintained to a suitable degree of safety and appearance (as determined by the Director of Planning, Chief Building Inspector, and any applicable code) will also be considered a nuisance and will be upgraded or removed at the owner's expense. In the future should the levels of radio frequency radiation emitted by a wireless communication facility be determined a threat to human health or safety, the facility shall be cured or immediately removed (within 90 days) at the owner's expense. This finding must be either mandated by federal legislative action, or based on regulatory guidelines established by the FCC.

l) Building Codes and Inspection

1. To insure the structural integrity of towers, the owner of a tower shall ensure that it is (constructed and) maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the governing authority may order the removal or cause the removal of such tower at the owner's expense.

2. At least every 24 months, the tower shall be inspected by an expert who is regularly involved in the maintenance, inspection and/or erection of communication towers. At a minimum, this inspection shall be conducted in accordance with the tower inspection check list provided in the Electronic Industries Association (EIA) Standard 222, 'Structural Standards for Steel Antenna Towers and Antenna Support Structures.' A copy of such inspection record shall be provided to the City. Said inspection shall be conducted at the facility owner's expense.

3. In all areas of the city where the cables, wire, and other like facilities of public utilities exist underground, or are required by the City to be placed underground, an operator shall also place its cables, wires, or other facilities underground.

4. In the case of any disturbance to a street or other public property, caused by an operator during the course of constructing or maintaining its system facilities, an operator shall, at its own expense, replace and restore all paving, sidewalk, driveway, landscaping, or surface any street or public property disturbed in as good or better condition as before the disturbance in accordance with applicable federal, state, and local laws, rules, regulations or administrative decisions. The duty to restore the street or other public property shall include the repair of any area identified by the Director of Public Works as being weakened or damaged as a result of a cut or to other invasion of the pavement of a street or other public property.

m) Exclusions

The following shall be exempt from this ordinance:

1. Any tower and antenna under seventy (70) feet in total height which is owned and operated by an amateur radio operator licensed by the FCC;

2. Any device designed for over the air reception of television broadcast signals, multi-channel, multi-point distribution service or direct broadcast satellite service.

n) Penalties

This ordinance shall be in full force and effect upon its enactment and approval, and any person found to be in violation of any of the provisions of this ordinance shall be subject to a fine of up to $500 for each day of violation.

o) Severability

If any section, subsection sentence, clause, phrase or portion of this ordinance 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 hereof.

p) Repeal of Laws In Conflict

This ordinance supersedes all ordinances or part of ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

q) Definitions

Act: The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934.

Alternative tower structure: Manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that

camouflage or conceal the presence of antennas or towers.

Antenna: *Any device used to transmit or receive electromagnetic signals for communication purposes, not to include satellite dishes used solely for home television purposes.*

Antenna support structure: Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmission or receipt of radio frequency energy.

Cell site: A tract or parcel of land that contains cellular communication antennae, their support structure, accessory buildings, and parking, and may include the other uses associated with an ancillary to cellular communication transmission.

Cellular service: A telecommunication service that permits customers to use wireless, mobile telephones to connect, via low power radio transmitter sites called cell sites, either to the public switched network or to other mobile cellular phones.

Cellular telecommunications: A commercial low power mobile radio service licensed by the Federal Communications Commission in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

Co-location: *Placement of wireless communication equipment by more than one provider on a single tower or other type of antenna support structure.*

Directional antenna: An antenna or array of antennae designed to concentrate a radio signal in a particular area.

Effective radiated power: (ERP) The product of the antenna power input and the numerically equal power output gain.

Enhanced specialized mobile radio: (ESMR) A specialized mobile radio network which utilizes integrated digital enhanced network.

EPA: *Environmental Protection Agency.*

FAA: *Federal Aviation Administration.*

FCC: *Federal Communications Commission.*

Governing body: *Shall mean the governing authority of the City of Leawood, Kansas.*

Guyed tower: *A wireless communication tower that is supported, in whole or in part, by guy wires and ground anchors.*

Interference: Disturbances in reception caused by intruding signals or electrical current.

Lattice tower: *A three or four sided tower constructed of open steel framing.*

License: The rights and obligations extended by the City to an operator to own, construct, maintain, and operate its system within the boundaries of the City for the sole purpose of providing services t persons or areas outside the City.

Low power telecom facility: An unmanned facility consisting of equipment for the reception, switching and/or receiving of wireless telecommunications operating at 1,000 watts or less effective radiated power (ERP), including but not limited to the following:

- Point-to-point microwave signals;
- Signals through FM radio translators;
- Signals through FM radio boosters under 10 watts ERP;
- Cellular, ESMR, and Personal Communication Services (Networks);
- Private low power mobile radio service.

Micro-cell: A low power mobile radio service telecommunications facility used to provide increased capacity in high call demand areas or to improve coverage in areas of weak coverage.

Microwave: Electromagnetic radiation with frequencies higher than 300 MHz; highly directional signal used to transmit radio frequencies from point to point at a relatively low power level.

Microwave antenna: A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

Monopole: *A wireless communication tower of single-pole design, constructed without support (guy) wires or anchors.*

Omnidirectional antenna: An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it is designed. (a.k.a. whip antenna).

Panel antenna: An antenna that transmits signals in specific directions, and are typically square or rectangular in shape.

Personal communications services (PCS): Digital wireless telephone technology such as portable phones, pagers, fax, and computers. Such mobile technology promises to allow each consumer to use the same telephone number wherever he or she goes. Also known as personal communications networks (PCN).

Public property: Any real property, easement, right-of-way, air space, or other interest in real estate owned by any governmental entity.

Repeater: A low power mobile radio service telecommunications facility that extends coverage of a cell to areas not covered by the originating cell.

Specialized Mobile Radio: A mobile radio which is utilized in conjunction with ESMR, which includes interconnect and dispatch services.

(Ground) support equipment: *Any cabinet, building, power source or other equipment constructed on the ground, and used to assist antennae in the generation or receipt of electromagnetic communication signals.*

Telecommunications: The transmission, between or among points as specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.

Tower: *A structure designed to support at least one or more communication antenna. This does not include structures owned and operated by amateur radio personnel licensed by the FCC.*

Tower height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the tower height.

Wireless communication facility: *Any complex, including tower, antennae, and ground support equipment, used for the transmission or receipt of electromagnetic communication signals.*

19) Television and amateur radio antennae exceeding district height limitations.

20) Reservoirs, towers, filter beds, or water treatment plants;

21) Riding stables and tracks;

22) Wastewater treatment plant;

23) Motor hotels, motels, hotels, and convention centers;

24) Buildings, structures, and premises for public utility services, or public service corporations;

25) Temporary use of land or building for commercial or industrial purposes, provided that any building or structure constructed thereon which is not otherwise permitted in the District in which such land is situated shall be temporary, and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall be valid for not more than 2 years but may be renewed after public hearing;

26) Assembly halls, community centers, philanthropic organizations;

27) Child care centers, family day care homes, preschools, nursery schools, Montessori schools, private kindergartens, day care homes and group day care homes; not to include group homes as defined herein.

28) Off-street parking lots or off-street parking structures of a temporary or permanent nature;

29) Group boarding home for minors or adults; not to include group homes as defined herein.

30) Private ambulance service;

31) Bed and breakfast;

32) Horse pasturing on lots of less than 3 acres in residential districts.

33) Temporary self contained health care suites located within an attached garage are intended to provide an "in home" physical care facility as a temporary alternative to a nursing home environment. It is not intended to provide long term care lodging for anyone that would be better served by a more permanent solution. Such permanent alternate solutions may require an alteration to the home, an addition onto the home, or off-site care by a health care institution. Such use is allowed as a special use provided the following conditions are met:

a) The suites are to be freestanding self contained units including independent heating and air conditioning units and plumbing systems.

b) Not more than 2 persons shall be housed in such suite provided said housing is necessitated by a physical impairment or health care need of one or both persons and said health care need is being met by occupant or occupants of the existing home. Said person(s) residing in such health care suite shall be either an occupant or a relative of the occupant of the home except in cases when an overnight health care provider is required.

c) A letter from a licensed doctor of medicine or osteopathy shall be submitted, along with the application for special use, verifying the need for such health care suite by the applicant or prospective resident of said suite.

d) Health care suites shall be limited to a maximum of 2 years duration. Such use may only be continued for 1 additional year and only after review and approval by the Plan Commission and Governing Body. Any amount of time beyond 3 years will require a permanent solution to be specified at the time the additional year is requested. Such solution shall be made a condition of approval if granted. At the end of the special use, the unit shall be removed and the garage restored to its former condition.

e) Any exterior modification of the home necessitated by the suite, such as the temporary removal of the garage door(s) to facilitate a private entry, windows, or heating or cooling units, shall be replaced with materials of an architectural likeness to the existing home. Samples of materials proposed to be used shall be submitted with the application for approval by the Plan Commission.

f) Additional written notification shall be required to the applicant's homes association and to all property owners within 200 feet of the applicant's property.

g) Because the installation of such health care suite temporarily removes the enclosed off-street parking spaces required by ordinance, the applicant shall submit an interim plan for dealing with off-street parking for the duration of the special use.

34) The Director of Planning may upon application by the proponent issue an Administrative Special Use Permit for the use of a specified parcel of land for such temporary short-term uses as trade shows, street fairs, expositions, promotional ventures, entertainment, seasonal sales, balloons, search lights, and tents, provided the following conditions are met:

a) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.

b) The applicant shall submit a site plan showing the location of any proposed structure.

c) The short-term special use shall not be operated longer than 10 consecutive days.

d) No more than 3 special event permits per calendar year shall be issued administratively at any location. Any additional permits may be granted by the Governing Body.

e) Upon the cessation of the short-term special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

f) Any structure used in conjunction with the special event shall be the subject of a valid building permit or tent permit.

g) The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.

h) The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces used by the event itself.

i) The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.

j) If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the Director of Planning deems the special use reasonable, the special use permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district.

k) Any applicant denied an Administrative Special Use Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the Governing Body.

35) House or structure relocation to a permanent site within the City Limits provided the following conditions can be met:

a) The house or structure shall be found to be compatible with the surrounding houses or structures and neighborhood including, but not limited to, size, design or general architecture, lot location, and lot size;

b) The structure be made habitable within 6 months of relocation;

c) The applicant shall conform to the provisions of Article 6. "Removal of Structures" of the Leawood City Code.

Section 2: Existing Section Repealed. That existing Section 4-3 of the "Amendment to Leawood Development Ordinance" is hereby repealed. (Prior law: Ordinance No. 1734)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 6th day of July, 1999.

Approved by the Mayor the 6th day of July, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler

ORDINANCE NO. 1804

AN ORDINANCE REZONING PROPERTY (MISSION VIEW SECOND PLAT, 12000 MISSION ROAD) FROM AG (AGRICULTURAL) TO R-1 (SINGLE FAMILY RESIDENTIAL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

21-13-25 N 330' S 990' E 735' NE 1/4 NE 1/4 5.58 Acres M/L

now zoned AG, is hereby rezoned R-1.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 21st day of June, 1999.

Approved by the Mayor the 21st day of June, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1804

Publication Fees: $18.32

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO 1804--6/22/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
June 23, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1804

First published in The Legal Record, Tuesday, June 22, 1999.

ORDINANCE NO. 1804

AN ORDINANCE REZONING PROPERTY (MISSION VIEW SECOND PLAT, 12000 MISSION ROAD) FROM AG (AGRICULTURAL) TO R-1 (SINGLE FAMILY RESIDENTIAL); DIRECTING AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF LEAWOOD, KANSAS; AND REINCORPORATING SAID ZONING MAP.

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

Section 1. Rezoning of Property. That the real estate hereinafter described, to wit:

21-13-25 N 330' S 990' E 735' NE 1/4 NE 1/4 5.58 Acres M/L

now zoned AG, is hereby rezoned R-1.

Section 2. Official Zoning Map Amended. That the Director of Planning and Development of the City of Leawood, Kansas, is hereby directed to amend the Official Zoning Map of the City in accordance with the above and foregoing changes in zoning.

Section 3. Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City as provided for and adopted pursuant to the provisions of Section 2-2 of the "Leawood Development Ordinance".

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 21st day of June, 1999.

Approved by the Mayor the 21st day of June, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

$18.32

ORDINANCE NO. 1803

AN ORDINANCE AMENDING SECTION 4-5 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE SIGN REGULATIONS; AND REPEALING EXISTING SECTION.

Be it ordained by the governing Body of the City of Leawood:

Section 1. Leawood Development Ordinance Amended. That Section 4-5 of the Leawood Development Ordinance, is hereby amended to read as follows:

4-5 SIGN REGULATIONS

4-5.1 Statement of Intent

The governing body finds that unregulated proliferation of signs results in visual clutter which is harmful to neighborhood aesthetics and property values and left uncontrolled promotes traffic hazards. The provisions of this section are to regulate and control all signs, both temporary and permanent, in the City of Leawood. It is the intent to limit visual clutter and reach a level of aesthetic quality by reducing disharmony in signage. It is further proposed to establish a sign identity and promote traffic safety for Leawood by limiting the size, type, location and materials of which signs may be constructed. This Ordinance is to protect the property values in the City by enhancing the physical appearance of the City. This Ordinance is to provide minimum standards to ensure traffic safety and to safeguard life, health, and property by regulating and controlling the size, height, design, quality of materials, construction, location, electrification, and maintenance of all signs and sign structure, and to authorize the use of signs which are compatible with their surroundings.

4-5.2 Applicability

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance.

More specifically this ordinance is intended to:

A) Establish a permit system to allow a limited variety of signs, subject to the standards and permit procedures of this ordinance;

B) Allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the requirements of this ordinance, but without a requirement for permits;

C) Prohibit all signs not expressly permitted by this ordinance;

D) Provide for the enforcement of the provisions of this ordinance.

4-5.3 Definitions

The following definitions shall be used in this section, unless the content otherwise indicates:

1. **Address Sign-** Any sign or set of numerals or letters which denotes a building's location with respect to streets or to those buildings around it.

2. **Animated Sign-** Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.
3. **Awning Sign-** Any visual message incorporated into an awning attached to a building.
4. **Banner-** Any sign that is made of cloth, paper, canvas, plastic, or other flexible material.
5. **Builder or Construction Sign-** Any sign located upon a lot where a structure is under construction and which contains information identifying the builder of the structure.
6. **Building Facade-** The exterior of a building which is the architectural front, lying between the ground level of a pedestrian walkway and the lowest level of the roof line.
7. **Canopy-** That portion of a building covering an entrance, exit, pedestrian walkway or loading dock.
8. **Canopy Sign-** A sign which is attached to or incorporated within the portion of a building covering an entrance, exit, pedestrian walkway or loading dock.
9. **Changeable Copy Sign-** A sign that is designed so that characters, letters, or illustrations can be changed or rearranged (either manually or automatically) without altering the face or the surface of the sign.
10. **Directional Sign-** An on-premise sign providing directional information for the safe and efficient flow of pedestrian or vehicular traffic. Directional signs shall include signs marking entrances, exits, parking and loading areas, and other operational features.
11. **Directory Sign-** Any structure summarizing businesses within a complex and identifying business locations.
12. **Double faced Sign-** A sign with two faces or panels, neither of which is visible at the same time, and are directly back to back.
13. **Eave-** The portion of a building wall that is directly at the roof line when no parapet is incorporated into that wall.
14. **Electronic Display Sign-** Any sign on which the copy changes automatically via a lamp-bank, liquid crystal display, television screen, or by any other mechanical, digital, or electronic means.
15. **Exposed Neon Sign-** Any sign which incorporates neon lit tubing on its exterior surface which makes it clearly visible to the naked eye.
16. **Flag-** Any fabric, plastic, or bunting containing distinctive colors, patterns, or symbols, used as an emblem of a government, political subdivision, or other entity.
17. **Flashing Sign-** Any sign which is internally or externally illuminated by flashing, flowing, alternating, or blinking lights.

18. **Freestanding Sign-** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
19. **Garage Sale Sign-** A sign placed upon a residential lot within the City which conveys information about the occurrence of a sale of household items upon residential property.
20. **Government Sign-** Any sign erected and maintained by the City, County, State, or Federal government.
21. **Height (of a sign)-** The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.
22. **Illegal Sign-** A sign which does not meet the requirements of this code and which has not received legal non-conforming status.
23. **Indirectly Illuminated Sign-** Any sign which is partially or completely illuminated at any time by a light source which is shielded so as not to be visible at eye level.
24. **Inflatable Sign-** Any sign designed or constructed with the ability to be mechanically filled with gas or any other material.
25. **Informational Sign-** Any sign (to include but not be limited to political campaign signs) which advertises a political party, personal belief, issue or candidate.
26. **Internally illuminated Sign-** Any sign illuminated by diffused light through a translucent material so that the light source is not directly discernible.
27. **Lease / For Rent Sign-** Any sign, located on residential, commercial, or *agricultural property, which advertises or identifies the parcel as being for lease or rent.*
28. **Light Pole Banner-** Any banner sign designed to hang from a utility pole that is securely attached with brackets such as the BannerFlex II system or other such equivalent device.
29. **Marquee Sign-** Any sign attached flat against or under the canopy of a building, but not on the upper surface of a canopy.
30. **Monument Sign-** A sign supported directly by the ground which is made of stone, concrete, metal, routed wood planks or beams, brick, or similar materials that is not connected to or joined with any other building or structure.
31. **Non-conforming Sign-** A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
32. **Off-site Sign-** Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is placed.
33. **Painted Wall Sign-** A sign which is applied with paint or colored substances directly on the face of a wall.
34. **Parapet-** That part of any wall entirely above the roof line.
35. **Permanent Sign-** Any wall, canopy, or monument sign which is constructed of durable materials and is intended to be displayed for an indefinite period of time.
36. **Pole Sign-** A sign that is elevated above ground and that exposes the "pole" or other support device or allows view through the space between the sign and the ground.

37. **Portable Sign-** Any sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, or any other structure or sign.
38. **Real Estate / Developer Sign-** A sign, located on either residential, commercial, or agricultural property, which advertises or identifies the parcel as being for sale.
39. **Roof Sign-** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
40. **Rotating Sign-** Any sign that revolves, spins, turns, or moves in any fashion.
41. **Temporary Sign-** Any sign that is used only for an interim period of time and is not permanently mounted.
42. **Time and Temperature Device-** A device or sign electronically displaying time and/or temperature information.
43. **Wall Sign-** Any sign attached flat against the surface of an exterior wall or facade of a building, but not projecting horizontally from the vertical wall surface more than 12 inches, which is supported by the wall and which displays only one sign surface.
44. **Window Sign-** Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

4-5.4 Prohibited Signs

All signs not expressly permitted within this Ordinance or exempted from regulation herein are prohibited in the city. Such signs include, but are not limited to:

A) Signs, which are attached to any tree, fence, branch, another sign, or utility pole except warning signs issued and properly posted by that utility company.

B) Signs other than those specifically allowed by this ordinance that are capable of being carried, wheeled or moved from one location to another.

C) Attention-attracting devices not specifically allowed by this ordinance.

D) Flashing or blinking signs.

E) Electronic graphic signs.

F) Strings of light bulbs except when used for decorative purposes during a holiday season and not in excess of 7 1/2 watts. Said strings of bulbs may not traverse street rights-of-way.

G) Roof signs.

H) Rotating signs.

I) Animated signs.

J) Digital readout signs.

K) Signs painted directly on exterior walls or surfaces.

L) Signs whose source of illumination are visible from off site.

M) Any sign not expressly permitted by this ordinance.

N) Any sign within the public right-of-way, or on other public property, not authorized by the governing body.

O) Any sign which displays obscene, indecent or immoral matter.

P) Pole signs.

Q) Any sign that blocks the clear sight triangle of an intersection.

4-5.5 Permits Required

A) Permits Required. Except as provided by this ordinance, or by other ordinance or resolution of the city, it shall be unlawful for any person to erect, construct, alter, relocate or convert any sign or other advertising structure as defined in this section, without first obtaining a sign permit from the Planning and Development Department and payment of the fee required. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with these regulations. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance in every respect and with the Sign Development Plan in effect for the property.

1) Applications for sign permits shall be made upon the forms provided by the Planning and Development Department.

2) Two sets of plans drawn to scale indicating the sign location on a site plan, sign size, method of illumination, colors, materials of the sign and method of attachment are required.

3) The applicant shall submit any other information deemed by the Director of Planning and Development to be necessary to enforce this section, the Leawood Development Ordinance, the City building code and all other applicable codes and ordinances.

B) Permit Fees. Every applicant, before being granted a permit, shall pay a fee as established by ordinance. For any sign erected without a permit, the fee shall be double the established fee.

C) Permit Issued If Application Is In Order. It shall be the duty of the Code Official, upon filing of an application for a sign permit, to review 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 provisions of the ordinance, he or she shall issue a sign permit.

D) Denial of Application For Sign Permit. If the Code Official determines that the proposed sign is not in compliance with all the requirements of this article and with 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 5-4.

4-5.6 Exemptions from Permit Requirements

Permits shall not be required for the following:

1) Any sign erected by the City, County, State or Federal government including street markers and traffic signs.

2) Any sign necessary for public safety erected by utility companies within their respective easements.

3) Any sign specifically required by the building codes, Leawood Development Ordinance or Subdivision Regulations of the City of Leawood.

4) Maintenance of signs.

5) Temporary signs not to exceed 5 square feet including but not limited to real estate "for sale" and rent/lease signs, informational signs, garage sale signs, and estate sale signs.

4-5.7 Design, Construction, and Maintenance

All signs shall be designed, constructed, and maintained in accordance with the following standards:

1) Except for flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or other structure.

2) All signs shall be maintained: a) in good structural condition; b) in compliance with all building and electrical codes; c) in conformance with this code, at all times.

3) No long-term temporary sign (to be used longer than 40 days) shall be constructed of any paper type products (including cardboard), and must be made of a durable material.

4-5.8 Abandoned or Unsafe Signs

1) Except as may be otherwise provided for in this section, any sign including its structure which is located on a building, structure or premises which becomes vacant and unoccupied for a period of 6 months or more, or any sign which pertains to time, event or purpose which no longer applies, shall be deemed to have been abandoned.

2) An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. In addition, the facade or place where the sign was attached shall be restored to its normal appearance.

3) If the sign has not been removed after the 6 month time period has elapsed, the City shall notify the property owner of record in writing that the sign shall be removed within 10 days after the date of the notice. If the sign has not been removed within the 10 days, the Director of Planning and Development may have the sign removed and have the costs of the removal assessed to the property owner.

4) The Planning and Development Department shall mail a statement of removal costs of said sign to the last known address of the owner of the property, and if such costs are not paid within 10 days, the Director of Planning and Development shall forward the bill to the county and shall be collected with the property taxes.

5) If the Director of Planning and Development shall find that any sign or other advertising structure regulated is unsafe, insecure, or a menace to the public, he or she may give either written or oral notice to the permittee. If the aforementioned sign was installed without a permit, the owner of the property shall be notified. If the permittee or owner fails to remove or alter the structure so as to comply with the standards set forth, within 48 hours after such notice, such sign or advertising structure may be removed, altered, or otherwise brought into compliance by the Director of Planning and Development at the expense of the permittee or owner of the property on which it is located.

4-5.9 Non-Conforming Signs

In the event a sign erected prior to 5/18/87 does not conform to the provisions and standards of the ordinance, then such sign(s) shall be modified to conform or be removed according to the following:

1) Nonconforming signs may only be replaced with conforming signs.

2) Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current value of the sign as of the date of alteration or repair.

3) In the event that the ordinance makes an existing sign nonconforming, the owner may apply within 6 months of the effective date of the ordinance for a permit to maintain said sign. No permit will be granted for a period longer than 7 years. If no permit is granted, the sign shall be deemed abandoned.

4) All nonconforming signs erected prior to 5/18/87 shall comply with these regulations by 5/18/94.

4-5.10 Sign Area Calculations

The following principles shall control the computation of sign area and sign height.

A) Computation of Area of Individual Signs. The area of single panel sign shall be measured within a single continuous perimeter enclosing the extreme limits of a sign panel, and in no case passing through or between any adjacent elements of the same; however, such perimeter shall not include structural elements or supports outside the limits of such sign and not forming an integral part of the display. The gross area of a sign composed of separate letters, symbols or words attached directly to an architectural facade shall be measured as the area enclosed by straight lines drawn closest to copy extremities encompassing individual symbols or words.

B) Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

C) Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the existing grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

D) Sign band. The area within a rectangle surrounding the actual message and not including the entire sign band unless illuminated. If the sign band is illuminated then (A) would apply.

E) Maximum area. A total of 200 square feet per sign is allowed for all permanent signage as shown on the schedule of sign regulations (4-5.14).

4-5.11 Office, Commercial and Industrial Signage in Planned Districts

The use of signs in the City of Leawood is intended to identify individual buildings or groups of buildings. The purpose of signs in a shopping center, office park, industrial park, hotel, motor hotel or other grouping of buildings is to identify the group of buildings. The purpose of Sign Development Standards within such a center is to develop orderly signage on a quality level equal to or exceeding that which governs individual structures in the City of Leawood, but permitting deviations from the standard regulations. The use of a planned sign concept is intended to encourage innovative and imaginative signage.

For purposes of this section the terms shopping center, business park, office park, industrial park or other grouping of buildings shall mean a project of two or more buildings with two or more tenants that has been planned as an integrated development or cluster on property under unified control or ownership at the time that zoning was approved by the City. No permit shall be issued for an individual sign requiring a permit unless and until Sign Development Standards have been submitted to and approved by the Plan Commission.

A) Sign Standards: The developer shall prepare a set of sign standards regulating all signage. Such standards shall run with all leases or sales of portions of the development. The sale, subdivision or other partition of the site after the zoning approval does not exempt the project or portions thereof from complying with these regulations relative to number of signs, harmony and visual quality of signs to be installed. The size, color, materials, styles of lettering, type of illumination and location shall be set out in such standards. Sign Development Standards are to be submitted as part of the Preliminary Site Development Plan. The Final Site Development Plan will also include the Sign Development Standards and be approved as part of the Final Site Development Plan. These standards may be revised by resubmitting them to the Plan Commission for approval.

Sign Development Standards for a Planned District shall maintain the following as conditions of approval and acceptance:

1) A proposal for a sign concept shall be subject to compliance with this ordinance.

2) The submittal by the developer and approval by the City of the sign concept represents a firm commitment by the developer that development will indeed follow the approved plans in such areas as location, size, type, color and materials of the signs.

3) The sign concept is to be planned and developed in a manner that will result in clear, readable, effective signage as determined by the Plan Commission and staff.

4) The developer may be given latitude in using innovative techniques in the development of sign concepts not feasible under application of standard zoning requirements.

5) The Sign Development Standards may be amended by the Plan Commission.

6) No permit shall be issued for an individual sign in a planned district unless and until Sign Development Standards for the development have been submitted to and approved by the Plan Commission.

B) Deviation From Requirements: Deviations in size, colors, location, number of signs, and illumination, may be approved by the Plan Commission if it is deemed that an equal or higher quality of development will be produced. The Plan Commission and Governing Body may, in the process of approving sign concepts, approve deviations from the standard requirements as follows, provided any deviation so approved shall be in keeping with the intent of the sign ordinance, shall be clearly set out in the minutes as well as on exhibits in the record, and provided that specific reasons justifying deviations are included in the record:

1) In commercial districts if private sign standards have been prepared by an owner in compliance with this section submitted and approved as part of the Final Site Plan, then the maximum of all wall, canopy, and window signs shall be 5% of the total area of the facade.

2) Directory Signs may be permitted that are scaled to pedestrian traffic.

4-5.12 General Conditions

1) It is the intent that real estate advertisements and signs within the City shall fairly and truthfully impart to the public accurate information in regard to the zoning classification of such land.

2) Any person, firm or corporation who shall make use of or place any real estate advertisements or signs which recite that real property is zoned for land uses, or will be zoned for land uses in the future, under the zoning rules and regulations of the City, when in fact such real estate is not so zoned, is guilty of a public offense.

3) It shall not be permitted for any person, firm or corporation to make use of or place advertisements or signs on real estate declaring that the property is reserved or is being held for future land use which is inconsistent with the then existing zoning classification of the City for the land, or any words of similar nature.

4) Any advertisements or signs placed in violation of this ordinance shall be confiscated by the Director of Planning and Development. The cost required for such confiscation to be assessed to the property owner.

5) No sign, except City installed signs, will be placed on public property or on a public right-of-way. For the purpose of this ordinance the right-of-way abutting private property shall be defined as five feet from the edge of the pavement or curb of the street. Such placement shall require the consent of the abutting private property owner.

6) No twirlers, flags, balloons or other paraphernalia shall be attached to any sign or displayed in conjunction with any sign unless the Director of Planning and Development determines that the display or attachment will not be contrary to the intent and purposes of this section and a permit specifically authorizing the display or attachment has been issued by the Director of Planning and Development.

7) Illuminated signs shall be either indirectly or semi-illuminated where the source of illumination cannot be detected by the human eye. Exposed incandescent bulbs and exposed fluorescent tubes are not permitted.

8) All signs shall be of sound structural quality, be maintained in good repair, and have a clean and neat appearance; and land adjacent shall be kept free from debris, weeds and trash. If signs are not being maintained as described and the Director of Planning and Development deems them a public safety hazard or nuisance, such signs shall be removed.

9) Each day a violation exists shall constitute a new violation.

10) In the event that a building has a curved wall, the area of the facade, for sign purposes, will be determined by drawing two lines perpendicular to the facade. This will then be considered as straight walls, with the area of this facade to be used in determining the size of the allowed signage.

11) Restriction of Placement. No person shall paint, mark or write on, or post or otherwise affix any sign to or upon any sidewalk, crosswalk, curb, curbstone, street lamppost, 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 sign or traffic sign.

12) Removal. Any sign which has been located in the public right-of-way contrary to the provisions of this section, shall be removed immediately by any officer of the City. The Director of Planning and Development may cause any sign, which is an immediate peril to persons or property to be removed summarily and without notice. Persons other than officers of the City that willfully remove any sign shall be guilty of violating this section of the ordinance. Such persons are subject to prosecution under Section 4-5.13.

13) Signs Not to Constitute Traffic Hazard. No sign regulated by this section shall be placed 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.

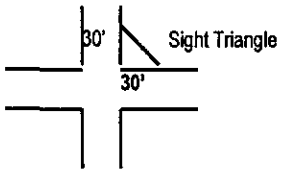
14) Face Of Sign Shall Be Smooth. All signs or other advertising structures shall have a smooth surface and no nails, tacks or wires shall be permitted to protrude therefrom.

15) Deed Restriction. No provision of this section 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 section.

16) Revocation of Permit. The Director of Planning and Development 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 section.

17) Clearance of sight triangle. No sign shall be placed in the sight triangle of any roadway corner. This sight triangle is to be defined as the area achieved by measuring 30 feet in both directions from the point of intersection, and connecting these two lines diagonally (See drawing).



4-5.13 Unlawful Signs

A) Prosecution For Violation. If the Director of Planning and Development 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 section or that any provision of this section* of the ordinance has been violated, 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 section. The Director of Planning and Development may, in his or her discretion, give oral or written *notice to the owner or occupant that unless the sign is removed within 48 hours of the* notice or that such activity violating this section of the ordinance cease immediately, a complaint will be filed alleging violation of this section. For purposes of this section, any owner of property shall be responsible for compliance with the provisions of this section and may be prosecuted for violation of this section if he or she permits or maintains a sign upon his or her property in violation of this section.

B) Appeals. Appeals from a decision of the Director of Planning and Development shall follow the procedures established with the Board of Zoning Appeals.

4-5.14: SCHEDULE OF SIGN REGULATIONS

Zoning District	Regulated Permanent Signs								
	Allowable Content	Maximum Area	Maximum Number	Structural Type	Height: Sign	Height: Letter	Lighting	Motion	Conditional Use Provision
	On-Site Signs								
Special Use Permit	Signs identifying public or semi-public uses	5% of building facade (Not to exceed 200 square feet total)	1	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None or indirect only	None	(Reserved)
		As approved by Plan Commission	1	Monument (Can be double faced)	As approved by Plan Commission		None or indirect only	None	(Reserved)
RP-A RPA-5 R-1 RP-1 RP-2 RP-3 RP-4	Signs identifying entrances of a subdivision or entry-way monumentation	As approved by Plan Commission	One (1) at each major entrance from an arterial or collector street	Monument (Can be double faced)	As approved by Plan Commission		None or indirect only	None	(Reserved)
CP-O SD-O SD-OH	Signs identifying commercial office buildings	Five percent (5%) of building facade (Not to exceed a total of 200 square feet per sign)	3	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None, indirect, or internally illuminated	None	(Reserved)
CP-1 CP-2 SD-CR SD-MARKET SQUARE	Signs identifying retail or service businesses	Five percent (5%) of building facade (Not to exceed 200 square feet per sign)	3	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None, indirect, or internally illuminated	None	(Reserved)
		50 square feet	None, However in lieu of one wall or canopy sign, 1 monument sign is permitted	Monument (Can be double faced)	6 feet	NA	None or indirect only	None	(Reserved)
	Directional Signs	6 square feet	2	Free-standing	3 feet	NA			
BP CP-O SD-O SD-OH	Signs identifying the entrances of a business or office park	50 square feet	As approved by Plan Commission	Monument (Can be double faced)	6 feet	NA	None or indirect only	None	(Reserved)
BP	Signs identifying business or commercial establishments within a business park	2 % of facade	1 per facade (maximum of 2 signs total)	Wall (For one wall sign, a detached monument sign may be substituted)	Below parapet	Max. 3' Letter	None or indirect only	None	(Reserved)
					(6 feet for monument)				
	Directional Signs	6 square feet	As approved	Free-standing	As approved				
PI	Signs identifying business or commercial establishments within an industrial park	2% of facade	1	Wall	Below parapet	Max. 3' Letter	None or indirect only	None	(Reserved)
		50 square feet	1	Monument	6 feet	NA			
	Directional Signs	6 square feet	As approved	Free-standing	As approved				

PERMITTED SIGNS BY TYPE AND DISTRICT

Permanent Sign Type	Zoning District													
	RP-A	RPA-5	R-1	RP-1	RP-2	RP-3	RP-4	CP-O	CP-1	CP-2	BP	PI	SD	AG
Address	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Animated														
Awning									A	A			A	
Banner								C	C	C			C	
Canopy								A	A	A			A	
Changeable Copy														
Directional								A	A	A	A	A	A	
Directory								A	A	A	A	A	A	
Electronic Display														
Exposed Neon									A	A			A	
Flags	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Flashing														
Government	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Marquee														
Monument	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Off-site	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Painted Wall														
Pole														
Light Pole Banner									A	A			A	
Portable														
Roof														
Rotating														
Time and Temp.														
Wall								A	A	A	A	A	A	
Window									C	C			C	

A = Allowed only with sign permit, pending approval by the Plan Commission
C = Conditionally permitted
R = Required
SUP = Allowed only with special use permit, pending approval by the Plan Commission
Blank Box = Prohibited

NUMBER, DIMENSION, LOCATION, AND DURATION OF TEMPORARY SIGNS

Temporary *Sign Type*		Number Allowed	Maximum Sign Area	Time Limit	Location	Zoning Districts
Banner*		One per building	50 square feet	Max. 4 banners per year; 15 days / banner; followed by Min. 15 day downtime.	Below eave or parapet wall	Allowed only within CP-O, CP-1, CP-2, and SD districts
Construction/ Builder *		One per site (Two sided considered as one sign)	16 square feet, with a height no greater than 6 feet	Must be removed immediately after project completion	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed within all zoning districts
Garage Sale		One per lot	5 square feet	72 hours from time of posting	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed only within RP-A, RPA-5, R-1 RP-1, RP-2, RP-3, and RP-4 districts
Inflatable		*Not Allowed*	*Not Allowed*	*Not Allowed*	*Not Allowed*	*Not Allowed*
Informational		Maximum of one per event, issue, candidate, or belief for any particular lot	5 square feet	Maximum of one allowed all year year long (However an unlimited number will be allowed 50 days or less prior to a public election to be held in the City of Leawood)	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed within all zoning districts
Lease/For Rent		One per site	5 square feet	Must be removed within 24 hours after sale or lease of property	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	
Real Estate:	Residential	One per site	5 square feet			All zoning districts
	Commercial / Agricultural/ Developer*	One per site (Two sided considered as one sign)	16 square feet, with a height no greater than 6 feet			Allowed within CP-O, CP-1, CP-2, SD, BP and AG districts
Window		Not applicable	Total of permanent and temporary signage not to exceed 10% of window area	Not Applicable	Not Applicable	Allowed only within CP-O, CP-1, CP-2, and SD districts

*** Permit Required. See the Leawood City Fee Schedule for applicable charges.**

Section 2. Existing Section Repealed. That existing Section 4-5 of the Leawood Development Ordinance is hereby repealed. (Prior Law: Ordinance 1689)

Section 3. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of June, 1999.

Approved by the Mayor the 7th day of June, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn Mayor

Attest:

Martha Heizer

Martha Heizer City Clerk

APPROVED FOR FORM:

R. S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD 1803

Publication Fees: $308.15

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE 1803--6/15/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

June 16, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$308.15

ORDINANCE NO. 1803

First published in The Legal Record, Tuesday, June 15, 1999.

ORDINANCE NO. 1803

AN ORDINANCE AMENDING SECTION 4-5 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE SIGN REGULATIONS; AND REPEALING EXISTING SECTION.

Be it ordained by the governing Body of the City of Leawood:

Section 1. Leawood Development Ordinance Amended. That Section 4-5 of the Leawood Development Ordinance, is hereby amended to read as follows:

4-5 SIGN REGULATIONS

4-5.1 Statement of Intent

The governing body finds that unregulated proliferation of signs results in visual clutter which is harmful to neighborhood aesthetics and property values and left uncontrolled promotes traffic hazards. The provisions of this section are to regulate and control all signs, both temporary and permanent, in the City of Leawood. It is the intent to limit visual clutter and reach a level of aesthetic quality by reducing disharmony in signage. It is further proposed to establish a sign identity and promote traffic safety for Leawood by limiting the size, type, location and materials of which signs may be constructed. This Ordinance is to protect the property values in the City by enhancing the physical appearance of the City. This Ordinance is to provide minimum standards to ensure traffic safety and to safeguard life, health, and property by regulating and controlling the size, height, design, quality of materials, construction, location, electrification, and maintanance of all signs and sign structure, and to authorize the use of signs which are compatible with their surroundings.

4-5.2 Applicability

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this ordinance.

More specifically this ordinance is intended to:

A) Establish a permit system to allow a limited variety of signs, subject to the standards and permit procedures of this ordinance;

B) Allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the requirements of this ordinance, but without a requirement for permits;

C) Prohibit all signs not expressly permitted by this ordinance;

D) Provide for the enforcement of the provisions of this ordinance.

4-5.3 Definitions

The following definitions shall be used in this section, unless the content otherwise indicates:

1. **Address Sign**- Any sign or set of numerals or letters which denotes a building's location with respect to streets or to those buildings around it.
2. **Animated Sign**- Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.
3. **Awning Sign**- Any visual message incorporated into an awning attached to a building.
4. **Banner**- Any sign that is made of cloth, paper, canvas, plastic, or other flexible material.
5. **Builder or Construction Sign**- Any sign located upon a lot where a structure is under construction and which contains information identifying the builder of the structure.
6. **Building Facade**- The exterior of a building which is the architectural front, lying between the ground level of a pedestrian walkway and the lowest level of the roof line.
7. **Canopy**- That portion of a building covering an entrance, exit, pedestrian walkway or loading dock.
8. **Canopy Sign**- A sign which is attached to or incorporated within the portion of a building covering an entrance, exit, pedestrian walkway or loading dock.
9. **Changeable Copy Sign**- A sign that is designed so that characters, letters, or illustrations can be changed or rearranged (either manually or automatically) without altering the face or the surface of the sign.
10. **Directional Sign**- An on-premise sign providing directional information for the safe and efficient flow of pedestrian or vehicular traffic. Directional signs shall include signs marking entrances, exits, parking and loading areas, and other operational features.
11. **Directory Sign**- Any structure summarizing businesses within a complex and identifying business locations.
12. **Double faced Sign**- A sign with two faces or panels, neither of which is visible at the same time, and are directly back to back.
13. **Eave**- The portion of a building wall that is directly at the roof line when no parapet is incorporated into that wall.
14. **Electronic Display Sign**- Any sign on which the copy changes automatically via a lamp-bank, liquid crystal display, television screen, or by any other mechanical, digital, or electronic means.
15. **Exposed Neon Sign**- Any sign which incorporates neon lit tubing on its exterior surface which makes it clearly visible to the naked eye.
16. **Flag**- Any fabric, plastic, or bunting containing distinctive colors, patterns, or symbols, used as an emblem of a government, political subdivision, or other entity.
17. **Flashing Sign**- Any sign which is internally or externally illuminated by flashing, flowing, alternating, or blinking lights.
18. **Freestanding Sign**- Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
19. **Garage Sale Sign**- A sign placed upon a residential lot within the City which conveys information about the occurrence of a sale of household items upon residential property.
20. **Government Sign**- Any sign erected and maintained by the City, County, State, or Federal government.
21. **Height (of a sign)**- The vertical distance measured from the highest point of the sign to the average ground grade beneath the sign.
22. **Illegal Sign**- A sign which does not meet the requirements of this code and which has not received legal non-conforming status.
23. **Indirectly Illuminated Sign**- Any sign which is partially or completely illuminated at any time by a light source which is shielded so as not to be visible at eye level.
24. **Inflatable Sign**- Any sign designed or constructed with the ability to be mechanically filled with gas or any other material.
25. **Informational Sign**- Any sign (to include but not be limited to political campaign signs) which advertises a political party, personal belief, issue or candidate.
26. **Internally Illuminated Sign**- Any sign illuminated by diffused light through a translucent material so that the light source is not directly discernible.
27. **Lease / For Rent Sign**- Any sign, located on residential, commercial, or agricultural property, which advertises or identifies the parcel as being for lease or rent.
28. **Light Pole Banner**- Any banner sign designed to hang from a utility pole that is securely attached with brackets such as the BannerFlex II system or other such equivalent device.
29. **Marquee Sign**- Any sign attached flat against or under the canopy of a building, but not on the upper surface of a canopy.
30. **Monument Sign**- A sign supported directly by the ground which is made of stone, concrete, metal, routed wood planks or beams, brick, or similar materials that is not connected to or joined with any other building or structure.
31. **Non-conforming Sign**- A sign which was erected legally, but which does not comply with subsequently enacted sign restrictions and regulations.
32. **Off-site Sign**- Any sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is placed.
33. **Painted Wall Sign**- A sign which is applied with paint or colored substances directly on the face of a wall.
34. **Parapet**- That part of any wall entirely above the roof line.
35. **Permanent Sign**- Any wall, canopy, or monument sign which is constructed of durable materials and is intended to be displayed for an indefinite period of time.
36. **Pole Sign**- A sign that is elevated above ground and that exposes the "pole" or other support device or allows view through the space between the sign and the ground.
37. **Portable Sign**- Any sign, whether on its own trailer, wheels, or otherwise designed to be movable and not structurally attached to the ground, a building, or any other structure or sign.
38. **Real Estate / Developer Sign**- A sign, located on either residential, commercial, or agricultural property, which advertises or identifies the parcel as being for sale.
39. **Roof Sign**- Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
40. **Rotating Sign**- Any sign that revolves, spins, turns, or moves in any fashion.
41. **Temporary Sign**- Any sign that is used only for an interim period of time and is not permanently mounted.
42. **Time and Temperature Device**- A device or sign electronically displaying time and/or temperature information.
43. **Wall Sign**- Any sign attached flat against the surface of an exterior wall or facade of a building, but not projecting horizontally from the vertical wall surface more than 12 inches, which is supported by the wall and which displays only one sign surface.
44. **Window Sign**- Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

4-5.4 Prohibited Signs

All signs not expressly permitted within this Ordinance or exempted from regulation herein are prohibited in the city. Such signs include, but are not limited to:

A) Signs, which are attached to any tree, fence, branch, another sign, or utility pole except warning signs issued and properly posted by that utility company.

B) Signs other than those specifically allowed by this ordinance that are capable of being carried, wheeled or moved from one location to another.

C) Attention-attracting devices not specifically allowed by this ordinance.

D) Flashing or blinking signs.

E) Electronic graphic signs.

F) Strings of light bulbs except when used for decorative purposes during a holiday season and not in excess of 7 1/2 watts. Said strings of bulbs may not traverse street rights-of-way.

G) Roof signs.

CONTINUED FROM PRECEDING PAGE

H) Rotating signs.

I) Animated signs.

J) Digital readout signs.

K) Signs painted directly on exterior walls or surfaces.

L) Signs whose source of illumination are visible from off site.

M) Any sign not expressly permitted by this ordinance.

N) Any sign within the public right-of-way, or on other public property, not authorized by the governing body.

O) Any sign which displays obscene, indecent or immoral matter.

P) Pole signs.

Q) Any sign that blocks the clear sight triangle of an intersection.

4-5.5 Permits Required

A) Permits Required. Except as provided by this ordinance, or by other ordinance or resolution of the city, it shall be unlawful for any person to erect, construct, alter, relocate or convert any sign or other advertising structure as defined in this section, without first obtaining a sign permit from the Planning and Development Department and payment of the fee required. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with these regulations. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this ordinance in every respect and with the Sign Development Plan in effect for the property.

1) Applications for sign permits shall be made upon the forms provided by the Planning and Development Department.

2) Two sets of plans drawn to scale indicating the sign location on a site plan, sign size, method of illumination, colors, materials of the sign and method of attachment are required.

3) The applicant shall submit any other information deemed by the Director of Planning and Development to be necessary to enforce this section, the Leawood Development Ordinance, the City building code and all other applicable codes and ordinances.

B) Permit Fees. Every applicant, before being granted a permit, shall pay a fee as established by ordinance. For any sign erected without a permit, the fee shall be double the established fee.

C) Permit Issued if Application Is In Order. It shall be the duty of the Code Official, upon filing of an application for a sign permit, to review 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 provisions of the ordinance, he or she shall issue a sign permit.

D) Denial of Application For Sign Permit. If the Code Official determines that the proposed sign is not in compliance with all the requirements of this article and with 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 5-4.

4-5.6 Exemptions from Permit Requirements

Permits shall not be required for the following:

1) Any sign erected by the City, County, State or Federal government including street markers and traffic signs.

2) Any sign necessary for public safety erected by utility companies within their respective easements.

3) Any sign specifically required by the building codes, Leawood Development Ordinance or Subdivision Regulations of the City of Leawood.

4) Maintenance of signs.

5) Temporary signs not to exceed 5 square feet including but not limited to real estate "for sale" and rent/lease signs, informational signs, garage sale signs, and estate sale signs.

4-5.7 Design, Construction, and Maintenance

All signs shall be designed, constructed, and maintained in accordance with the following standards:

1) Except for flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or other structure.

2) All signs shall be maintained: a) in good structural condition; b) in compliance with all building and electrical codes; c) in conformance with this code, at all times.

3) No long-term temporary sign (to be used longer than 40 days) shall be constructed of any paper type products (including cardboard), and must be made of a durable material.

4-5.8 Abandoned or Unsafe Signs

1) Except as may be otherwise provided for in this section, any sign including its structure which is located on a building, structure or premises which becomes vacant and unoccupied for a period of 6 months or more, or any sign which pertains to time, event or purpose which no longer applies, shall be deemed to have been abandoned.

2) An abandoned sign is prohibited and shall be removed by the owner of the sign or the owner of the premises. In addition, the facade or place where the sign was attached shall be restored to its normal appearance.

3) If the sign has not been removed after the 6 month time period has elapsed, the City shall notify the property owner of record in writing that the sign shall be removed within 10 days after the date of the notice. If the sign has not been removed within the 10 days, the Director of Planning and Development may have the sign removed and have the costs of the removal assessed to the property owner.

4) The Planning and Development Department shall mail a statement of removal costs of said sign to the last known address of the owner of the property, and if such costs are not paid within 10 days, the Director of Planning and Development shall forward the bill to the county and shall be collected with the property taxes.

5) If the Director of Planning and Development shall find that any sign or other advertising structure regulated is unsafe, insecure, or a menace to the public, he or she may give either written or oral notice to the permittee. If the aforementioned sign was installed without a permit, the owner of the property shall be notified. If the permittee or owner fails to remove or alter the structure so as to comply with the standards set forth, within 48 hours after such notice, such sign or advertising structure may be removed, altered, or otherwise brought into compliance by the Director of Planning and Development at the expense of the permittee or owner of the property on which it is located.

4-5.9 Non-Conforming Signs

In the event a sign erected prior to 5/18/87 does not conform to the provisions and standards of the ordinance, then such sign(s) shall be modified to conform or be removed according to the following:

1) Nonconforming signs may only be replaced with conforming signs.

2) Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current value of the sign as of the date of alteration or repair.

3) In the event that the ordinance makes an existing sign nonconforming, the owner may apply within 6 months of the effective date of the ordinance for a permit to maintain said sign. No permit will be granted for a period longer than 7 years. If no permit is granted, the sign shall be deemed abandoned.

4) All nonconforming signs erected prior to 5/18/87 shall comply with these regulations by 5/18/94.

4-5.10 Sign Area Calculations

The following principles shall control the computation of sign area and sign height.

CONTINUED FROM PRECEDING PAGE

A) Computation of Area of Individual Signs. The area of single panel sign shall be measured within a single continuous perimeter enclosing the extreme limits of a sign panel, and in no case passing through or between any adjacent elements of the same; however, such perimeter shall not include structural elements or supports outside the limits of such sign and not forming an integral part of the display. The gross area of a sign composed of separate letters, symbols or words attached directly to an architectural facade shall be measured as the area enclosed by straight lines drawn closest to copy extremities encompassing individual symbols or words.

B) Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than 42 inches apart, the sign area shall be computed by the measurement of one of the faces.

C) Computation of Height. The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the existing grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.

D) Sign band. The area within a rectangle surrounding the actual message and not including the entire sign band unless illuminated. If the sign band is illuminated then (A) would apply.

E) Maximum area. A total of 200 square feet per sign is allowed for all permanent signage as shown on the schedule of sign regulations (4-5.14).

4-5.11 Office, Commercial and Industrial Signage in Planned Districts

The use of signs in the City of Leawood is intended to identify individual buildings or groups of buildings. The purpose of signs in a shopping center, office park, industrial park, hotel, motor hotel or other grouping of buildings is to identify the group of buildings. The purpose of Sign Development Standards within such a center is to develop orderly signage on a quality level equal to or exceeding that which governs individual structures in the City of Leawood, but permitting deviations from the standard regulations. The use of a planned sign concept is intended to encourage innovative and imaginative signage.
For purposes of this section the terms shopping center, business park, office park, industrial park or other grouping of buildings shall mean a project of two or more buildings with two or more tenants that has been planned as an integrated development or cluster on property under unified control or ownership at the time that zoning was approved by the City. No permit shall be issued for an individual sign requiring a permit unless and until Sign Development Standards have been submitted to and approved by the Plan Commission.

A) Sign Standards: The developer shall prepare a set of sign standards regulating all signage. Such standards shall run with all leases or sales of portions of the development. The sale, subdivision or other partition of the site after the zoning approval does not exempt the project or portions thereof from complying with these regulations relative to number of signs, harmony and visual quality of signs to be installed. The size, color, materials, styles of lettering, type of illumination and location shall be set out in such standards. Sign Development Standards are to be submitted as part of the Preliminary Site Development Plan. The Final Site Development Plan will also include the Sign Development Standards and be approved as part of the Final Site Development Plan. These standards may be revised by resubmitting them to the Plan Commission for approval.

Sign Development Standards for a Planned District shall maintain the following as conditions of approval and acceptance:

1) A proposal for a sign concept shall be subject to compliance with this ordinance.

2) The submittal by the developer and approval by the City of the sign concept represents a firm commitment by the developer that development will indeed follow the approved plans in such areas as location, size, type, color and materials of the signs.

3) The sign concept is to be planned and developed in a manner that will result in clear, readable, effective signage as determined by the Plan Commission and staff.

4) The developer may be given latitude in using innovative techniques in the development of sign concepts not feasible under application of standard zoning requirements.

5) The Sign Development Standards may be amended by the Plan Commission.

6) No permit shall be issued for an individual sign in a planned district unless and until Sign Development Standards for the development have been submitted to and approved by the Plan Commission.

B) Deviation From Requirements: Deviations in size, colors, location, number of signs, and illumination, may be approved by the Plan Commission if it is deemed that an equal or higher quality of development will be produced. The Plan Commission and Governing Body may, in the process of approving sign concepts, approve deviations from the standard requirements as follows, provided any deviation so approved shall be in keeping with the intent of the sign ordinance, shall be clearly set out in the minutes as well as on exhibits in the record, and provided that specific reasons justifying deviations are included in the record:

1) In commercial districts if private sign standards have been prepared by an owner in compliance with this section submitted and approved as part of the Final Site Plan, then the maximum of all wall, canopy, and window signs shall be 5% of the total area of the facade.

2) Directory Signs may be permitted that are scaled to pedestrian traffic.

4-5.12 General Conditions

1) It is the intent that real estate advertisements and signs within the City shall fairly and truthfully impart to the public accurate information in regard to the zoning classification of such land.

2) Any person, firm or corporation who shall make use of or place any real estate advertisements or signs which recite that real property is zoned for land uses, or will be zoned for land uses in the future, under the zoning rules and regulations of the City, when in fact such real estate is not so zoned, is guilty of a public offense.

3) It shall not be permitted for any person, firm or corporation to make use of or place advertisements or signs on real estate declaring that the property is reserved or is being held for future land use which is inconsistent with the then existing zoning classification of the City for the land, or any words of similar nature.

4) Any advertisements or signs placed in violation of this ordinance shall be confiscated by the Director of Planning and Development. The cost required for such confiscation to be assessed to the property owner.

5) No sign, except City installed signs, will be placed on public property or on a public right-of-way. For the purpose of this ordinance the right-of-way abutting private property shall be defined as five feet from the edge of the pavement or curb of the street. Such placement shall require the consent of the abutting private property owner.

6) No twirlers, flags, balloons or other paraphernalia shall be attached to any sign or displayed in conjunction with any sign unless the Director of Planning and Development determines that the display or attachment will not be contrary to the intent and purposes of this section and a permit specifically authorizing the display or attachment has been issued by the Director of Planning and Development.

7) Illuminated signs shall be either indirectly or semi-illuminated where the source of illumination cannot be detected by the human eye. Exposed incandescent bulbs and exposed fluorescent tubes are not permitted.

8) All signs shall be of sound structural quality, be maintained in good repair, and have a clean and neat appearance; and land adjacent shall be kept free from debris, weeds and trash. If signs are not being maintained as described and the Director of Planning and Development deems them a public safety hazard or nuisance, such signs shall be removed.

CONTINUED FROM PRECEDING PAGE

9) Each day a violation exists shall constitute a new violation.

10) In the event that a building has a curved wall, the area of the facade, for sign purposes, will be determined by drawing two lines perpendicular to the facade. This will then be considered as straight walls, with the area of this facade to be used in determining the size of the allowed signage.

11) Restriction of Placement. No person shall paint, mark or write on, or post or otherwise affix any sign to or upon any sidewalk, crosswalk, curb, curbstone, street lamppost, 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 sign or traffic sign.

12) Removal. Any sign which has been located in the public right-of-way contrary to the provisions of this section, shall be removed immediately by any officer of the City. The Director of Planning and Development may cause any sign, which is an immediate peril to persons or property to be removed summarily and without notice. Persons other than officers of the City that willfully remove any sign shall be guilty of violating this section of the ordinance. Such persons are subject to prosecution under Section 4-5.13.

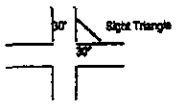
13) Signs Not to Constitute Traffic Hazard. No sign regulated by this section shall be placed at the intersection of any street in such a manner as to obstruct free and clear vision; or any location where, by reason of the position, shape or color, the sign may interfere with, obstruct the view of, or 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.

14) 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.

15) Deed Restriction. No provision of this section 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 section.

16) Revocation of Permit. The Director of Planning and Development 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 section.

17) Clearance of sight triangle. No sign shall be placed in the sight triangle of any roadway corner. This sight triangle is to be defined as the area achieved by measuring 30 feet in both directions from the point of intersection, and connecting these two lines diagonally (See drawing).



4-5.13 Unlawful Signs

A) Prosecution For Violation. If the Director of Planning and Development 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 section or that any provision of this section of the ordinance has been violated, 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 section. The Director of Planning and Development may, in his or her discretion, give oral or written notice to the owner or occupant that unless the sign is removed within 48 hours of the notice or that such activity violating this section of the ordinance cease immediately, a complaint will be filed alleging violation of this section. For purposes of this section, any owner of property shall be responsible for compliance with the provisions of this section and may be prosecuted for violation of this section if he or she permits or maintains a sign upon his or her property in violation of this section.

B) Appeals. Appeals from a decision of the Director of Planning and Development shall follow the procedures established with the Board of Zoning Appeals.

4-5.14 Schedule of Sign Regulations

(See Following Charts.)

4-5.14: SCHEDULE OF SIGN REGULATIONS

Zoning District	Regulated Permanent Signs								
	Allowable Content	Maximum Area	Maximum Number	Structural Type	Height: Sign	Height: Letter	Lighting	Motion	Conditional Use Provision
	On-Site Signs								
Special Use Permit	Signs identifying public or semi-public uses	6% of building facade (Not to exceed 200 square feet total)	1	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None or indirect only	None	(Reserved)
		As approved by Plan Commission	1	Monument (Can be double faced)	As approved by Plan Commission		None or indirect only	None	(Reserved)
RP-A RPA-5 R-1 RP-1 RP-2 RP-3 RP-4	Signs identifying entrances of a subdivision or entry-way monumentation	As approved by Plan Commission	One (1) at each major entrance from an arterial or collector street	Monument (Can be double faced)	As approved by Plan Commission		None or indirect only	None	(Reserved)
CP-O SD-O SD-OH	Signs identifying commercial office buildings	Five percent (5%) of building facade (Not to exceed a total of 200 square feet per sign)	3	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None, indirect, or internally illuminated	None	(Reserved)
CP-1 CP-2 SD-CR SD-MARKET SQUARE	Signs identifying retail or service businesses	Five percent (5%) of building facade (Not to exceed 200 square feet per sign)	3	Wall or Canopy, Located below eave or parapet	NA	Max. 3 foot Letter	None, indirect, or internally illuminated	None	(Reserved)
		50 square feet	None, however, in lieu of one wall or canopy sign, 1 monument sign is permitted	Monument (Can be double faced)	6 feet	NA	None or indirect only	None	(Reserved)
	Directional Signs	8 square feet	2	Free-standing	3 feet	NA			
BP CP-O SD-O SD-OH	Signs identifying the entrances of a business or office park	60 square feet	As approved by Plan Commission	Monument (Can be double faced)	6 feet	NA	None or indirect only	None	(Reserved)
BP	Signs identifying business or commercial establishments within a business park	2 % of facade	1 per facade (maximum of 2 signs total)	Wall [For one wall sign, a detached monument sign may be substituted]	Below parapet (6 feet for monument)	Max. 3' Letter	None or indirect only	None	(Reserved)
	Directional Signs	8 square feet	As approved	Free-standing	As approved				
PI	Signs identifying business or commercial establishments within an industrial park	2% of facade	1	Wall	Below parapet	Max. 3' Letter	None or indirect only	None	(Reserved)
		50 square feet	1	Monument	6 feet	NA			
	Directional Signs	8 square feet	As approved	Free-standing	As approved				

PERMITTED SIGNS BY TYPE AND DISTRICT

Permanent Sign Type	Zoning District: RP-A	RPA-5	R-1	RP-1	RP-2	RP-3	RP-4	CP-O	CP-1	CP-2	BP	PI	SD	AG
Address	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Animated														
Awning									A	A			A	
Banner								C	C	C			C	
Canopy								A	A	A			A	
Changeable Copy														
Directional								A	A	A	A	A	A	
Directory								A	A	A	A	A	A	
Electronic Display														
Exposed Neon									A	A			A	
Flags	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Flashing														
Government	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Marquee														
Monument	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Off-site	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Painted Wall														
Pole														
Light Pole Banner									A	A			A	
Portable														
Roof														
Rotating														
Time and Temp.														
Wall								A	A	A	A	A	A	
Window									C	C			C	

A = Allowed only with sign permit, pending approval by the Plan Commission
C = Conditionally permitted
R = Required
SUP = Allowed only with special use permit, pending approval by the Plan Commission
Blank Box = Prohibited

CONTINUED ON NEXT PAGE

NUMBER, DIMENSION, LOCATION, AND DURATION OF TEMPORARY SIGNS

Temporary Sign Type	Number Allowed	Maximum Sign Area	Time Limit	Location	Zoning Districts
Banner*	One per building	50 square feet	Max. 4 banners per year; 15 days / banner; followed by Min. 15 day downtime.	Below eave or parapet wall	Allowed only within CP-O, CP-1, CP-2, and SD districts
Construction/ Builder*	One per site (Two sided considered as one sign)	16 square feet, with a height no greater than 8 feet	Must be removed immediately after project completion	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed within all zoning districts
Garage Sale	One per lot	5 square feet	72 hours from time of posting	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed only within RP-A, RPA-5, R-1 RP-1, RP-2, RP-3, and RP-4 districts
Inflatable	*Not Allowed*	*Not Allowed*	*Not Allowed*	*Not Allowed*	*Not Allowed*
Informational	Maximum of one per event, issue, candidate, or belief for any particular lot	5 square feet	Maximum of one allowed at year year long (however an unlimited number will be allowed 30 days or less prior to a public election to be held in the City of Leawood)	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	Allowed within all zoning districts
Lease/For Rent	One per site	5 square feet	Must be removed within 24 hours after sale or lease of property	No sign shall be placed closer than 5 feet to the edge of the pavement or curb of the street	All zoning districts
Real Estate: Residential	One per site	5 square feet			
Real Estate: Commercial / Agricultural/ Developer*	One per site (Two sided considered as one sign)	16 square feet, with a height no greater than 6 feet			Allowed within CP-O, CP-1, CP-2, SD, BP and AG districts
Window	Not applicable	Total of permanent and temporary signage not to exceed 10% of window area	Not Applicable	Not Applicable	Allowed only within CP-O, CP-1, CP-2, and SD districts

* Permit Required. See the Leawood City Fee Schedule for applicable charges.

Section 2. Existing Section Repealed. That existing Section 4-6 of the Leawood Development Ordinance is hereby repealed. (Prior Law: Ordinance 1689)

Section 3. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 7th day of June, 1999.

Approved by the Mayor the 7th day of June, 1999.

(SEAL)

Peggy J. Dunn
Peggy J. Dunn — Mayor

Attest:

Martha Helzer
Martha Helzer — City Clerk

APPROVED FOR FORM:

R. S. Wetzler — City Attorney

ORDINANCE NO. 1802 C

AN ORDINANCE AMENDING SECTION 14-301 AND 14-302 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PARKING OF CERTAIN VEHICLES WITHIN THE CITY OF LEAWOOD.

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

Section 1. **Code Amended.** That Sections 14-301 and 14-302 of the Code of the City of Leawood are hereby amended to read as follows:

14-301. DEFINITIONS. For the purpose of this Article, the following words shall have the following meaning:

(a) Truck. Any self-propelled motor vehicle with a manufacturer's weight rating of one ton or more, including but not limited to, vehicles designed for or used for the transportation or delivery of freight or merchandise.

(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 rating 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 rating of 3,000 pounds per axle.

14-302. PARKING OF TRUCKS, BUSES, AND TRAILERS; EXEMPTIONS.

(a) Parking of certain vehicles prohibited. No persons 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 or commercial 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 by the Leawood Development Ordinance.

(b) Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"NOTICE
Pursuant to Section 14-302 (b) of the Code of the City of Leawood, Kansas no trucks carrying a manufacturer's weight rating of one ton or more may be parked on this lot except for the expressed purpose of loading or unloading goods or merchandise for tenants. Violators will be towed at the vehicle owner's expense and be subject to a fine."

Then such private property shall be deemed to be under the traffic regulation of the city as provided by law and it shall be unlawful for any person to park a truck, bus or trailer upon said property in any manner that is contrary to the laws of the City of Leawood or contrary to said posted sign.

(c) Exempt vehicles. City owned and operated vehicles; service vehicles owned by utility companies while in the process of providing services or maintenance; construction vehicles while being used in connection with construction or maintenance authorized by the City and vehicles exceeding a manufacturers weight rating of one ton when parked in designated loading and unloading areas, are hereby exempt from the provisions of this Ordinance.

Section 2. Repeal of Existing Sections That existing Sections 14-301 and 14-302 of the Code of the City of Leawood are hereby repealed. (Prior law: Ord. No. 1771 C)

Section 3. Validity of Ordinance. That 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 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999

Approved by the Mayor the 17th day of May, 1999

(S E A L)

Peggy Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM:

R.S. Wetzler — City Attorney

ORD1802C

Publication Fees: $29.48

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1802 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 18, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$29.48

ORDINANCE NO. 1802 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1802 C

AN ORDINANCE AMENDING SECTION 14-301 AND 14-302 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PARKING OF CERTAIN VEHICLES WITHIN THE CITY OF LEAWOOD.

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

Section 1. Code Amended. That Sections 14-301 and 14-302 of the Code of the City of Leawood are hereby amended to read as follows:

14-301. DEFINITIONS. For the purpose of this Article, the following words shall have the following meaning:

(a) Truck. Any self-propelled motor vehicle with a manufacturer's weight rating of one ton or more, including but not limited to, vehicles designed for or used for the transportation or delivery of freight or merchandise.

(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 rating 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 rating of 3,000 pounds per axle.

14-302. PARKING OF TRUCKS, BUSES, AND TRAILERS; EXEMPTIONS.

(a) Parking of certain vehicles prohibited. No persons 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 or commercial 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 by the Leawood Development Ordinance.

(b) Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"NOTICE

Pursuant to Section 14-302 (b) of the Code of the City of Leawood, Kansas no trucks carrying a manufacturer's weight rating of one ton or more may be parked on this lot except for the expressed purpose of loading or unloading goods or merchandise for tenants. Violators will be towed at the vehicle owner's expense and be subject to a fine."

Then such private property shall be deemed to be under the traffic regulation of the city as provided by law and it shall be unlawful for any person to park a truck, bus or trailer upon said property in any manner that is contrary to the laws of the City of Leawood or contrary to said posted sign.

(c) Exempt vehicles. City owned and operated vehicles; service vehicles owned by utility companies while in the process of providing services or maintenance; construction vehicles while being used in connection with construction or maintenance authorized by the City and vehicles exceeding a manufacturers weight rating of one ton when parked in designated loading and unloading areas, are hereby exempt from the provisions of this Ordinance.

Section 2. Repeal of Existing Sections. That existing Sections 14-301 and 14-302 of the Code of the City of Leawood are hereby repealed. (Prior law: Ord. No. 1771 C)

Section 3. Validity of Ordinance. That 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 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999

Approved by the Mayor the 17th day of May, 1999

(SEAL)

Peggy Dunn
Mayor

Attest:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

R.S. Wetzler
City Attorney

ORDINANCE NO. 1801 C

AN ORDINANCE AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR VIOLATIONS OF LOCAL TRAFFIC REGULATIONS.

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

Section 1. Code Amended. That Section 14-201 of the Code of the City of Leawood is hereby amended to read as follows:

14-201. PENALTIES. Unless otherwise specified, the penalties for violation of any provision of this article will be the same as set out in Section 201 (d) of the "Standard Traffic Ordinance for Kansas Cities", 1998 Edition, as incorporated by reference by Section 14-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 14-201 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1613 C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999

Approved by the Mayor the 17th day of May, 1999

(S E A L)

Peggy Dunn

Peggy Dunn Mayor

Attest:

Martha Heizer

Martha Heizer City Clerk

APPROVED AS TO FORM:

R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1801C

Publication Fees: $13.34

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1801 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 19, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1801 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1801 C

AN ORDINANCE AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR VIOLATIONS OF LOCAL TRAFFIC REGULATIONS.

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

Section 1. Code Amended. That Section 14-201 of the Code of the City of Leawood is hereby amended to read as follows:

14-201. PENALTIES. Unless otherwise specified, the penalties for violation of any provision of this article will be the same as set out in Section 201 (d) of the "Standard Traffic Ordinance for Kansas Cities", 1998 Edition, as incorporated by reference by Section 14-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 14-201 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1613 C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999

Approved by the Mayor the 17th day of May, 1999

(SEAL)

Peggy Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM:

R.S. Wetzler — City Attorney

$13.34

ORDINANCE NO. 1800 C

AN ORDINANCE ADOPTING THE 1998 EDITION OF THE "STANDARD TRAFFIC ORDINANCE".

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

Section 1. Code Amended. That Article 1 of the Chapter 14 ("Traffic") of the Code of the City of Leawood is hereby amended to read as follows:

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING "STANDARD TRAFFIC ORDINANCE". There is hereby 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 1998, 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. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

14-102. SAME; AMENDMENT. Section 33 (Article 7) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires a 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 park under the jurisdiction of this city.

(2) 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.

(3) 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.

14-103. SAME. Section 68 (Article 11) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

14-104. SAME. Section 136 (Article 15) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted.

(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.

(2) operate such a device on any public tennis court.

(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

NOTICE

Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, rollerblades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25.00 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
(c) Any person found guilty of a violation of this section shall be fined $25.00.

14-105 Traffic Regulations on Private Property. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"TRAFFIC REGULATIONS OF THE CITY OF LEAWOOD
ENFORCED ON THIS PROPERTY. SPEED LIMIT 15 M.P.H." (or as posted.)

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

14-106 TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic infractions which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

14-107 PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than $10 nor more than $500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.

Section 2. Repeal of Existing Article. That existing Article 1 of Chapter 14 (Sections 14-101:105) of the Code of the City of Leawood is hereby repealed. (Prior law: Sections 14-101:104, Ord. No. 1612 C and Section 14-105, Ord. No. 1771C)
Section 3. Validity of Ordinance. That 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 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(SEAL)

Peggy Dunn

Peggy Dunn Mayor

ORD1800C

Publication Fees: $55.92

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1800 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 19, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$55.92

ORDINANCE NO. 1800 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1800 C

AN ORDINANCE ADOPTING THE 1998 EDITION OF THE "STANDARD TRAFFIC ORDINANCE".

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

Section 1. Code Amended. That Article 1 of the Chapter 14 ("Traffic") of the Code of the City of Leawood is hereby amended to read as follows:

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING "STANDARD TRAFFIC ORDINANCE". There is hereby 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 1998, 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. The police department, municipal judge and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient.

14-102. SAME; AMENDMENT. Section 33 (Article 7) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires a 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 park under the jurisdiction of this city.
(2) 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.
(3) 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.

14-103. SAME. Section 68 (Article 11) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.
(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.
(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.
(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

14-104. SAME. Section 136 (Article 16) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted.

(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.
(2) operate such a device on any public tennis court.
(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

NOTICE

Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, rollerblades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25.00 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
(c) Any person found guilty of a violation of this section shall be fined $25.00.

14-105 Traffic Regulations on Private Property. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"TRAFFIC REGULATIONS OF THE CITY OF LEAWOOD
ENFORCED ON THIS PROPERTY. SPEED LIMIT 15 M.P.H." (or as posted.)

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

14-106 TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic infractions which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

14-107 PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than $10 nor more than $500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.

Section 2. Repeal of Existing Article. That existing Article 1 of Chapter 14 (Sections 14-101:105) of the Code of the City of Leawood is hereby repealed. (Prior law: Sections 14-101:104, Ord. No. 1612 C and Section 14-105, Ord. No. 1771C)

Section 3. Validity of Ordinance. That 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 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(SEAL)

Peggy J. Dunn
Peggy Dunn — Mayor

Attest:

Martha Heizer
Martha Heizer — City Clerk

APPROVED AS TO FORM:

R.S. Welzler
City Attorney

ORDINANCE NO. 1799 C

AN ORDINANCE AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR DRUG OFFENSES.

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

Section 1. Code Amended. That Section 11-606 of the Code of the City of Leawood is hereby amended to read as follows:

11-606. PENALTIES. A violation of any provision of this Article shall be punishable as a Class A violation as defined by the "Uniform Public Offense Code for Kansas Cities", 1998 Edition, as incorporated by reference by Section 11-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 11-606 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1616 C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(SEAL)

Peggy Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM: R.S. Wetzler — City Attorney

ORD1799C

Publication Fees: $13.34

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1799 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 19, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1799 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1799 C

AN ORDINANCE AMENDING SECTION 11-606 OF THE CODE OF THE CITY OF LEAWOOD *RELATING TO PENALTIES FOR DRUG OFFENSES.*

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

Section 1. Code Amended. That Section 11-606 of the Code of the City of Leawood is hereby amended to read as follows:

11-606. PENALTIES. A violation of any provision of this Article shall be punishable as a Class A violation as defined by the "Uniform Public Offense Code for Kansas Cities", 1998 Edition, as incorporated by reference by Section 11-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 11-606 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1616 C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(SEAL)

Peggy Dunn — Mayor

Attest:

Martha Helzer — City Clerk

APPROVED AS TO FORM:

B.S. Wetzler — City Attorney

$13.34

ORDINANCE NO. 1798 C

AN ORDINANCE AMENDING SECTION 11-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR LOCAL PUBLIC OFFENSE VIOLATIONS.

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

Section 1. Code Amended. That Section 11-201 of the Code of the City of Leawood is hereby amended to read as follows:

11-201. PENALTIES. Unless otherwise specified, the penalties for violation of any of the following sections will be classified in the manner set out in Article 12 of the "Uniform Public Offense Code for Kansas Cities:, 1998 Edition, as incorporated by reference by Section 11-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 11-201 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1615C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(S E A L)

Peggy Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED AS TO FORM:

R.S. Wetzler City Attorney

ORD1798C

Publication Fees: $13.34

The Legal Record

Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1798 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 19, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1798 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1798 C

AN ORDINANCE AMENDING SECTION 11-201 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO PENALTIES FOR LOCAL PUBLIC OFFENSE VIOLATIONS.

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

Section 1. Code Amended. That Section 11-201 of the Code of the City of Leawood is hereby amended to read as follows:

11-201. PENALTIES. Unless otherwise specified, the penalties for violation of any of the following sections will be classified in the manner set out in Article 12 of the "Uniform Public Offense Code for Kansas Cities:, 1998 Edition, as incorporated by reference by Section 11-101 of this Chapter.

Section 2. Repeal of Existing Section. That existing Section 11-201 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1615C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(SEAL)

Peggy Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM: R.S. Wetzler — City Attorney

$13.34

ORDINANCE NO. 1797 C

AN ORDINANCE ADOPTING THE 1998 EDITION OF THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES".

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

Section 1. Code Amended. That Article 1 of Chapter 11 ("Public Offenses") of the Code of the City of Leawood is hereby amended to read as follows:

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. UNIFORM CODE INCORPORATED. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Leawood, Kansas, that certain code known as the "Uniform Public Offense Code for Kansas Cities", 1998 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. _____,." 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.

11-102. SAME; AMENDMENT. Section 3.1 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

3.1 BATTERY.
(a) Battery is:
(1) Intentionally or recklessly causing bodily harm to another person; or
(2) Intentionally causing physical contact with another person when done in a rude, insulting or angry manner.

Battery is a Class B violation.

11-103. SAME; AMENDMENT. Section 6.16 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

6.16. 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.
(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:
(1) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge as established and in effect by adoption of the annual City fee resolution, 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; or

(2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(c) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) Was given to a payee who had knowledge or had been informed, when the payee accepted the 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, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds. (K.S.A. Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than $500 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute.

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. CRIMINAL USE OF WEAPONS.

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sand-club, metal knuckles, throwing star, 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 the 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, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be 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 one's person except when on the person's land or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within the passenger compartment of any vehicle in transport unless the weapon is unloaded and in a case;

(5) Setting a spring gun;

(6) Possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a molotov cocktail or a pipe bomb.

(b) Subsections (a) (a), (2), (3) and (4) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b) (1) through (b) (3) of this section to possess such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(5) The state fire marshal, the state fire marshal's deputies or member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(6) Special deputy sheriffs in counties over 100,000 population who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer.

(d) Subsections (a) (1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class A violation.

11-105. SAME. Section 10.5 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.5. UNLAWFUL DISCHARGE OF FIREARMS. Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to apply:

(a) To the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;

(b) To the discharge of firearms in any licensed shooting gallery;

(c) To firing squads for ceremonials; nor

(d) To a legitimate gunsmith in pursuit of his or her trade; nor

(e) To 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 10:00 a.m. to 5:00 p.m., solely for recreational purposes, provided that the 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 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.

Unlawful discharge of firearms is a Class B violation.

11-106. SAME. Section 10.6 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.6. AIR GUN, AIR RIFLE, BOW AND ARROW, SLINGSHOT OR BB GUN.
(a) The unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is a Class C violation.
(b) The unlawful possession of an air gun, air rifle, bow and arrow, slingshot or BB gun is the possession of an air gun, air rifle, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful possession of an air gun, air rifle, bow and arrow, slingshot or BB gun is a Class C violation.

11-107. SAME. Section 10.13 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.13 BARBED WIRE. It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure with the city, except on property zoned for agricultural purposes.

Violation of this section is a Class C violation.

11-108. SAME. Section 11.11 of the Uniform Code, relating to Cruelty to Animals, incorporated in Section 11-101 above is hereby omitted and deleted.

Section 2. Repeal of Existing Article. That existing Article 1 of Chapter 11 (Sections 11-101:108) of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1614 C)

Section 3. Validity of Ordinance. That 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 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May, 1999.

Approved by the Mayor the 17th day of May, 1999.

(S E A L)

Peggy Dunn

Peggy Dunn Mayor

Attest:

Martha Heizer

Martha Heizer City Clerk

APPROVED AS TO FORM:

R.S. Wetzler City Attorney

ORD1797C

Publication Fees: $77.90

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1797 C--5/18/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 19, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$77.90

ORDINANCE NO. 1797 C

First published in The Legal Record, Tuesday, May 18, 1999.

ORDINANCE NO. 1797 C

AN ORDINANCE ADOPTING THE 1998 EDITION OF THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES".

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

Section 1. Code Amended. That Article 1 of Chapter 11 ("Public Offenses") of the Code of the City of Leawood is hereby amended to read as follows:

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. UNIFORM CODE INCORPORATED. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Leawood, Kansas, that certain code known as the "Uniform Public Offense Code for Kansas Cities", 1998 Edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. _____" 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.

11-102. SAME; AMENDMENT. Section 3.1 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

3.1 BATTERY.

(a) Battery is:

(1) Intentionally or recklessly causing bodily harm to another person; or

(2) Intentionally causing physical contact with another person when done in a rude, insulting or angry manner.

Battery is a Class B violation.

11-103. SAME; AMENDMENT. Section 6.16 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

6.16. 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.

(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:

(1) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge as established and in effect by adoption of the annual City fee resolution, 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; or

(2) If a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(c) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) Was given to a payee who had knowledge or had been informed, when the payee accepted the 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, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds. (K.S.A. Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than $500 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute.

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. CRIMINAL USE OF WEAPONS.

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sand-club, metal knuckles, throwing star, 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 the 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, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be 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 one's person except when on the person's land or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within the passenger compartment of any vehicle in transport unless the weapon is unloaded and in a case;

(5) Setting a spring gun;

(6) Possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a molotov cocktail or a pipe bomb.

(b) Subsections (a) (a), (2), (3) and (4) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b) (1) through (b) (3) of this section to possess such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(5) The state fire marshal, the state fire marshal's deputies or member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(6) Special deputy sheriffs in counties over 100,000 population who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer.

(d) Subsections (a) (1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class A violation.

11-105. SAME. Section 10.5 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.5. UNLAWFUL DISCHARGE OF FIREARMS. Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city. This section shall not be construed to apply:

(a) To the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;

(b) To the discharge of firearms in any licensed shooting gallery;

(c) To firing squads for ceremonials; nor

(d) To a legitimate gunsmith in pursuit of his or her trade; nor

(e) To 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 10:00 a.m. to 5:00 p.m., solely for recreational purposes, provided that the 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 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.

Unlawful discharge of firearms is a Class B violation.

11-106. SAME. Section 10.6 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.6. AIR GUN, AIR RIFLE, BOW AND ARROW, SLINGSHOT OR BB GUN.

(a) The unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful operation of an air gun, air rifle, bow and arrow, slingshot or BB gun is a Class C violation.

(b) The unlawful possession of an air gun, air rifle, bow and arrow, slingshot or BB gun is the possession of an air gun, air rifle, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.

Unlawful possession of an air gun, air rifle, bow and arrow, slingshot or BB gun is a Class C violation.

11-107. SAME. Section 10.13 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

10.13 BARBED WIRE. It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure with the city, except on property zoned for agricultural purposes.

Violation of this section is a Class C violation.

11-108. SAME. Section 11.11 of the Uniform Code, relating to Cruelty to Animals, incorporated in Section 11-101 above is hereby omitted and deleted.

Section 2. Repeal of Existing Article. That existing Article 1 of Chapter 11 (Sections 11-101:108) of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1614 C)

Section 3. Validity of Ordinance. That 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.

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

Section 4. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17th day of May 1999.

Approved by the Mayor the 17th day of May 1999.

Peggy Dunn
Peggy Dunn, Mayor

(S E A L)

Attest:

Martha Helzer, City Clerk

APPROVED AS TO FORM: R.S. Wetzler, City Attorney

ORDINANCE NO. 1796 C

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LEAWOOD BY ADOPTING A NEW CHAPTER II (ANIMALS) AND REPEALING EXISTING PROVISIONS PERTAINING TO THE SAME SUBJECT.

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

Section 1. Code Amended. That the Code of the City of Leawood is hereby amended by adopting a new Chapter II (Animals) which shall read as follows:

CHAPTER II. ANIMALS

Article 1. General Provisions

Article 2. Dogs and Cats

Article 3. Livestock and Fowl

Article 4. Animal Control Officer

Article 5. General Penalties

ARTICLE 1. GENERAL PROVISIONS

2-101. PURPOSE.

It is the intent of this Chapter to promote harmonious relationships in the interaction between humans and animals by:

(a) protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards; and

(b) delineating the responsibilities of an animal owner, harborer or keeper for the acts and behavior of such animal; and

(c) providing security to citizens from annoyance, intimidation, injury, and health hazards by an animal; and

(d) encouraging responsible pet ownership; and

(e) providing standards for any and all persons and agencies, public or private, engaged in confinement, buying, selling, harboring, or dealing in animals in any manner whatsoever.

2-102. DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

(a) *Abandonment* includes the following acts by an owner, harborer or keeper of an animal:
(1) leaving an animal on private or public property without providing responsible animal care for the animal; or
(2) refusing to pay for the care of an animal when an animal becomes lost or escapes and another person cares for the animal; or
(3) refusing to claim responsibility for the actions of an animal; or
(4) refusing to pay for an animal which has been impounded pursuant to this Chapter.

(b) *Adequate feeding* is providing to an animal at suitable intervals (not to exceed 24 hours) a quantity of wholesome foodstuff, suitable for the animal according to the species and age of the animal, that is sufficient to maintain a reasonable level of nutrition for the animal.

(c) *Adequate watering* is providing to an animal clean fresh, potable water, supplied in a sanitary manner either continuously or at intervals suitable for the species of the animal, but not to exceed intervals of 10 hours.

(d) *Animal* means any living, vertebrate creature, domestic or wild, other than lobster, shrimp, clams, fish in an aquarium, and humans.

(e) *Animal Control Officer* hereinafter A.C.O. is a person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this ordinance, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, whose duties in whole or in part include the assignments which involve the seizure or taking into custody of any animal.

(f) *Animal Shelter* is any premises designated by the city for the purpose of impounding and/or quarantining and/or caring for animals.

(g) *Bite* means any contact between the teeth of an animal and the skin of another animal or person which causes visible trauma, such as a puncture would, laceration, abrasion, or other opening of the skin.

(h) *Bureau of Licenses,* hereinafter B.O.L. means the City Clerk or other person designated by the City Administrator to issue licenses and regulations governing the issuance of licenses pursuant to this Chapter.

(i) *Cat* shall be defined as *felis domesticus.*

(j) *Dangerous Animal* means any wild mammal, reptile or bird which is not naturally tame or gentle but is of a wild nature or disposition and which because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained

in a safe manner in secured quarters. This includes any animal which is a wild/domestic animal hybrid.

(k) *Dog* shall be defined as *canis familiaris* only (not as hybrids such as *familiaris/lupus or familiaris/latrans).*

(l) *Domestic Animal* means any animal tamed by humans.

(m) *Euthanasia* is the humane killing of an animal by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or suffering.

(n) *Harborer* means any person who provides food and/or shelter for an animal for seven consecutive days or more.

(o) *Inoculation for Rabies or Vaccination for rabies* means the inoculation of an animal by a licensed veterinarian with a vaccine approved by the State of Kansas for use in the prevention of rabies.

(p) *Keeper* shall mean any person temporarily entrusted with the care and custody of an animal.

(q) *Kennel* means any person engaged in the business of breeding, buying, selling, or boarding dogs and cats.

(r) *Nuisance* means an animal:

(1) is unsecured; or
(2) acts in a manner that would disturb a reasonable person other than the owner, harborer or keeper of the animal by growling or biting at a person; or
(3) chases, molests, or acts in a manner toward a person other than the owner, harborer or keeper that reasonably disturbs a person; or
(4) attacks animals other than wild animals; or
(5) damages the property of a person other that the owner, keeper or harborer; or
(6) barks, bays, howls, or makes any other noise that reasonably tends to disturb a person that has signed a statement (which can be recorded by the A.C.O.) setting forth facts concerning the volume, time, and length of barking. Said person making such statement must agree in writing to testify in court if requested ; or
(7) creates odors that would offend a reasonable person other than the owner, keeper or harborer of the animal; or
(8) defecates on public property; or
(9) defecates on private property without the permission of the owner of said property; or
(10) becomes or creates an insect breeding site; or
(11) is ridden on public property and obstructs or interferes with vehicular or pedestrian traffic; or
(12) threatens or endangers public health; or
(13) impedes refuse collections; or
(14) acts in any other manner that interferes with the enjoyment of property by a person other than the owner, harborer or keeper of the animal.

(s) *Person* means any individual, association, partnership, corporation or any other group.

(t) *Pet Shop* means any person engaged in the business of breeding, buying, selling, or boarding animals in any species.

(u) *Primary Enclosure* means any structure used or designed to restrict any animal to a limited space, such as a room, pen, cage, compartment or hutch.

(v) *Responsible animal care* means any owner, harborer, or keeper of any animal must provide:
(1) adequate feeding; and
(2) adequate watering; and
(3) proper and comfortable shelter; and
(4) veterinary care to prevent the animal from suffering and to provide for the health and well-being of the animal, including customary inoculations to maintain good health; and
(5) humane treatment and socialization for the needs of the animal; and
(6) sanitary conditions, including making physically clean and the prompt removal and sanitary disposal of all excreta; and
(7) the required amount of appropriate exercise to promote the good health of the animal.

(w) *Secured animal* means any animal other than a cat that is:
(1) attached to a hand-held lead not more than 8 feet in length and prevented from making uninvited contact with humans or other animals; or
(2) safely tethered to a chain or leash not more than 8 feet in length provided the animal is under the direct and constant observation of and control of the owner, keeper or harborer and prevented from making uninvited contact with humans or other animals; or
(3) confined to a cage, pen, vehicle, or trailer, or
(4) on the premises of the owner, harborer or keeper and under control of a responsible person and obedient to the command of that person.

(x) *Secured Enclosure* means a locked structure enclosing an area suitable to confine a vicious dog or a dangerous animal and suitable to prevent young children from coming in physical contact with said animal. The structure shall be comprised of a top, sides and bottom and shall be designed to prevent the animal from escaping. If the bottom of the structure is not attached to the sides, the sides must be embedded in the ground by no less than one foot.

(y) *Sell and/or Sold* means transfers by sale or exchange. Maintaining animals for sale is presumed whenever 20 or more animals are maintained by any person.

(z) *Shelter* means a structurally sound, properly ventilated, sanitary, weatherproof shelter suitable for the species, age and condition of the animal which provides shade from direct sunlight and regress from exposure to inclement weather conditions. The shelter shall contain proper bedding material as appropriate for the species. The shelter shall be reasonably comfortable for the animal.

(aa) *Swine* means any of various stout-bodied, short-legged omnivorous mammals of the family *Suidea* with a thick bristly skin and a long mobile snout.

(bb) *Trap* means any mechanical device or snare which seeks to hold, capture or kill an animal.

(cc) *Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

(dd) *Vicious* means having a disposition or propensity to attack or bite any person or animal without provocation.

(ee) *Wild animal* means an animal as defined at (d) herein that is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not included in this definition.

2-103. ANIMAL ABUSE.

It shall be unlawful for any person to abuse any animal. Animal abuse includes, but is not limited to:

(a) ill-treating or tormenting an animal; willfully killing, maiming, disfiguring or torturing an animal; beating an animal with a stick, chain, club or any other object; mutilating, burning or scalding with any substance an animal; driving over or setting an animal upon another animal; or
(b) driving or working any animal mercilessly or in a manner that inflicts pain; or
(c) failing, refusing, or neglecting to provide any animal in their charge or custody with responsible animal care; or
(d) transporting an animal in the open bed of a truck unless properly restrained so as to prevent the animal from leaving or being thrown from the vehicle and/or transporting any animal in any vehicle in a manner that inflicts pain or in any other inhumane manner; or
(e) chaining, roping, or otherwise securing an animal without ensuring all of the following: that the animal will not become entangled; that the animal is within reach of its food and water and; that the animal is not in danger of becoming suspended and/or hung from any object or structure; or
(f) abandoning any animal within the city limits; or
(g) making accessible to an animal any substance which has in any manner been treated or prepared with a harmful or poisonous substance; or
(h) permitting or attending any dogfight, cockfight, bullfight or other combat between animals or between animals and humans; or
(i) cropping animal ears or docking animal tails except by a licensed veterinarian;
(j) offering to give or giving a live animal as a prize or as a business inducement; or
(k) failing to stop when operating a motor vehicle after striking a domestic animal and immediately rendering proper assistance and immediately reporting any injury or death to the owner of the animal unless the owner cannot be ascertained and located in which case said operator shall immediately report the incident to the Leawood Police Department; or
(l) training or encouraging an animal to fight or attack other animals or humans; or
(m)allowing an animal to have too much food or water.

2-104. TRAPPING.

(a) No person shall do any trapping anywhere in the city except by means of cage-type live traps.
(b) All traps shall be clearly marked with the name, address and telephone number of the owner of the trap or said trap shall be confiscated by the Police Department and destroyed if not claimed within six hours.
(c) All traps will be kept in good condition and proper working order and will be checked every six hours while set to insure that no animal is unreasonably suffering and to remove and properly dispose of the animal.
(d) This section does not apply to the use of traps specifically designed to kill rats, mice, gophers, squirrels or moles with the consent of the owner or occupant of the property where the trap is set.

2-105. FENCES.

(a) Fences utilized to contain any animal shall be as follows: securely constructed; adequate for the purpose; kept in good repair and; not be allowed to become unsightly.
(b) Invisible fences shall be maintained in accordance with the specifications of the manufacturer. An animal placed within an invisible fence shall be trained in accordance with the specifications of the manufacturer.
(c) Invisible fences shall be no closer than 10 feet from a public walk way or street, and it shall be unlawful to allow an animal, other than a domestic cat, to be confined solely within an invisible fence.

2-106. COMPLIANCE WITH FEDERAL REGULATIONS.

It shall be unlawful for any person to buy, sell or offer a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the **Code of Federal Regulations** pursuant to the **Endangered Species Act of 1969.**

2-107. DEAD ANIMAL REMOVAL AND DISPOSAL.

The property owner where any animal has died and/or the owner, keeper or harborer of said animal shall remove and properly dispose of the remains of the animal. In the event of a failure to properly dispose of the remains of an animal, the Animal Control Officer may remove and dispose of the remains of the animal; and the property owner and/or owner, keeper or harborer of said animal will be responsible for any expenses involved in the removal and disposal of said animal.

2-108. INJURED OR ILL ANIMALS.

(a) If the owner of an injured or ill animal cannot immediately be contacted, the Animal Control Officer may seek aid for the animal. The owner of the animal will be responsible for any expenses for the treatment and board of the animal.
(b) In the event that a domestic animal is severely injured or ill and an owner can not be contacted immediately, the Animal Control Officer and his or her supervisor will decide if the animal will be euthanized.

(c) The Animal Control Officer may obtain care for any injured or ill wild animal within the city limits and/or euthanize such animal.

2-109. LIMITATIONS ON OWNERSHIP.

(a) It shall be unlawful for any person to own, harbor or keep more than two dogs and/or two cats over six months of age in the City of Leawood unless said person has properly obtained a permit allowing said person to keep a greater number of dogs and/or cats.

(b) An owner, harborer or keeper, including any person desiring to operate a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, may secure a permit to keep or harbor animals in excess of two dogs and/or two cats over six months of age upon adequately showing the City Council that special circumstances exist, and that it would not constitute a nuisance to the neighborhood, and further that the premises on which the animals are to be kept is suitably sited and equipped to accommodate the number of animals requested.

(1) The A.C.O. must provide a copy of the application to the owner and/or occupants of property which is located within 350 feet of the premises where the animals are to be kept.

(2) Written objections by the owners or occupants of two tracts of land, portions of which lie within 350 feet of the premises where the animals are to be kept, shall be held as sufficient evidence of nuisance to the neighborhood and no permit will be issued.

(3) The City Council shall approve or deny such permits and have the authority to require stipulations in conjunction with the issuance of a permit.

(4) The City Council may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter, the regulations promulgated by the City Council, or any state or local law such as those governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within 10 days thereafter, sell or otherwise humanely dispose of all animals being owned, kept or harbored by such person and no part of the permit fee shall be refunded. It shall be a condition of the issuance of any permit that animal control officers, police officers, and any other person charged with the enforcement of this chapter, shall be permitted to inspect all animals and the premises where animals are kept at any time and if such permission for such inspection is refused, revoke the permit of the owner.

(5) Owners may appeal a denial of a permit to the district court of Johnson County.

(6) The permit fee will be as set forth in the fee schedule established and maintained by the City Administrator, as prescribed in **Section 1-701 of the Code of the City of Leawood**.

(7) The permit will be valid only for the animals listed at the time of application for the permit, except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, which may substitute animals up to a certain number as approved by the City Council and set forth in the permit. If at any time there is a change in the number of animals or if another animal is brought in to replace one that is no longer on the property, except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, a new application shall be submitted and said application shall be subjected to a new investigation.

(8) The permit will be valid for the life of the animal, unless otherwise limited in this Chapter as in the event of noncompliance with any other requirement herein.

2-110. KEEPING OF A DANGEROUS AND/OR WILD ANIMAL

(a) It shall be unlawful for any person to own, keep or harbor any dangerous or wild animal within the city limits except as herein provided.

(b) No person, other than the following entities, may keep a dangerous or wild animal for display or for exhibition purposes whether gratuitously or for a fee in the City of Leawood:
   (1) a zoological park; or
   (2) circus; or
   (3) bona fide licensed veterinary hospital; or
   (4) bona fide educational institution; or
   (5) bona fide medical institution; or
   (6) bona fide museum.

Any such person or entity applying for a permit to keep a dangerous animal in the city, shall also execute the following agreement, which shall be attached to the permit as Exhibit A:

EXHIBIT A
Agreement Permitting Inspections

I, _____ have applied for a permit to keep a dangerous animal in the city, at premises known as _____. I understand that keeping a dangerous animal can pose special problems for the city. I agree that a city animal control officer may enter the premises described as _____ at any time with or without previous notice for the purpose of making an inspection. Such entry for inspection shall not include entry into any building or part of a building except locations where such animal is customarily kept or permitted to roam, and a way to get into such location.

Dated: _____

Applicant: _____

(c) This section does not apply to animals considered domesticated animals, including but not limited to dogs, cats, ferrets, rabbits, hamsters, guinea pigs, or domestic cage birds.

(d) This section does not apply to animals normally considered as livestock or farm animals, including but not limited to horses, mules, donkeys, cows, goats, sheep, swine, or fowl.

(e) It shall include, but is not limited to, lions, tigers, bobcats, all other members of the feline family, bears, wolves, coyotes, monkeys, apes, gorillas, poisonous or dangerous snakes or other reptiles, poisonous or dangerous insects, eagles, hawks, owls, other wild or dangerous members of the bird family, and any bird that is not captive bred domestically.

(f) The **Federal Animal Welfare Act** must be strictly followed if any dangerous animal is to be kept by a zoological park, circus, bona fide licensed veterinary hospital, bona fide educational or medical institution or museum.

(g) No person shall keep or permit to be kept any dangerous animal as a pet.

(h) Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal within the city, the city shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint is in fact the owner,

keeper or harborer of any such dangerous animal in the city, the city shall mail written notice to the property owner where the animal is located requiring the owner to safely remove the animal from the city within five days. Notice shall not be required where a dangerous animal has caused serious physical harm or death to any person or has escaped and is at large, in which case the city shall cause the animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without the risk of serious physical harm or death to any person.

(i) The city shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent. Upon seizure and impoundment, the animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If, during the seizing and impounding of any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the city may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

(j) Any reasonable expenses incurred by the city in seizing, impounding and confining any dangerous animal shall be charged against the owner, keeper or harborer of such animal. Such charges shall be in addition to any fine or penalty provided for violating this ordinance.

2-111. VICIOUS ANIMAL

(a) It shall be unlawful to own, harbor or keep a vicious animal within the city of Leawood except as provided in this Chapter.

(b) The owner of an animal that has been found and/or declared to be vicious in any jurisdiction, must within ten days of the conviction and/or declaration provide to the animal control officer two color photographs of the animal clearly showing the color, approximate size and any distinguishing markings on the animal.

(c) All vicious animals shall be confined in a secured enclosure as defined in this Chapter. It shall be unlawful for any owner, keeper or harborer to allow a vicious animal to be outside of the dwelling of the owner or outside of the enclosure unless it is necessary to obtain veterinary care for the vicious animal or to sell or give away the vicious animal or to comply with commands or directions of the Animal Control Officer with respect to the vicious animal. In such event, the vicious animal shall be securely muzzled and restrained with a chain having a minimum tensile strength capable of keeping said animal attached to said chain and not exceeding three feet in length, and shall be under the direct control and supervision of the owner, keeper or harborer of the vicious animal. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(d) The owner of a vicious animal shall display in a prominent place on the premises a clearly visible warning sign indicating that there is a vicious animal on the premises and state whether it is a dog or cat. A similar sign is required to be posted on the pen or the kennel of the animal.

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

(f) Unless otherwise Ordered by the Judge after being convicted of owning, keeping or harboring

a vicious animal, said owner, harborer of keeper shall present satisfactory evidence to the City Clerk that the owner has procured liability insurance in the amount of at least five hundred thousand dollars ($500,000) covering any damage or injury which may be caused by such vicious animal during any twelve month period for which a license is sought. The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of the City to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy. The owner shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve-month period for which the license is being sought, unless the owner shall cease to own the vicious animal prior to the expiration of the license.

(g) Trained police dogs utilized by properly certified law enforcement officers in the course of official duty shall be exempt from the provisions of this section.

(h) A vicious cat must be declawed by a licensed veterinarian.

(i) Upon conviction of a first offense, the general penalty for this Chapter shall apply.

(j) Upon conviction of a second offense, the Court shall order the animal permanently removed from the City within three days or euthanized. Should the order of the Court be appealed, the animal must be removed from the City pending disposition of the appeal. Failure to comply with the removal order shall result in the animal being impounded and shall be punishable by a fine of $500.00 per day that the vicious animal remains in the City and/or one year confinement in the county jail.

(k) A permit for the keeping of a vicious animal shall be issued for one year upon payment of a fee of $50.00 to the Police Department of the city and will be deemed to have expired one year from date of issuance. The person to whom a permit is issued shall sign a written agreement, on a form approved by the city attorney, permitting the animal control officer to inspect the permittee's premises from time to time. The permittee shall pay $20.00 for each inspection provided that if more than four inspections are made of any premises in any permit year, the permittee shall not be required to pay for more than four inspections. Until the city attorney authorizes the use of a different form, such agreement shall be worded substantially the same as the form entitled "Exhibit A-Agreement Permitting Inspections", the text of which is found elsewhere in this ordinance in **Section 2-110 (b)**. Failure to comply with any of the foregoing requirements in this **Section 2-111** shall be grounds to revoke such permit.

2-112. BITE AND SCRATCH PROCEDURES

(a) When any animal has bitten or attacked any person within the City limits of Leawood, and/or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such to report the same immediately to the Police Department.

(b) Except as provided in subsection (f) herein, an animal alleged to have bitten or otherwise so injured a person causing an abrasion of the skin, shall immediately be quarantined at the expense of the owner with a licensed veterinarian within Johnson County, Kansas for a period of ten days.

(c) If the owner, keeper or harborer of the animal alleged to have bitten or injured a person can not be immediately contacted, the Leawood Police Department and/or the A.C.O. shall immediately impound such an animal at the expense of the owner for not less than ten days. If the address of the owner can be determined, the Leawood Police Department shall mail a notice to the owner that the animal has been impounded under the provisions of this section. The owner has the right

to redeem the animal if that animal is determined to be free of rabies at the expiration of confinement upon payment of all expenses including the boarding, any veterinarian fees and any license and penalty fees due and owing the city. There may be conditions concerning the keeping, housing and handling of the animal that the owner, keeper or harborer must follow until the municipal judge determines how the animal shall be kept.

(d) In the event the original place of quarantine is not the choice of the owner, the owner may request a change of place of quarantine to a licensed veterinarian of the owner's choice in Johnson County, Kansas from the A.C.O. The A.C.O. shall insure that the place of quarantine and licensed veterinarian complies with all provisions of this article. The total period of confinement of the animal is a period of not less than ten days. No credit shall be given for any period of time the animal remained at large.

(e) The veterinarian with whom the animal is quarantined shall provide a written report to the police department as to the health of the animal immediately after receiving any information concerning rabies.

(f) In the event that the investigating officer determines:

(1) that the animal which injured the person did so while properly secured on or within the property of the owner, harborer of keeper of the animal; and

(2) that the person injured was upon the property without the consent of the owner; and

(3) that the animal had an effective rabies vaccine and was duly licensed under this article at the time of the injury, then the animal need not be impounded in accordance with **Section 2-112 (a)**, but the following alternative procedure shall be followed:

(i) If the injured person or legal guardian desires that the animal be impounded and agrees in writing to pay for the board during the period of impoundment, it shall be impounded for the period specified notwithstanding any other provision of this article.

(ii) If the injured party or legal guardian is unwilling to agree in writing to pay for the boarding of the animal during the period of impoundment, the animal shall be permitted to remain confined in the residence of the owner or keeper, provided that the owner or keeper signs a written agreement to keep the animal confined for the specified period and allows the animal to be periodically examined by an animal control office 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 this chapter.

(4) It shall be unlawful to own, harbor, keep or in any manner be responsible for an animal that bites or otherwise so injures a person causing an abrasion of the skin. The owner, harborer or keeper of any animal that bites or otherwise so injures a person causing an abrasion of the skin, shall be punished by a fine not of not less than $100.00 but not more than $500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. The Judge may also order that the animal be euthanized taking into consideration the nature and severity of the incident and whether the animal has displayed dangerously aggressive behavior and is likely to inflict injury on another person or animal.

2-113. UNSECURED ANIMAL

(a) It shall be unlawful for the owner, keeper or harborer of any animal to allow such animal to be unsecured anywhere in the city.

(b) It shall be unlawful to abandon an animal.

(c) Unsecured or abandoned animals may be immediately euthanized if the Animal Control Officer or any other agent designated by the city believes that seizure and impoundment are not possible without the risk of serious physical harm or death to any person.
(d) If an animal is unsecured within the city limits, such animal may be seized by the Animal Control Officer or by any other agent designated by the city, and the animal shall be held seven days as provided by the animal shelter or agent, and if within that seven days the owner of the animal reports to the police department and pays the expenses of seizing, boarding, and caring for the animal, the animal may be released to the owner provided that the animal is not vicious or dangerous and is eligible to be released pursuant to this Chapter.
(e) If impounded, the police department will attempt to contact the owner, harborer or keeper of the animal. If the animal is not claimed within seven days, the animal may be adopted or euthanized as decided by the designated agent and/or the animal shelter.

2-114. ANIMAL NUISANCE

(a) It shall be unlawful for any person to appear with an animal on public property or the property of another, absent that person's consent, without some means for the removal of excrement. It shall be unlawful for any person to fail to immediately remove any excrement deposited by his or her animal on any public or private property, other than the property of the owner of the animal. This section does not apply to a blind person while walking his or her work dog.
(b) It shall be unlawful for the owner, harborer or keeper of an animal to allow the animal to be exposed in any public place in the city, or to ship or remove such animal from the property of the owner, harborer or keeper, when the animal is afflicted with a contagious or infectious disease unless under the supervision of the Animal Control Officer or a licensed veterinarian.
(c) All female animals in heat shall be confined in an enclosure or building in such a manner that the animal can not come in contact with a male animal except for planned breeding.
(d) It shall be unlawful for the owner, keeper or harborer of any animal to allow that animal to create any type of nuisance as defined in this Chapter.
(e) Nuisance-Injunction: Any violation of this **Section 2-113** is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

2-115. SALE OF ANIMALS. SPECIAL PERMIT AND BUSINESS LICENSE REQUIRED.

It shall be unlawful to attempt to sell and/or maintain for sale, and/or sell an animal without obtaining a special permit and business license from the Bureau of Licenses (BOL).

2-116. CHAPTER ADMINISTRATION.

The City Administrator is authorized to develop administrative regulations necessary to implement the provisions of this Chapter, including procedures for animal enumerations, animal shelter operation and such other fees required by this Chapter but not specified herein.

ARTICLE 2. DOGS AND CATS

2-201. LICENSING AND VACCINATIONS

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat over six months old unless such dog or cat is licensed as provided herein. Any person bringing a dog or cat over six months old into the city on or after March 1 shall have thirty days from the day the animal is brought into the City to license the animal through the city's Bureau of Licenses. If the animal is not licensed within the time required, the owner shall be subject to a penalty as set forth in the fee schedule established and maintained by the city administrator, as prescribed in **Section 1-701 of the Code of the City of Leawood**.

(b) An application provided by the BOL must be completed and submitted annually by any person owning, keeping or harboring a dog or cat. The application must include the following information:

(1) the name, address and telephone numbers of said person; and the dog or cat shall be identified by sex, age, breed, color, and call name; and

(2) the date (which must be within the past twelve months) of inoculation of the rabies vaccine, the name of the inoculating veterinarian and the rabies vaccine inoculation certificate number.

(c) It shall be unlawful for any person to own, keep or harbor any dog or cat over six months old unless such dog or cat is currently vaccinated against rabies. If a licensed veterinarian recommends that a dog or cat not be inoculated with a rabies vaccine for health purposes, the owner of such an animal will need to submit to the B.O.L., a statement from a licensed veterinarian on official letterhead specifying the reason that the animal should not be vaccinated.

(d) The owner or harborer of a dog or cat shall carefully preserve the current Certificate of Rabies Vaccination that was issued by a veterinarian at the time of the inoculation, and shall promptly present said certificate for inspection when requested to do so by an animal control officer or a police officer.

(e) A license fee and submission of the Certificate of Vaccination are required for a license. The license fees for sexually altered and unaltered dogs and cats are set forth in the fee schedule established and maintained by the City Administrator, as prescribed in **Section 1-701 of the Code of the City of Leawood**. Written proof by a licensed veterinarian that an animal has been neutered of spayed must be presented.

(f) Any person owning, keeping or harboring a work dog, as described below, shall be exempt from the license fee payment upon submittal of adequate proof that the dog has received a rabies vaccine inoculation and is fully trained as a work dog and is used regularly as a work dog.

(1) Dogs providing services for persons with disabilities; or

(2) Dogs utilized by law enforcement personnel.

(g) The license year shall be from January 1 through December 31 of each year. The fee shall be due and payable before March 1 of each year. A penalty, as set forth in the fee schedule established and maintained by the city administrator, as prescribed in **Section 1-701 of the Code of the City of Leawood**, shall be assessed on March 1 and every thirty days thereafter.

(h) Licenses shall be issued in the form of a durable tag which shall be worn at all times fastened to the collar or harness of the dog or cat. License tags shall not be transferable. If a tag is lost, a replacement tag will be issued upon sufficient evidence of prior licensing and payment of the charge as set forth in the fee schedule established and maintained by the city administrator.

(i) It shall be unlawful for any person to remove or cause to be removed, the collar, harness or the license tag from any licensed dog or cat without the consent of the owner, keeper or harborer of said dog or cat. Any dog or cat running at large and found not wearing a tag indicating that the dog or cat was licensed for the current year, shall be seized by the A.C.O. or Police Department.
(j) Persons that do not reside in Leawood may keep no more than two dogs and/or cats within the city for less than thirty days before licensing said dogs and cats.

ARTICLE 3. LIVESTOCK AND FOWL

2-301. KEEPING OF LIVESTOCK PROHIBITED

(a) It shall be unlawful for any person to own, keep or harbor a cow, a pig, a horse, a mule, a sheep, a goat, a chicken, a duck, a goose, or any other animal other than a cat or dog on any premises not zoned for agricultural purposes within the corporate limits of the city.
(b) This section shall include those animals considered miniature or pygmy breeds, including but not limited to, Vietnamese pot-bellied pigs, miniature horses and miniature goats.

(c) Nuisance-Injunction: Any violation of this **Section 2-301** is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

2-302. KEEPING OF PIGEONS PROHIBITED

(a) It shall be unlawful to own, keep or harbor any pigeon including, but not limited to the following: any member of the family Columbidae, including racing pigeons, fancy pigeons and sporting pigeons.
(b) Nuisance-Injunction: Any violation of this **Section 2-302** is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

ARTICLE 4. ANIMAL CONTROL OFFICER

2-401. DUTIES

Animal Control Officers are hereby charged with the duties of enforcing this ordinance and no person shall interfere with, hinder, molest or abuse such officers or other designated agents in the exercise of their powers or in the enforcement of this Chapter.

2-402. POWERS

Within the city limits of Leawood, the animal control officers and their designated agents may:

(a) Enter without a warrant upon private property to secure an animal or abate an animal nuisance where such animal is found in plain sight other than in a residential structure and to seize such animal from said private property.
(b) Enter without a warrant upon private property to apprehend a vicious animal, a dangerous animal, a wild creature or an animal suspected of being infected with rabies where such animal is found within plain sight other than in a residential structure and to seize such animal from said property.
(c) Enter without a warrant upon private property to investigate cruelty and/or abuse to animals, including but not limited to inspection of pet stores, stables, and other commercial animal establishments.
(d) File complaints against persons for violations of animal control ordinances and issue notices to appear in Municipal Court.
(e) Demand immediate presentation to the Animal Control Officer of an animal by its owner, harborer or keeper when there is a suspected violation of the Chapter. It shall be unlawful to fail, neglect or refuse to present an animal to the A.C.O., the designated agent of the city for purposes of enforcing this Chapter, or law enforcement personnel.
(f) Seize an animal which appears to be suffering or in imminent danger from cruelty or neglect.

ARTICLE 5. GENERAL PENALTIES

2-501. PENALTIES

(a) It is unlawful for any person to violate any of the provisions of this Chapter.
(b) Each day that a person is in violation of any section of this Chapter, constitutes a separate offense.
(c) Each section and subsection of the Chapter constitutes a separate violation for sentencing purposes.
(d) Any person convicted of a violation of this Chapter, where no other penalty is stated for said violation, shall be punished for that violation by a fine of not less than $50.00 but not more than $500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. These fines shall be in accordance with the minimum fine schedule set out in subsection (f) of this section.
(e) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following:
   (1) First Offense.....$ 50.00
   (2) Second Offense.....$100.00
   (3) Third Offense.....$300.00
   (4) Fourth and subsequent offense.....$500.00

In determining the applicable minimum fine, an offense shall be considered a subsequent offense only if the defendant has previously pleaded guilty or been found guilty of the same offense.

Section 2. Existing provisions repealed. That the existing sections contained in Chapter II of the Code of the City of Leawood (Animal Control) are hereby repealed.
(Prior law: Ord. No. 1327C)

Section 3. Take effect. This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17 day of May, 1999.

Approved by the Mayor the 17 day of May, 1999.

(S E A L)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORD1797C

Publication Fees: $270.55

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Penny Knight, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1796C--5/25/99

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:

May 26, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$270.55

ORDINANCE NO. 1796 C

First published in The Legal Record, Tuesday, May 25, 1999.

ORDINANCE NO. 1796 C

AN ORDINANCE AMENDING THE CODE OF THE CITY OF LEAWOOD BY ADOPTING A NEW CHAPTER II (ANIMALS) AND REPEALING EXISTING PROVISIONS PERTAINING TO THE SAME SUBJECT.

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

Section I. Code Amended. That the Code of the City of Leawood is hereby amended by adopting a new Chapter II (Animals) which shall read as follows:

CHAPTER II. ANIMALS

Article 1.	**General Provisions**
Article 2.	**Dogs and Cats**
Article 3.	**Livestock and Fowl**
Article 4.	**Animal Control Officer**
Article 5.	**General Penalties**

ARTICLE 1. GENERAL PROVISIONS

2-101. PURPOSE.

It is the intent of this Chapter to promote harmonious relationships in the interaction between humans and animals by:

(a) protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards; and

(b) delineating the responsibilities of an animal owner, harborer or keeper for the acts and behavior of such animal; and

(c) providing security to citizens from annoyance, intimidation, injury, and health hazards by an animal; and

(d) encouraging responsible pet ownership; and

(e) providing standards for any and all persons and agencies, public or private, engaged in confinement, buying, selling, harboring, or dealing in animals in any manner whatsoever.

2-102. DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

(a) *Abandonment* includes the following acts by an owner, harborer or keeper of an animal:
(1) leaving an animal on private or public property without providing responsible animal care for the animal; or
(2) refusing to pay for the care of an animal when an animal becomes lost or escapes and another person cares for the animal; or
(3) refusing to claim responsibility for the actions of an animal; or
(4) refusing to pay for an animal which has been impounded pursuant to this Chapter.

(b) *Adequate feeding* is providing to an animal at suitable intervals (not to exceed 24 hours) a quantity of wholesome foodstuff, suitable for the animal according to the species and age of the animal, that is sufficient to maintain a reasonable level of nutrition for the animal.

(c) *Adequate watering* is providing to an animal clean fresh, potable water, supplied in a sanitary manner either continuously or at intervals suitable for the species of the animal, but not to exceed intervals of 10 hours.

(d) *Animal* means any living, vertebrate creature, domestic or wild, other than lobster, shrimp, clams, fish in an aquarium, and humans.

(e) *Animal Control Officer* hereinafter A.C.O. is a person employed by, contracted with or appointed by the state, or any political subdivision thereof, for the purpose of aiding in the enforcement of this ordinance, or any other law or ordinance relating to the licensing or permitting of animals, control of animals or seizure and impoundment of animals, and includes any state, county or municipal law enforcement officer, whose duties in whole or in part include the assignments which involve the seizure or taking into custody of any animal.

(f) *Animal Shelter* is any premises designated by the city for the purpose of impounding and/or quarantining and/or caring for animals.

(g) *Bite* means any contact between the teeth of an animal and the skin of another animal or person which causes visible trauma, such as a puncture would, laceration, abrasion, or other opening of the skin.

(h) *Bureau of Licenses*, hereinafter B.O.L. means the City Clerk or other person designated by the City Administrator to issue licenses and regulations governing the issuance of licenses pursuant to this Chapter.

(i) *Cat* shall be defined as *felis domesticus*.

(j) *Dangerous Animal* means any wild mammal, reptile or bird which is not naturally tame or gentle but is of a wild nature or disposition and which because of its size, vicious nature or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner in secured quarters. This includes any animal which is a wild/domestic animal hybrid.

(k) *Dog* shall be defined as *canis familiaris* only (not as hybrids such as *familiaris/lupus or familiaris/latrans*).

(l) *Domestic Animal* means any animal tamed by humans.

(m) *Euthanasia* is the humane killing of an animal by a method which produces instantaneous unconsciousness and immediate death without visible evidence of pain or suffering.

(n) *Harborer* means any person who provides food and/or shelter for an animal for seven consecutive days or more.

(o) *Inoculation for Rabies or Vaccination for rabies* means the inoculation of an animal by a licensed veterinarian with a vaccine approved by the State of Kansas for use in the prevention of rabies.

(p) *Keeper* shall mean any person temporarily entrusted with the care and custody of an animal.

(q) *Kennel* means any person engaged in the business of breeding, buying, selling, or boarding dogs and cats.

(r) *Nuisance* means an animal:
(1) is unsecured; or
(2) acts in a manner that would disturb a reasonable person other than the owner, harborer or keeper of the animal by growling or biting at a person; or
(3) chases, molests, or acts in a manner toward a person other than the owner, harborer or keeper that reasonably disturbs a person; or
(4) attacks animals other than wild animals; or
(5) damages the property of a person other that the owner, keeper or harborer; or
(6) barks, bays, howls, or makes any other noise that reasonably tends to disturb a person that has signed a statement (which can be recorded by the A.C.O.) setting forth facts concerning the volume, time, and length of barking. Said person making such statement must agree in writing to testify in court if requested ; or
(7) creates odors that would offend a reasonable person other than the owner, keeper or harborer of the animal; or
(8) defecates on public property; or
(9) defecates on private property without the permission of the owner of said property; or
(10) becomes or creates an insect breeding site; or
(11) is ridden on public property and obstructs or interferes with vehicular or pedestrian traffic; or
(12) threatens or endangers public health; or
(13) impedes refuse collections; or
(14) acts in any other manner that interferes with the enjoyment of property by a person other than the owner, harborer or keeper of the animal.

(s) *Person* means any individual, association, partnership, corporation or any other group.

(t) *Pet Shop* means any person engaged in the business of breeding, buying, selling, or boarding animals in any species.

(u) *Primary Enclosure* means any structure used or designed to restrict any animal to a limited space, such as a room, pen, cage, compartment or hutch.

(v) *Responsible animal care* means any owner, harborer, or keeper of any animal must provide:
(1) adequate feeding; and
(2) adequate watering; and
(3) proper and comfortable shelter; and
(4) veterinary care to prevent the animal from suffering and to provide for the health and well-being of the animal, including customary inoculations to maintain good health; and
(5) humane treatment and socialization for the needs of the animal; and
(6) sanitary conditions, including making physically clean and the prompt removal and sanitary disposal of all excreta; and
(7) the required amount of appropriate exercise to promote the good health of the animal.

(w) *Secured animal* means any animal other than a cat that is:
(1) attached to a hand-held lead not more than 8 feet in length and prevented from making uninvited contact with humans or other animals; or
(2) safely tethered to a chain or leash not more than 8 feet in length provided the animal is under the direct and constant observation of and control of the owner, keeper or harborer and prevented from making uninvited contact with humans or other animals; or
(3) confined to a cage, pen, vehicle, or trailer, or
(4) on the premises of the owner, harborer or keeper and under control of a responsible person and obedient to the command of that person.

(x) *Secured Enclosure* means a locked structure enclosing an area suitable to confine a vicious dog or a dangerous animal and suitable to prevent young children from coming in physical contact with said animal. The structure shall be comprised of a top, sides and bottom and shall be designed to prevent the animal from escaping. If the bottom of the structure is not attached to the sides, the sides must be embedded in the ground by no less than one foot.

(y) *Sell and/or Sold* means transfers by sale or exchange. Maintaining animals for sale is presumed whenever 20 or more animals are maintained by any person.

(z) *Shelter* means a structurally sound, properly ventilated, sanitary, weatherproof shelter suitable for the species, age and condition of the animal which provides shade from direct sunlight and regress from exposure to inclement weather conditions. The shelter shall contain proper bedding material as appropriate for the species. The shelter shall be reasonably comfortable for the animal.

(aa) *Swine* means any of various stout-bodied, short-legged omnivorous mammals of the family *Suidea* with a thick bristly skin and a long mobile snout.

(bb) *Trap* means any mechanical device or snare which seeks to hold, capture or kill an animal.

(cc) *Veterinary hospital* means any establishment maintained and operated by a licensed veterinarian for the diagnosis and treatment of diseases and injuries of animals.

(dd) *Vicious* means having a disposition or propensity to attack or bite any person or animal without provocation.

(ee) *Wild animal* means an animal as defined at (d) herein that is not of a species customarily used as an ordinary household pet, but one which would ordinarily be confined to a zoo or one which would ordinarily be found in the wilderness of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium are not included in this definition.

2-103. ANIMAL ABUSE.

It shall be unlawful for any person to abuse any animal. Animal abuse includes, but is not limited to:

(a) ill-treating or tormenting an animal; willfully killing, maiming, disfiguring or torturing an animal; beating an animal with a stick, chain, club or any other object; mutilating, burning or scalding with any substance an animal; driving over or setting an animal upon another animal; or
(b) driving or working any animal mercilessly or in a manner that inflicts pain; or
(c) failing, refusing, or neglecting to provide any animal in their charge or custody with responsible animal care; or
(d) transporting an animal in the open bed of a truck unless properly restrained so as to prevent the animal from leaving or being thrown from the vehicle and/or transporting any animal in any vehicle in a manner that inflicts pain or in any other inhumane manner; or
(e) chaining, roping, or otherwise securing an animal without ensuring all of the following: that the animal will not become entangled; that the animal is within reach of its food and water and; that the animal is not in danger of becoming suspended and/or hung from any object or structure; or
(f) abandoning any animal within the city limits; or
(g) making accessible to an animal any substance which has in any manner been treated or prepared with a harmful or poisonous substance; or
(h) permitting or attending any dogfight, cockfight, bullfight or other combat between animals or between animals and humans; or
(i) cropping animal ears or docking animal tails except by a licensed veterinarian;
(j) offering to give or giving a live animal as a prize or as a business inducement; or
(k) failing to stop when operating a motor vehicle after striking a domestic animal and immediately rendering proper assistance and immediately reporting any injury or death to the owner of the animal unless the owner cannot be ascertained and located in which case said operator shall immediately report the incident to the Leawood Police Department; or
(l) training or encouraging an animal to fight or attack other animals or humans; or
(m) allowing an animal to have too much food or water.

2-104. TRAPPING.

(a) No person shall do any trapping anywhere in the city except by means of cage-type live traps.
(b) All traps shall be clearly marked with the name, address and telephone number of the owner of the trap or said trap shall be confiscated by the Police Department and destroyed if not claimed within six hours.
(c) All traps will be kept in good condition and proper working order and will be checked every six hours while set to insure that no animal is unreasonably suffering and to remove and properly dispose of the animal.
(d) This section does not apply to the use of traps specifically designed to kill rats, mice, gophers, squirrels or moles with the consent of the owner or occupant of the property where the trap is set.

2-105. FENCES.

(a) Fences utilized to contain any animal shall be as follows: securely constructed; adequate for the purpose; kept in good repair and; not be allowed to become unsightly.
(b) Invisible fences shall be maintained in accordance with the specifications of the manufacturer. An animal placed within an invisible fence shall be trained in accordance with the specifications of the manufacturer.
(c) Invisible fences shall be no closer than 10 feet from a public walk way or street, and it shall be unlawful to allow an animal, other than a domestic cat, to be confined solely within an invisible fence.

2-106. COMPLIANCE WITH FEDERAL REGULATIONS.

It shall be unlawful for any person to buy, sell or offer a native or foreign species or subspecies of mammal, bird, amphibian or reptile, or the dead body or parts thereof, which appears on the endangered species list designated by the United States Secretary of the Interior and published in the **Code of Federal Regulations** pursuant to the **Endangered Species Act of 1969.**

2-107. DEAD ANIMAL REMOVAL AND DISPOSAL.

The property owner where any animal has died and/or the owner, keeper or harborer of said animal shall remove and properly dispose of the remains of the animal. In the event of a failure to properly dispose of the remains of an animal, the Animal Control Officer may remove and dispose of the remains of the animal; and the property owner and/or owner, keeper or harborer of said animal will be responsible for any expenses involved in the removal and disposal of said animal.

2-108. INJURED OR ILL ANIMALS.

(a) If the owner of an injured or ill animal cannot immediately be contacted, the Animal Control Officer may seek aid for the animal. The owner of the animal will be responsible for any expenses for the treatment and board of the animal.
(b) In the event that a domestic animal is severely injured or ill and an owner can not be contacted immediately, the Animal Control Officer and his or her supervisor will decide if the animal will be euthanized.
(c) The Animal Control Officer may obtain care for any injured or ill wild animal within the city limits and/or euthanize such animal.

2-109. LIMITATIONS ON OWNERSHIP.

(a) It shall be unlawful for any person to own, harbor or keep more than two dogs and/or two cats over six months of age in the City of Leawood unless said person has properly obtained a permit allowing said person to keep a greater number of dogs and/or cats.
(b) An owner, harborer or keeper, including any person desiring to operate a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, may secure a permit to keep or harbor animals in excess of two dogs and/or two cats over six months of age upon adequately showing the City Council that special circumstances exist, and that it would not constitute a nuisance to the neighborhood, and further that the premises on which the animals are to be kept is suitably sited and equipped to accommodate the number of animals requested.
   (1) The A.C.O. must provide a copy of the application to the owner and/or occupants of property which is located within 350 feet of the premises where the animals are to be kept.
   (2) Written objections by the owners or occupants of two tracts of land, portions of which lie within 350 feet of the premises where the animals are to be kept, shall be held as sufficient evidence of nuisance to the neighborhood and no permit will be issued.
   (3) The City Council shall approve or deny such permits and have the authority to require stipulations in conjunction with the issuance of a permit.
   (4) The City Council may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter, the regulations promulgated by the City Council, or any state or local law such as those governing cruelty to animals or the keeping of animals. Any person whose permit is revoked shall, within 10 days thereafter, sell or otherwise humanely dispose of all animals being owned, kept or harbored by such person and no part of the permit fee shall be refunded. It shall be a condition of the issuance of any permit that animal control officers, police officers, and any other person charged with the enforcement of this chapter, shall be permitted to inspect all animals and the premises where animals are kept at any time and if such permission for such inspection is refused, revoke the permit of the owner.
   (5) Owners may appeal a denial of a permit to the district court of Johnson County.
   (6) The permit fee will be as set forth in the fee schedule established and maintained by the City Administrator, as prescribed in **Section 1-701 of the Code of the City of Leawood.**
   (7) The permit will be valid only for the animals listed at the time of application for the permit, except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, which may substitute animals up to a certain number as approved by the City Council and set forth in the permit. If at any time there is a change in the number of animals or if another animal is brought in to replace one that is no longer on the property, except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, a new application shall be submitted and said application shall be subjected to a new investigation.
   (8) The permit will be valid for the life of the animal, unless otherwise limited in this Chapter as in the event of noncompliance with any other requirement herein.

2-110. KEEPING OF A DANGEROUS AND/OR WILD ANIMAL

(a) It shall be unlawful for any person to own, keep or harbor any dangerous or wild animal within the city limits except as herein provided.
(b) No person, other than the following entities, may keep a dangerous or wild animal for display or for exhibition purposes whether gratuitously or for a fee in the City of Leawood:
   (1) a zoological park; or
   (2) circus; or
   (3) bona fide licensed veterinary hospital; or
   (4) bona fide educational institution; or
   (5) bona fide medical institution; or
   (6) bona fide museum.

   Any such person or entity applying for a permit to keep a dangerous animal in the city, shall also execute the following agreement, which shall be attached to the permit as Exhibit A:

EXHIBIT A
Agreement Permitting Inspections

I, _____ have applied for a permit to keep a dangerous animal in the city, at premises known as _____. I understand that keeping a dangerous animal can pose special problems for the city. I agree that a city animal control officer may enter the premises described as _____ at any time with or without previous notice for the purpose of making an inspection. Such entry for inspection shall not include entry into any building or part of a building except locations where such animal is customarily kept or permitted to roam, and a way to get into such location.
Dated: _____
Applicant: _____

(c) This section does not apply to animals considered domesticated animals, including but not limited to dogs, cats, ferrets, rabbits, hamsters, guinea pigs, or domestic cage birds.
(d) This section does not apply to animals normally considered as livestock or farm animals, including but not limited to horses, mules, donkeys, cows, goats, sheep, swine, or fowl.
(e) It shall include, but is not limited to, lions, tigers, bobcats, all other members of the feline family, bears, wolves, coyotes, monkeys, apes, gorillas, poisonous or dangerous snakes or other reptiles, poisonous or dangerous insects, eagles, hawks, owls, other wild or dangerous members of the bird family, and any bird that is not captive bred domestically.
(f) The **Federal Animal Welfare Act** must be strictly followed if any dangerous animal is to be kept by a zoological park, circus, bona fide licensed veterinary hospital, bona fide educational or medical institution or museum.
(g) No person shall keep or permit to be kept any dangerous animal as a pet.
(h) Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal within the city, the city shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint is in fact the owner,

keeper or harborer of any such dangerous animal in the city, the city shall mail written notice to the property owner where the animal is located requiring the owner to safely remove the animal from the city within five days. Notice shall not be required where a dangerous animal has caused serious physical harm or death to any person or has escaped and is at large, in which case the city shall cause the animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without the risk of serious physical harm or death to any person.

(i) The city shall forthwith cause to be seized and impounded any dangerous animal where the person owning, keeping or harboring such animal has failed to comply with the notice sent. Upon seizure and impoundment, the animal shall be delivered to a place of confinement which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If, during the seizing and impounding of any such animal, the animal poses a risk of serious physical harm or death to any person, such person or persons authorized by the city may render said animal immobile by means of tranquilizers or other safe drugs or if that is not safely possible, then said animal may be killed.

(j) Any reasonable expenses incurred by the city in seizing, impounding and confining any dangerous animal shall be charged against the owner, keeper or harborer of such animal. Such charges shall be in addition to any fine or penalty provided for violating this ordinance.

2-111. VICIOUS ANIMAL

(a) It shall be unlawful to own, harbor or keep a vicious animal within the city of Leawood except as provided in this Chapter.

(b) The owner of an animal that has been found and/or declared to be vicious in any jurisdiction, must within ten days of the conviction and/or declaration provide to the animal control officer two color photographs of the animal clearly showing the color, approximate size and any distinguishing markings on the animal.

(c) All vicious animals shall be confined in a secured enclosure as defined in this Chapter. It shall be unlawful for any owner, keeper or harborer to allow a vicious animal to be outside of the dwelling of the owner or outside of the enclosure unless it is necessary to obtain veterinary care for the vicious animal or to sell or give away the vicious animal or to comply with commands or directions of the Animal Control Officer with respect to the vicious animal. In such event, the vicious animal shall be securely muzzled and restrained with a chain having a minimum tensile strength capable of keeping said animal attached to said chain and not exceeding three feet in length, and shall be under the direct control and supervision of the owner, keeper or harborer of the vicious animal. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any human or animal.

(d) The owner of a vicious animal shall display in a prominent place on the premises a clearly visible warning sign indicating that there is a vicious animal on the premises and state whether it is a dog or cat. A similar sign is required to be posted on the pen or the kennel of the animal.

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

(f) Unless otherwise Ordered by the Judge after being convicted of owning, keeping or harboring a vicious animal, said owner, harborer of keeper shall present satisfactory evidence to the City Clerk that the owner has procured liability insurance in the amount of at least five hundred thousand dollars ($500,000) covering any damage or injury which may be caused by such vicious animal during any twelve month period for which a license is sought. The policy shall contain a provision requiring the City to be named as additional insured for the sole purpose of the City to be notified by the insurance company of any cancellation, termination or expiration of the liability insurance policy. The owner shall maintain and not voluntarily cancel the liability insurance required by this section during the twelve-month period for which the license is being sought, unless the owner shall cease to own the vicious animal prior to the expiration of the license.

(g) Trained police dogs utilized by properly certified law enforcement officers in the course of official duty shall be exempt from the provisions of this section.

(h) A vicious cat must be declawed by a licensed veterinarian.

(i) Upon conviction of a first offense, the general penalty for this Chapter shall apply.

(j) Upon conviction of a second offense, the Court shall order the animal permanently removed from the City within three days or euthanized. Should the order of the Court be appealed, the animal must be removed from the City pending disposition of the appeal. Failure to comply with the removal order shall result in the animal being impounded and shall be punishable by a fine of $500.00 per day that the vicious animal remains in the City and/or one year confinement in the county jail.

(k) A permit for the keeping of a vicious animal shall be issued for one year upon payment of a fee of $50.00 to the Police Department of the city and will be deemed to have expired one year from date of issuance. The person to whom a permit is issued shall sign a written agreement, on a form approved by the city attorney, permitting the animal control officer to inspect the permittee's premises from time to time. The permittee shall pay $20.00 for each inspection provided that if more than four inspections are made of any premises in any permit year, the permittee shall not be required to pay for more than four inspections. Until the city attorney authorizes the use of a different form, such agreement shall be worded substantially the same as the form entitled "Exhibit A-Agreement Permitting Inspections", the text of which is found elsewhere in this ordinance in **Section 2-110 (b)**. Failure to comply with any of the foregoing requirements in this **Section 2-111** shall be grounds to revoke such permit.

2-112. BITE AND SCRATCH PROCEDURES

(a) When any animal has bitten or attacked any person within the City limits of Leawood, and/or when an animal is suspected of having rabies, it shall be the duty of any person having knowledge of such to report the same immediately to the Police Department.

(b) Except as provided in subsection (f) herein, an animal alleged to have bitten or otherwise so injured a person causing an abrasion of the skin, shall immediately be quarantined at the expense of the owner with a licensed veterinarian within Johnson County, Kansas for a period of ten days.

(c) If the owner, keeper or harborer of the animal alleged to have bitten or injured a person can not be immediately contacted, the Leawood Police Department and/or the A.C.O. shall immediately impound such an animal at the expense of the owner for not less than ten days. If the address of the owner can be determined, the Leawood Police Department shall mail a notice to the owner that the animal has been impounded under the provisions of this section. The owner has the right to redeem the animal if that animal is determined to be free of rabies at the expiration of confinement upon payment of all expenses including the boarding, any veterinarian fees and any license and penalty fees due and owing the city. There may be conditions concerning the keeping, housing and handling of the animal that the owner, keeper or harborer must follow until the municipal judge determines how the animal shall be kept.

(d) In the event the original place of quarantine is not the choice of the owner, the owner may request a change of place of quarantine to a licensed veterinarian of the owner's choice in Johnson County, Kansas from the A.C.O. The A.C.O. shall insure that the place of quarantine and licensed veterinarian complies with all provisions of this article. The total period of confinement of the animal is a period of not less than ten days. No credit shall be given for any period of time the animal remained at large.

(e) The veterinarian with whom the animal is quarantined shall provide a written report to the police department as to the health of the animal immediately after receiving any information concerning rabies.

(f) In the event that the investigating officer determines:

(1) that the animal which injured the person did so while properly secured on or within the property of the owner, harborer of keeper of the animal; and

(2) that the person injured was upon the property without the consent of the owner; and

(3) that the animal had an effective rabies vaccine and was duly licensed under this article at the time of the injury, then the animal need not be impounded in accordance with **Section 2-112 (a)**, but the following alternative procedure shall be followed:

(i) If the injured person or legal guardian desires that the animal be impounded and agrees in writing to pay for the board during the period of impoundment, it shall be impounded for the period specified notwithstanding any other provision of this article.

(ii) If the injured party or legal guardian is unwilling to agree in writing to pay for the boarding of the animal during the period of impoundment, the animal shall be permitted to remain confined in the residence of the owner or keeper, provided that the owner or keeper signs a written agreement to keep the animal confined for the specified period and allows the animal to be periodically examined by an animal control office 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 this chapter.

(4) It shall be unlawful to own, harbor, keep or in any manner be responsible for an animal that bites or otherwise so injures a person causing an abrasion of the skin. The owner, harborer or keeper of any animal that bites or otherwise so injures a person causing an abrasion of the skin, shall be punished by a fine not of not less than $100.00 but not more than $500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. The Judge may also order that the animal be euthanized taking into consideration the nature and severity of the incident and whether the animal has displayed dangerously aggressive behavior and is likely to inflict injury on another person or animal.

2-113. UNSECURED ANIMAL

(a) It shall be unlawful for the owner, keeper or harborer of any animal to allow such animal to be unsecured anywhere in the city.

(b) It shall be unlawful to abandon an animal.

(c) Unsecured or abandoned animals may be immediately euthanized if the Animal Control Officer or any other agent designated by the city believes that seizure and impoundment are not possible without the risk of serious physical harm or death to any person.

(d) If an animal is unsecured within the city limits, such animal may be seized by the Animal Control Officer or by any other agent designated by the city, and the animal shall be held seven days as provided by the animal shelter or agent, and if within that seven days the owner of the animal reports to the police department and pays the expenses of seizing, boarding, and caring for the animal, the animal may be released to the owner provided that the animal is not vicious or dangerous and is eligible to be released pursuant to this Chapter.

(e) If impounded, the police department will attempt to contact the owner, harborer or keeper of the animal. If the animal is not claimed within seven days, the animal may be adopted or euthanized as decided by the designated agent and/or the animal shelter.

2-114. ANIMAL NUISANCE

(a) It shall be unlawful for any person to appear with an animal on public property or the property of another, absent that person's consent, without some means for the removal of excrement. It shall be unlawful for any person to fail to immediately remove any excrement deposited by his or her animal on any public or private property, other than the property of the owner of the animal. This section does not apply to a blind person while walking his or her work dog.

(b) It shall be unlawful for the owner, harborer or keeper of an animal to allow the animal to be exposed in any public place in the city, or to ship or remove such animal from the property of the owner, harborer or keeper, when the animal is afflicted with a contagious or infectious disease unless under the supervision of the Animal Control Officer or a licensed veterinarian.

(c) All female animals in heat shall be confined in an enclosure or building in such a manner that the animal can not come in contact with a male animal except for planned breeding.

(d) It shall be unlawful for the owner, keeper or harborer of any animal to allow that animal to create any type of nuisance as defined in this Chapter.

(e) Nuisance-Injunction: Any violation of this **Section 2-113** is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

2-115. SALE OF ANIMALS. SPECIAL PERMIT AND BUSINESS LICENSE REQUIRED.

It shall be unlawful to attempt to sell and/or maintain for sale, and/or sell an animal without obtaining a special permit and business license from the Bureau of Licenses (BOL).

2-116. CHAPTER ADMINISTRATION.

The City Administrator is authorized to develop administrative regulations necessary to implement the provisions of this Chapter, including procedures for animal enumerations, animal shelter operation and such other fees required by this Chapter but not specified herein.

ARTICLE 2. DOGS AND CATS

2-201. LICENSING AND VACCINATIONS

(a) It shall be unlawful for any person to own, keep or harbor any dog or cat over six months old unless such dog or cat is licensed as provided herein. Any person bringing a dog or cat over six months old into the city on or after March 1 shall have thirty days from the day the animal is brought into the City to license the animal through the city's Bureau of Licenses. If the animal is not licensed within the time required, the owner shall be subject to a penalty as set forth in the fee schedule established and maintained by the city administrator, as prescribed in Section 1-701 of the Code of the City of Leawood.

(b) An application provided by the BOL must be completed and submitted annually by any person owning, keeping or harboring a dog or cat. The application must include the following information:

(1) the name, address and telephone numbers of said person; and the dog or cat shall be identified by sex, age, breed, color, and call name; and

(2) the date (which must be within the past twelve months) of inoculation of the rabies vaccine, the name of the inoculating veterinarian and the rabies vaccine inoculation certificate number.

(c) It shall be unlawful for any person to own, keep or harbor any dog or cat over six months old unless such dog or cat is currently vaccinated against rabies. If a licensed veterinarian recommends that a dog or cat not be inoculated with a rabies vaccine for health purposes, the owner of such an animal will need to submit to the B.O.L., a statement from a licensed veterinarian on official letterhead specifying the reason that the animal should not be vaccinated.

(d) The owner or harborer of a dog or cat shall carefully preserve the current Certificate of Rabies Vaccination that was issued by a veterinarian at the time of the inoculation, and shall promptly present said certificate for inspection when requested to do so by an animal control officer or a police officer.

(e) A license fee and submission of the Certificate of Vaccination are required for a license. The license fees for sexually altered and unaltered dogs and cats are set forth in the fee schedule established and maintained by the City Administrator, as prescribed in Section 1-701 of the Code of the City of Leawood. Written proof by a licensed veterinarian that an animal has been neutered of spayed must be presented.

(f) Any person owning, keeping or harboring a work dog, as described below, shall be exempt from the license fee payment upon submittal of adequate proof that the dog has received a rabies vaccine inoculation and is fully trained as a work dog and is used regularly as a work dog.

(1) Dogs providing services for persons with disabilities; or

(2) Dogs utilized by law enforcement personnel.

(g) The license year shall be from January 1 through December 31 of each year. The fee shall be due and payable before March 1 of each year. A penalty, as set forth in the fee schedule established and maintained by the city administrator, as prescribed in Section 1-701 of the Code of the City of Leawood, shall be assessed on March 1 and every thirty days thereafter.

(h) Licenses shall be issued in the form of a durable tag which shall be worn at all times fastened to the collar or harness of the dog or cat. License tags shall not be transferable. If a tag is lost, a replacement tag will be issued upon sufficient evidence of prior licensing and payment of the charge as set forth in the fee schedule established and maintained by the city administrator.

(i) It shall be unlawful for any person to remove or cause to be removed, the collar, harness or the license tag from any licensed dog or cat without the consent of the owner, keeper or harborer of said dog or cat. Any dog or cat running at large and found not wearing a tag indicating that the dog or cat was licensed for the current year, shall be seized by the A.C.O. or Police Department.

(j) Persons that do not reside in Leawood may keep no more than two dogs and/or cats within the city for less than thirty days before licensing said dogs and cats.

ARTICLE 3. LIVESTOCK AND FOWL

2-301. KEEPING OF LIVESTOCK PROHIBITED

(a) It shall be unlawful for any person to own, keep or harbor a cow, a pig, a horse, a mule, a sheep, a goat, a chicken, a duck, a goose, or any other animal other than a cat or dog on any premises not zoned for agricultural purposes within the corporate limits of the city.

(b) This section shall include those animals considered miniature or pygmy breeds, including but not limited to, Vietnamese pot-bellied pigs, miniature horses and miniature goats.

(c) Nuisance-Injunction: Any violation of this Section 2-301 is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

2-302. KEEPING OF PIGEONS PROHIBITED

(a) It shall be unlawful to own, keep or harbor any pigeon including, but not limited to the following: any member of the family Columbidae, including racing pigeons, fancy pigeons and sporting pigeons.

(b) Nuisance-Injunction: Any violation of this Section 2-302 is hereby declared to be a nuisance. In addition to any other relief provided by this ordinance, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction, and permanent injunction.

ARTICLE 4. ANIMAL CONTROL OFFICER

2-401. DUTIES

Animal Control Officers are hereby charged with the duties of enforcing this ordinance and no person shall interfere with, hinder, molest or abuse such officers or other designated agents in the exercise of their powers or in the enforcement of this Chapter.

2-402. POWERS

Within the city limits of Leawood, the animal control officers and their designated agents may:

(a) Enter without a warrant upon private property to secure an animal or abate an animal nuisance where such animal is found in plain sight other than in a residential structure and to seize such animal from said private property.

(b) Enter without a warrant upon private property to apprehend a vicious animal, a dangerous animal, a wild creature or an animal suspected of being infected with rabies where such animal is found within plain sight other than in a residential structure and to seize such animal from said property.

(c) Enter without a warrant upon private property to investigate cruelty and/or abuse to animals, including but not limited to inspection of pet stores, stables, and other commercial animal establishments.

(d) File complaints against persons for violations of animal control ordinances and issue notices to appear in Municipal Court.

(e) Demand immediate presentation to the Animal Control Officer of an animal by its owner, harborer or keeper when there is a suspected violation of the Chapter. It shall be unlawful to fail, neglect or refuse to present an animal to the A.C.O., the designated agent of the city for purposes of enforcing this Chapter, or law enforcement personnel.

(f) Seize an animal which appears to be suffering or in imminent danger from cruelty or neglect.

ARTICLE 5. GENERAL PENALTIES

2-501. PENALTIES

(a) It is unlawful for any person to violate any of the provisions of this Chapter.

(b) Each day that a person is in violation of any section of this Chapter, constitutes a separate offense.

(c) Each section and subsection of the Chapter constitutes a separate violation for sentencing purposes.

(d) Any person convicted of a violation of this Chapter, where no other penalty is stated for said violation, shall be punished for that violation by a fine of not less than $50.00 but not more than $500.00, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. These fines shall be in accordance with the minimum fine schedule set out in subsection (f) of this section.

(e) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following:

(1) First Offense.....$ 50.00

(2) Second Offense.....$100.00

(3) Third Offense.....$300.00

(4) Fourth and subsequent offense.....$500.00

In determining the applicable minimum fine, an offense shall be considered a subsequent offense only if the defendant has previously pleaded guilty or been found guilty of the same offense.

Section 2. Existing provisions repealed. That the existing sections contained in Chapter II of the Code of the City of Leawood (Animal Control) are hereby repealed.
(Prior law: Ord. No. 1327C)

Section 3. Take effect. This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 17 day of May, 1999.

Approved by the Mayor the 17 day of May, 1999.

(SEAL)

Peggy Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1795 C

AN ORDINANCE AMENDING SECTION 12-101 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO MEMBERSHIP OF THE PARKS AND RECREATION ADVISORY BOARD, AND REPEALING EXISTING SECTION.

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

Section 1. Code Amended. That Section 12-101 of the Code of the City of Leawood is hereby amended to read as follows:

12-101. PARKS AND RECREATION ADVISORY BOARD ESTABLISHED. There is hereby created a Parks and Recreation Advisory Board consisting of up to seven members appointed by the governing body. All members shall be qualified electors of the city.

Section 2. Repeal of Existing Section. That existing Section 12-101 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1213C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of May, 1999.

Approved by the Mayor the 3rd day of May, 1999.

(S E A L)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1795

Publication Fees: $14.89

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
John G. Lewis, of lawful age, being first duly sworn, deposes and says that he is Publisher of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class). That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE 1795 C, 5/4/99

Publisher

Subscribed and sworn to before me on this date:

May 5, 1999

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1795C

First published in The Legal Record, Tuesday, May 4, 1999.

ORDINANCE NO. 1795 C

AN ORDINANCE AMENDING SECTION 12-101 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO MEMBERSHIP OF THE PARKS AND RECREATION ADVISORY BOARD, AND REPEALING EXISTING SECTION.

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

Section 1. Code Amended. That Section 12-101 of the Code of the City of Leawood is hereby amended to read as follows:

12-101. PARKS AND RECREATION ADVISORY BOARD ESTABLISHED. There is hereby created a Parks and Recreation Advisory Board consisting of up to seven members appointed by the governing body. All members shall be qualified electors of the city.

Section 2. Repeal of Existing Section. That existing Section 12-101 of the Code of the City of Leawood is hereby repealed. (Prior law: Ord. No. 1213C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 3rd day of May, 1999.

Approved by the Mayor the 3rd day of May, 1999.

(S E A L)

Peggy O. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

R.S. Wetzler, City Attorney

$14.89

ORDINANCE NO. 1794

AN ORDINANCE GRANTING TO SOUTHWESTERN BELL TELEPHONE COMPANY A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ("City"), a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City;

WHEREAS, Southwestern Bell Telephone Company, desires to operate telecommunication facilities for the purposes of providing local telephone services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities;

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. 12-2001 et. al;

WHEREAS, the City intends to execute a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements which will apply to all franchisees and other service providers;

WHEREAS, the terms and provisions of this franchise ordinance will be in addition to the requirements set forth in the City's Right-of-Way ordinance;

WHEREAS, pursuant to K.S.A. 12-2001, the Governing Body of the City did order publication of a notice of a hearing to be held on April 19, 1999 to afford the public in the franchise area, as well as the public-at-large, an opportunity to comment on the proposed franchise ordinance, a copy of which was on file in the office of the City Clerk, and at such time, said hearing was continued to May 3, 1999; and

WHEREAS, said notice of hearing was published in the *Legal Record* on April 6, 1999 and in the *Johnson County Sun* on April 7, 1999;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:
   "Cable" includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.
   "Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 U.S.C. §522(6), any successor statute of similar import.
   "City" means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.
   "Facilities" means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

"Franchise ordinance" means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

"Franchisee" means Southwestern Bell Telephone Company, or its successors, transferees, or assigns.

"Franchise fee" means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. 12-2001. It shall not include: (1) any tax, fee, or assessment of general applicability including any which are imposed on franchisee; (2) requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (3) any permit fee or other fee imposed under any valid right-of-way ordinance, or (4) any other fee imposed by federal, state, or local law.

"Gross revenues" means those revenues less uncollectible, derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from "gross revenues." Further, "gross revenues" shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within "gross revenues." If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of "gross revenues," such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

"Open video system" means the provision of video programming service as described in and subject to 47 U.S.C. § 573, or any successor statute of similar import.

"Person" means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

"Right-of-way" means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

"Service" means a commodity used by the public and provided through franchisee's facilities.

"Subscriber" means any person who receives services from franchisee services.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 U.S.C. §153(43), any successor statute of similar import.

"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 U.S.C. §153(46), any successor statute of similar import.

"Utility Easement" means, for the purposes of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein setforth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license,

certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Upon franchisee's request for a franchise to provide cable serve as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

At the time of the enactment of this franchise ordinance, the City is currently in the process of completing a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements. Upon adoption of this ordinance, franchisee will register and abide by the terms and provisions of this ordinance, subject to franchisee's right to challenge the provisions of this ordinance in good faith. Until the adoption of such Right-of-Way ordinance and franchisee's compliance thereof, the following provisions shall apply:

a. Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate the placement of its facilities in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City.

b. All earth, materials, sidewalks, pavings, crossings, utilities, public improvements or improvements of any kind damaged or removed by franchisee in its activities under this franchise shall be fully repaired or replaced promptly by franchisee at its sole expense and to the reasonable satisfaction of the City.

c. All facilities constructed, reconstructed or relocated in the right-of-way shall be placed underground, unless otherwise agreed to by the City. Any vaults, boxes, pedestals and similar facilities placed above ground in right-of-way shall be located behind the sidewalk where feasible. Ordinary repairs to current above ground facilities shall be allowed, unless the repair is to the extent as to qualify as a reconstruction of the facilities.

d. Franchisee shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or

relocated in the right-of-way. Within ten (10) days after request by the City, Franchisee will provide to the City such information regarding such location as may be reasonably requested. When available to franchisee, Franchisee shall provide to the City a complete set of plans with accurate and complete information in AutoCAD format compatible with the City's Geographic Information System (GIS) showing and describing the exact locations, both horizontal and vertical, of all facilities constructed and existing within the right-of-way and within private easements; such mapping and identification shall be at the sole expense of franchisee. Franchisee shall have a person familiar with the facilities who is responsible for timely satisfying information needs of the City and other users of the right-of-way.

e. Prior to construction, reconstruction or relocation of any facilities in the right-of-way, franchisee shall submit to the Public Works Director for approval and permit, plans and specifications of the proposed installation. Such approval and permit shall not be unreasonably withheld, delayed or conditioned.

f. Franchisee shall relocate or adjust any facilities in the right-of-way for any public funded improvement or public funded project. Such relocation or adjustment shall be performed by franchisee at its sole expense without expense to the City, its employees agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of franchisee's failure to timely relocate or adjust its facilities shall be borne by franchisee.

g. It shall be the sole responsibility of franchisee to take reasonable measures to protect and defend its facilities in the right-of-way from harm or damage. If franchisee fails to accurately or timely relocate facilities when requested, it shall have no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way unless such party is solely responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of franchisee to perform its obligations under this franchise ordinance unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm.

h. Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.

i. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and city laws and regulations, including but not limited to, the most recent editions of the National Electric Code, the National Electrical Safety Code, and Fiber Optic Cable Installation Standard for the Telecommunications Industry Committee, or such substantive equivalents as may hereafter be adopted or promulgated. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this franchise ordinance may be in addition to, or stricter than, such minimum standards.

j. Franchisee, upon request of any appropriate applicant, shall remove or raise or lower its overhead facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of overhead facilities shall be paid by the party or parties requesting the same, and franchisee may require such payment in advance. Franchisee shall be given not less than fifteen (15) days written notice from the applicant detailing the time and location of the moving operations, and not less than twenty-four (24) hours advance notice from the applicant advising of the actual operation. The City shall not be liable for any such expense or notice requirement for the moving of houses or structures by the City or its contractors.

k. Permission is hereby granted to franchisee to trim trees upon and overhanging the right-of-way and utility easements upon the Public Works Director's review and approval of franchisee's plan and details for the trimming. Care shall be taken to protect the health and aesthetic value of such trees, and when required by the Public Works Director, such trimming shall be done under the supervision of the City. No trimming shall occur without at least twenty-four (24) hours notice to both the Public Works Director and any adjacent property owner.

4. **Franchise Fee.** Franchisee shall pay five (5%) percent of its gross revenues as defined herein. The payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Payment shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five (45) days after the last day of the applicable month. Franchisee shall pay interest at an annual rate of ten (10%) percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** Franchisee shall annually file with the City a Leawood gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. 45-221 (18), as amended, such information does not constitute public records subject to K.S.A. 45-218, as amended. In the event the City is required by law to disclose such information, the City shall provide franchisee seven (7) days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten (10%) percent. Further, 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 or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchise ordinance shall be effective for a term of one (1) year from the effective date. Thereafter, this franchise ordinance will renew for ten (10) renewable one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise prior to one hundred and eighty (180) days before the termination of the then current term.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services (other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance), franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues (as referenced by section 5 herein);

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's public works director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to

offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the city clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the city clerk by first class United States mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States mail or by personal delivery to:

    Southwestern Bell Telephone Company
    Area Manager-Municipal Affairs
    220 E 6th Street, Room 505
    Topeka, Kansas 66603

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than one million dollars ($1,000,000) per occurrence and two million dollars ($2,000,000) in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance Bond Requirement.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: (a) that it is in the public interest to do so, and (b) that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in section 3 of this franchise ordinance and deemed by the public works director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen (14) days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty (30) days subsequent to receipt of notice unless otherwise agreed to by the City. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-period set forth above, nothing herein shall preclude the City

from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty (30) days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. Revocation of Franchise. In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to

determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. Miscellaneous Provisions.

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three (3) regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of 60 days from the date of final passage by the governing body and after publication in the official City newspaper for two consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the 60 day period.

First Reading: March 22, 1999; Second Reading: April 5, 1999; Third Reading: May 3, 1999

Passed by the Council the 3rd day of May, 1999.

Approved by the Mayor the 3rd day of May, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler
City Attorney

ORD1794

Publication Fees: ~~$378.89~~ 380.04

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
John G. Lewis, of lawful age, being first duly sworn, deposes and says that he is Publisher of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 2 consecutive week(s), as follows:

ORDINANCE 1794, 5/4/99 5/11/99

Publisher

Subscribed and sworn to before me on this date:

May 12, 1999

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: ~~August 21~~, 1999.

~~$378.89~~

JOHNSON COUNTY LEGAL NOTICES

ORDINANCE NO. 1794

First published in The Legal Record, Tuesday, May 4, 1999.

ORDINANCE NO. 1794

AN ORDINANCE GRANTING TO SOUTHWESTERN BELL TELEPHONE COMPANY A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ("City"), a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City;

WHEREAS, Southwestern Bell Telephone Company, desires to operate telecommunication facilities for the purposes of providing local telephone services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities;

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. 12-2001 et. al;

WHEREAS, the City intends to execute a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements which will apply to all franchisees and other service providers;

WHEREAS, the terms and provisions of this franchise ordinance will be in addition to the requirements set forth in the City's Right-of-Way ordinance;

WHEREAS, pursuant to K.S.A. 12-2001, the Governing Body of the City did order publication of a notice of a hearing to be held on April 19, 1999 to afford the public in the franchise area, as well as the public-at-large, an opportunity to comment on the proposed franchise ordinance, a copy of which was on file in the office of the City Clerk, and at such time, said hearing was continued to May 3, 1999; and

WHEREAS, said notice of hearing was published in the *Legal Record* on April 6, 1999 and in the *Johnson County Sun* on April 7, 1999;

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS:

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:
"Cable" includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.
"Cable service" means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 U.S.C. §522(6), any successor statute of similar import.
"City" means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.
"Facilities" means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.
"Franchise ordinance" means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.
"Franchisee" means Southwestern Bell Telephone Company, or its successors, transferees, or assigns.
"Franchise fee" means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. 12-2001. It shall not include: (1) any tax, fee, or assessment of general applicability including any which are imposed on franchisee; (2) requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, (3) any permit fee or other fee imposed under any valid right-of-way ordinance, or (4) any other fee imposed by federal, state, or local law.
"Gross revenues" means those revenues less uncollectible, derived from the following: (1) recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; (2) recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; (3) local directory assistance revenue; (4) line status verification/busy interrupt revenue; (5) local operator assistance revenue; (6) nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from "gross revenues." Further, "gross revenues" shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within "gross revenues." If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of "gross revenues," such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.
"Open video system" means the provision of video programming service as described in and subject to 47 U.S.C. § 573, or any successor statute of similar import.
"Person" means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
"Right-of-way" means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.
"Service" means a commodity used by the public and provided through franchisee's facilities.
"Subscriber" means any person who receives services from franchisee services.
"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 U.S.C. §153(43), any successor statute of similar import.
"Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 U.S.C. §153(46), any successor statute of similar import.
"Utility Easement" means, for the purposes of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein setforth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City. Upon franchisee's request for a franchise to provide cable serve as a cable operator (as defined by 47 U.S.C. § 522 (5)) within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 U.S.C. § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 U.S.C. § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

At the time of the enactment of this franchise ordinance, the City is currently in the process of completing a Right-of-Way ordinance to govern the use of the City's right-of-way and utility easements. Upon adoption of this ordinance, franchisee will register and abide by the terms and provisions of this ordinance, subject to franchisee's right to challenge the provisions of this ordinance in good faith. Until the adoption of such Right-of-Way ordinance and franchisee's compliance thereof, the following provisions shall apply:

a. Franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way. Franchisee shall coordinate the placement of its facilities in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City.

b. All earth, materials, sidewalks, pavings, crossings, utilities, public improvements or improvements of any kind damaged or removed by franchisee in its activities under this franchise shall be fully repaired or replaced promptly by franchisee at its sole expense and to the reasonable satisfaction of the City.

c. All facilities constructed, reconstructed or relocated in the right-of-way shall be placed underground, unless otherwise agreed to by the City. Any vaults, boxes, pedestals and similar facilities placed above ground in right-of-way shall be located behind the sidewalk where feasible. Ordinary repairs to current above ground facilities shall be allowed, unless the repair is to the extent as to qualify as a reconstruction of the facilities.

d. Franchisee shall keep and maintain accurate records and as-built drawings depicting accurate horizontal and vertical location of all facilities constructed, reconstructed, or relocated in the right-of-way. Within ten (10) days after request by the City, Franchisee will provide to the City such information regarding such location as may be reasonably requested. When available to franchisee, Franchisee shall provide to the City a complete set of plans with accurate and complete information in AutoCAD format compatible with the City's Geographic Information System (GIS) showing and describing the exact locations, both horizontal and vertical, of all facilities constructed and existing within the right-of-way and within private easements; such mapping and identification shall be at the sole expense of franchisee. Franchisee shall have a person familiar with the facilities who is responsible for timely satisfying information needs of the City and other users of the right-of-way.

e. Prior to construction, reconstruction or relocation of any facilities in the right-of-way, franchisee shall submit to the Public Works Director for approval and permit, plans and specifications of the proposed installation. Such approval and permit shall not be unreasonably withheld, delayed or conditioned.

f. Franchisee shall relocate or adjust any facilities in the right-of-way for any public funded improvement or public funded project. Such relocation or adjustment shall be performed by franchisee at its sole expense without expense to the City, its employees agents, or authorized contractors and shall be specifically subject to rules and regulations of the City. Such relocation or adjustment shall be completed as soon as reasonably possible and within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of franchisee's failure to timely relocate or adjust its facilities shall be borne by franchisee.

g. It shall be the sole responsibility of franchisee to take reasonable measures to protect and defend its facilities in the right-of-way from harm or damage. If franchisee fails to accurately or timely relocate facilities when requested, it shall have no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way unless such party is solely responsible for the harm or damage by its negligent or intentional conduct. Franchisee shall be responsible to the City and its authorized contractors for all damages including, but not limited to, delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of franchisee to perform its obligations under this franchise ordinance unless the damaged party is solely responsible for the harm or damage by its negligence or intentionally caused harm.

h. Franchisee shall notify the City not less than three (3) working days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two (2) lanes of moving traffic. Except in the event of any emergency, as reasonably determined by franchisee, no such closure shall take place without such notice and prior authorization from the City. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. In addition, all work performed in the traveled way or in which in any manner impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at franchisee's expense. Such signing shall be in conformance with the latest edition of the Federal Highway Administration's Standards and Guidelines for Work Zone Traffic Control, unless otherwise agreed to by the City.

CONTINUED ON NEXT PAGE

JOHNSON COUNTY LEGAL NOTICES

CONTINUED ON NEXT PAGE

from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety (90) days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty (30) days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty (30) days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty (30) day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States the state, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency 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 hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three (3) regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of 60 days from the date of final passage by the governing body and after publication in the official City newspaper for two consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the 60 day period.

First Reading: March 22, 1999; Second Reading: April 5, 1999; Third Reading: May 3, 1999

Passed by the Council the 3rd day of May, 1999.

Approved by the Mayor the 3rd day of May, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer
City Clerk

APPROVED AS TO FORM:

Richard S. Wetzler
City Attorney

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED FRANCHISE ORDINANCE FOR SOUTHWESTERN BELL TELEPHONE COMPANY.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of April, 1999, at seven-thirty (7:30) P.M., at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider a proposed franchise ordinance for Southwestern Bell Telephone Company.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Heizer

Martha Heizer, ~~City~~ Clerk

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

00010595

Publication Fees: $8.59

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
John G. Lewis, of lawful age, being first duly sworn, deposes and says that he is Publisher of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

NOTICE OF HEARING-SW BELL--4/6/99

Publisher

Subscribed and sworn to before me on this date:

April 7, 1999

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

NOTICE OF HEARING

First published in The Legal Record, Tuesday, April 6, 1999.

CITY OF LEAWOOD, KANSAS

NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED FRANCHISE ORDINANCE FOR SOUTHWESTERN BELL TELEPHONE COMPANY.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of April, 1999, at seven-thirty (7:30) P.M., at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider a proposed franchise ordinance for Southwestern Bell Telephone Company.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

Martha Heizer, City Clerk

$8.59

(20443) NO. 13

First Published in the Johnson County Sun, Wednesday, April 7, 1999.

CITY OF LEAWOOD
KANSAS
NOTICE OF HEARING

NOTICE OF HEARING ON PROPOSED FRANCHISE ORDINANCE FOR SOUTHWESTERN BELL TELEPHONE COMPANY.

Notice is hereby given that the Governing Body of the City of Leawood, Kansas, will meet on Monday, the 19th day of April, 1999, at seven-thirty (7:30) p.m., at the Leawood City Hall Council Chambers, 4800 Town Center Drive, for the purpose of holding a public hearing as provided by K.S.A. 12-2001 to consider a proposed franchise ordinance for Southwestern Bell Telephone Company.

Written or oral objections will be considered at the meeting. All persons desiring to be heard with reference to the proposed franchise ordinance shall be heard at this hearing.

/s/ Martha Heizer
City Clerk

(20443 1W)

AFFIDAVIT OF PUBLICATION

TE OF KANSAS, JOHNSON COUNTY,ss: Georgiann Thacker being first Duly sworn, Deposes says: That she is legal publications manager of THE JOHNSON COUNTY SUN, a semi-weekly spaper printed in the State of Kansas, and published in and of general paid circulation in NSON COUNTY, Kansas, and that said newspaper is not a trade, religious or fraternal cation.

d newspaper is a semi-weekly published at least weekly 50 times a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five s prior to the first publication of said notice; and has been admitted at the post office of SHAWNEE MISSION, KANSAS in said County as a second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks/days), the first publication thereof being made as aforesaid on the 7th day of April 1999, with subsequent publication being made on the following dates:

_____, 19___ _____, 19___

_____, 19___ _____, 19___

Georgiann Thacker

Subscribed and sworn to before me this 7th day of April 1999

Deanna J Martasin
NOTARY PUBLIC

My Commission Expires 4/5/2000

Printer's Fee 7.14

Additional Copies $_____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

ACCEPTANCE
ORDINANCE NO. 1794

WHEREAS, the governing body of the City of Leawood, Kansas, did on the 3rd day of May, 1999, adopt and pass an ordinance entitled:

> "AN ORDINANCE GRANTING TO SOUTHWESTERN BELL TELEPHONE COMPANY A TELEPHONE FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS."

WHEREAS, said ordinance was duly signed by the mayor of said City of Leawood, Kansas, and the seal of said City affixed and attested thereto by the City Clerk of the said City, Leawood, and

WHEREAS, said ordinance further provided that it should be in full force and effect after its adoption and publication and its acceptance by the Southwestern Bell Telephone Company.

NOW, THEREFORE, in compliance with the terms of said ordinance so enacted and so approved and attested, the Southwestern Bell Telephone Company hereby accepts said ordinance and files this its written acceptance with the City Clerk of said City in her said office.

Dated this 3rd day of June, 1999.

SOUTHWESTERN BELL TELEPHONE COMPANY

By: Jim Gartner
President-Kansas

Acceptance filed in the office of the City Clerk of Leawood, Kansas, this 4th day of June, 1999.

Marsha Heizer
City Clerk

Southwestern Bell

RECEIVED
JUN 4 1999
CITY OF LEAWOOD

June 2, 1999

Martha:

Attached are two copies of the acceptance for Ordinance #1794. Please sign both copies, stamp with the city seal, and return one to me in the enclosed envelope. This completes the process for the new ordinance.

Don't hesitate to call if you have any questions. It has been a pleasure working with you.

Sincerely,

Attachment

Ed Sims
Director-External Affairs

Southwestern Bell Telephone
220 E. 6th, Room 505
Topeka, Kansas 66603
Phone 785 276-6015
Fax 785 276-6516

TRANSACTION REPORT

JUN-07-99 MON 14:26

DATE	START	RECEIVER	TX TIME	PAGES	TYPE	NOTE	M#
JUN-07	14:26	DICK WETZLER	49"	2	SEND	OK	

Steve
Horner -
FYI

ORDINANCE NO. 1793

AN ORDINANCE APPROVING THE ACQUISITION OF LAND WITHIN THE CITY OF LEAWOOD, KANSAS; PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY TO PROVIDE FUNDS TO PAY THE COSTS THEREOF AND FOR THE ISSUANCE OF TEMPORARY NOTES OF THE CITY PENDING THE ISSUANCE OF SAID BONDS; AND AUTHORIZING AND APPROVING CERTAIN RELATED MATTERS AND ACTIONS.

WHEREAS, the City of Leawood, Kansas (the "CITY") is authorized by K.S.A. Section 12-1736 et. seq. (the "Act") to acquire sites for public buildings, and it has been proposed that the City acquire certain real property in the vicinity of 143rd Street and Overbrook, Leawood, Kansas, as more particularly described in "Exhibit A" hereto (the "Property") within the City as a site for a future public works facility for the City and the cost of the Property has been determined to be $700,000.00; and

WHEREAS, the Governing body of the City hereby finds and determines that it is necessary and advisable to proceed with the acquisition of the Property and provide for the issuance of general obligation bonds of the City in an amount not to exceed $700,000 for the purpose of financing the costs of the Property and for the issuance of temporary notes of the City pending the issuance of said bonds;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section 1. That the Governing Body hereby finds and determines that it is necessary and desirable to acquire and hereby authorizes the acquisition of the Property.

Section 2. That the Governing Body of the City hereby authorizes the issuance of general obligation bonds of the City pursuant to the Act in an amount not to exceed $700,000 to pay the costs of the Property.

The Governing Body for and on behalf of the City covenants and agrees that the Property shall be used solely for purposes authorized by the Act except that said Property shall not be used for purposes of city offices, public libraries, auditoriums or community or recreational buildings within the meaning of the Act.

Section 3. Pending issuance of the bonds of the City as hereinbefore provided and in order to pay the costs of the Property, the City is hereby authorized to issue temporary notes of the City as provided by law.

Section 4. That to the extent the City shall pay all or any portion of the costs of the Project from available funds on hand prior to the issuance of temporary notes or bonds, the City hereby declares that it reasonably expects to reimburse such expenditures so out of the proceeds of such temporary notes and such general obligation bonds. All such expenditures so reimbursed shall be capital expenditures with the meaning of Section 1.150-1(h) of the Income Tax Regulations (the "Regulations").

Section 5. This declaration is a declaration of official intent adopted pursuant to Section 1.103-18 of the Regulations.

Section 6. That as of the date hereof, there are not City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of temporary notes or the bonds. This Ordinance, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

Section 7. That this Ordinance shall be filed within 30 days of it's adoption in the publicly available official books and records of the City. This Ordinance shall be available for inspection at the office of the City Clerk at City Hall during normal business hours of the City on every business day until the date of issuance of bonds.

Section 8. That the City's Director of Finance shall be responsible for making any "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amounts of proceeds of the notes or the bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the notes or the bonds, shall specifically identify the actual prior expenditure being reimbursed or, in the case of reimbursement of a fund or account in accordance with Section 1.103-18, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the notes or the bonds from any restriction under the ordinance or other documents authorizing the issuance of such notes or the bonds, and under any applicable state statute, which would apply to the unspent proceeds of the notes or the bonds.

Section 9. That this Ordinance shall be in force and effect from and after it's approval by the Governing Body and publication in the official City newspaper.

Passed by the Governing Body of the City of Leawood, Kansas, this 5th day of April, 1999.

Approved by the Mayor this 5th day of April 1999.

(SEAL)

Peggy J. Dunn, Mayor

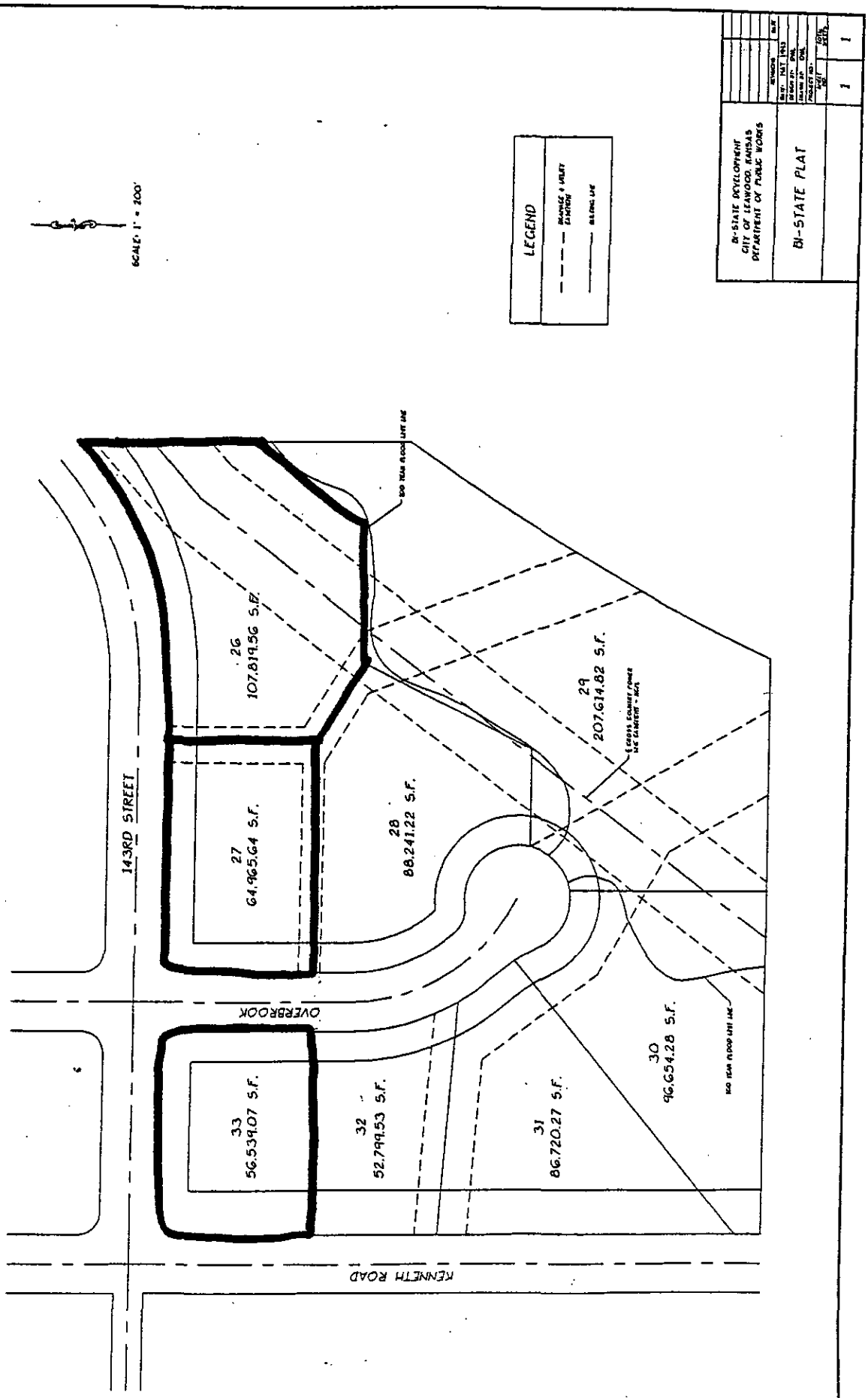
Attest:

Martha Heizer, City Clerk

Approved as to form:

R. S. Wetzler, City Attorney

"EXHIBIT A"


SCALE: 1" = 200'
LEGEND
DRAINAGE & UTILITY EASEMENTS
BUILDING LINE
BI-STATE DEVELOPMENT
CITY OF LEAWOOD, KANSAS
DEPARTMENT OF PUBLIC WORKS
BI-STATE PLAT
143RD STREET
OVERBROOK
KENNETH ROAD
100 YEAR FLOOD UNIT LINE
26
107,819.56 S.F.
27
64,965.64 S.F.
28
88,241.22 S.F.
29
207,614.82 S.F.
30
96,654.28 S.F.
31
86,720.27 S.F.
32
52,799.53 S.F.
33
56,539.07 S.F.

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1793

Publication Fees: $60.40

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
John G. Lewis, of lawful age, being first duly sworn, deposes and says that he is Publisher of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class). That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORD. NO. 1793, 4/6/99

Publisher

Subscribed and sworn to before me on this date:

April 7, 1999

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$60.40

JOHNSON COUNTY LEGAL NOTICES

ORDINANCE NO. 1793

First published in The Legal Record, Tuesday, April 6, 1999.

ORDINANCE NO. 1793

AN ORDINANCE APPROVING THE ACQUISITION OF LAND WITHIN THE CITY OF LEAWOOD, KANSAS; PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY TO PROVIDE FUNDS TO PAY THE COSTS THEREOF AND FOR THE ISSUANCE OF TEMPORARY NOTES OF THE CITY PENDING THE ISSUANCE OF SAID BONDS; AND AUTHORIZING AND APPROVING CERTAIN RELATED MATTERS AND ACTIONS.

WHEREAS, the City of Leawood, Kansas (the "CITY") is authorized by K.S.A. Section 12-1736 et. seq. (the "Act") to acquire sites for public buildings, and it has been proposed that the City acquire certain real property in the vicinity of 143rd Street and Overbrook, Leawood, Kansas, as more particularly described in "Exhibit A" hereto (the "Property") within the City as a site for a future public works facility for the City and the cost of the Property has been determined to be $700,000.00; and

WHEREAS, the Governing body of the City hereby finds and determines that it is necessary and advisable to proceed with the acquisition of the Property and provide for the issuance of general obligation bonds of the City in an amount not to exceed $700,000 for the purpose of financing the costs of the Property and for the issuance of temporary notes of the City pending the issuance of said bonds;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section 1. That the Governing Body hereby finds and determines that it is necessary and desirable to acquire and hereby authorizes the acquisition of the Property.

Section 2. That the Governing Body of the City hereby authorizes the issuance of general obligation bonds of the City pursuant to the Act in an amount not to exceed $700,000 to pay the costs of the Property.

The Governing Body for and on behalf of the City covenants and agrees that the Property shall be used solely for purposes authorized by the Act except that said Property shall not be used for purposes of city offices, public libraries, auditoriums or community or recreational buildings within the meaning of the Act.

Section 3. Pending issuance of the bonds of the City as hereinbefore provided and in order to pay the costs of the Property, the City is hereby authorized to issue temporary notes of the City as provided by law.

Section 4. That to the extent the City shall pay all or any portion of the costs of the Project from available funds on hand prior to the issuance of temporary notes or bonds, the City hereby declares that it reasonably expects to reimburse such expenditures so out of the proceeds of such temporary notes and such general obligation bonds. All such expenditures so reimbursed shall be capital expenditures with the meaning of Section 1.150-1(h) of the Income Tax Regulations (the "Regulations").

Section 5. This declaration is a declaration of official intent adopted pursuant to Section 1.103-18 of the Regulations.

Section 6. That as of the date hereof, there are not City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of temporary notes or the bonds. This Ordinance, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

Section 7. That this Ordinance shall be filed within 30 days of it's adoption in the publicly available official books and records of the City. This Ordinance shall be available for inspection at the office of the City Clerk at City Hall during normal business hours of the City on every business day until the date of issuance of bonds.

Section 8. That the City's Director of Finance shall be responsible for making any "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amounts of proceeds of the notes or the bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the notes or the bonds, shall specifically identify the actual prior expenditure being reimbursed or, in the case of reimbursement of a fund or account in accordance with Section 1.103-18, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the notes or the bonds from any restriction under the ordinance or other documents authorizing the issuance of such notes or the bonds, and under any applicable state statute, which would apply to the unspent proceeds of the notes or the bonds.

Section 9. That this Ordinance shall be in force and effect from and after it's approval by the Governing Body and publication in the official City newspaper.

Passed by the Governing Body of the City of Leawood, Kansas, this 5th day of April, 1999.

Approved by the Mayor this 5th day of April 1999.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

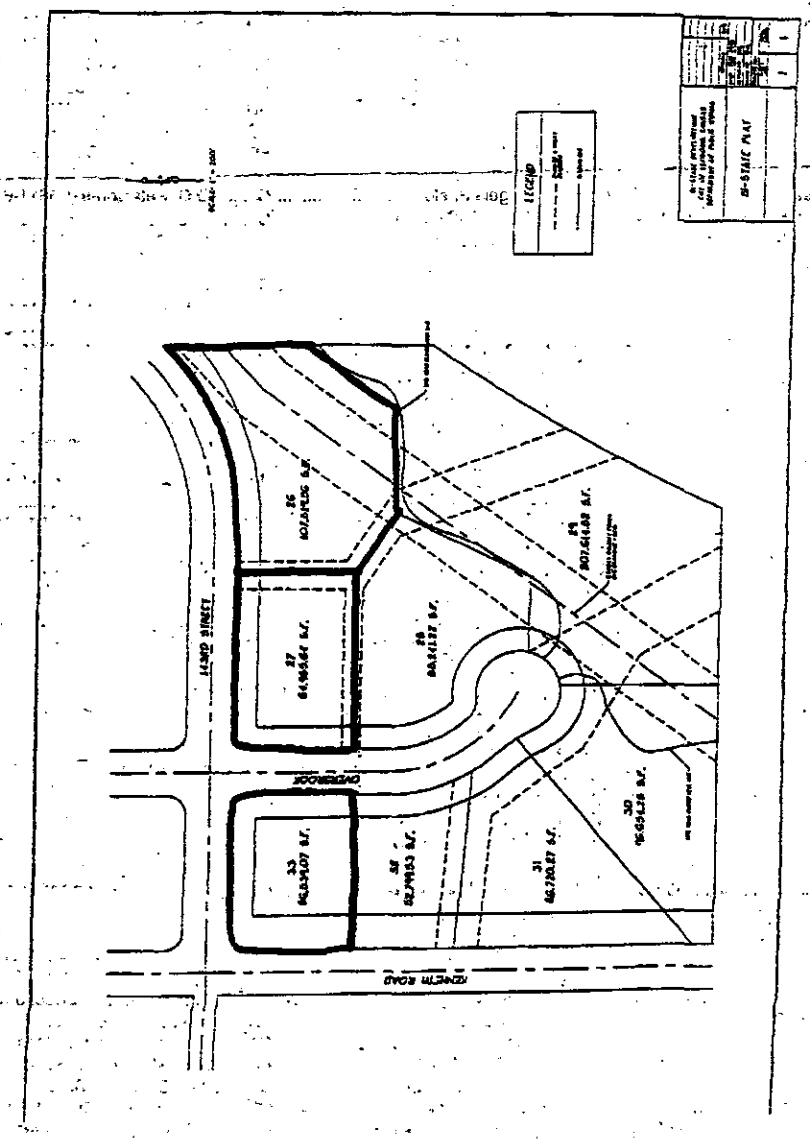
Martha Heizer, City Clerk

Approved as to form:

R. S. Wetzler, City Attorney

(EXHIBIT A is on file in the City Clerk's Office.)

"EXHIBIT A"



ORDINANCE NO. 1792

AN ORDINANCE ADOPTING THE STATE LINE ROAD MAP AND AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC WORKS TO EXECUTE AN OFFICIAL DRAWING PACKAGE LOCATING THE MISSOURI-KANSAS STATE LINE IN RELATION TO STATE LINE ROAD BETWEEN KANSAS CITY, MISSOURI AND LEAWOOD, KANSAS; AND SUPERSEDING ORDINANCE NO. 1687 PASSED BY THE CITY COUNCIL JULY 21, 1997; AND SUPERSEDING ORDINANCE NO. 690 PASSED BY THE CITY COUNCIL MARCH 2, 1981.

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

Section 1. That the Mayor and Director of Public Works are hereby authorized to execute a package of drawings locating the Kansas-Missouri State Line with relation to State Line Road between Kansas City, Missouri, and the City of Leawood, Kansas, from 79th Street to 135th Street.

Section 2. That a copy of said document is on file in the Office of the Director of Public Works and is incorporated herein by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard Wetzler, City Attorney

The Legal Record

Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1792

Publication Fees: $14.59

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1792--3/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1792

First published in The Legal Record, Tuesday, March 23, 1999.

ORDINANCE NO. 1792

AN ORDINANCE ADOPTING THE STATE LINE ROAD MAP AND AUTHORIZING THE MAYOR AND THE DIRECTOR OF PUBLIC WORKS TO EXECUTE AN OFFICIAL DRAWING PACKAGE LOCATING THE MISSOURI-KANSAS STATE LINE IN RELATION TO STATE LINE ROAD BETWEEN KANSAS CITY, MISSOURI AND LEAWOOD, KANSAS; AND SUPERSEDING ORDINANCE NO. 1687 PASSED BY THE CITY COUNCIL JULY 21, 1997; AND SUPERSEDING ORDINANCE NO. 690 PASSED BY THE CITY COUNCIL MARCH 2, 1981.

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

Section 1. That the Mayor and Director of Public Works are hereby authorized to execute a package of drawings locating the Kansas-Missouri State Line with relation to State Line Road between Kansas City, Missouri, and the City of Leawood, Kansas, from 79th Street to 135th Street.

Section 2. That a copy of said document is on file in the Office of the Director of Public Works and is incorporated herein by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(SEAL)

Peggy J. Dunn
Peggy J. Dunn, Mayor

Attest:

Martha Heizer
Martha Heizer, City Clerk

APPROVED FOR FORM: /s/ Richard Wetzler
Richard Wetzler, City Attorney

$14.59

ORDINANCE NO. 1791

AN ORDINANCE WHEREBY THE CITY CONVEYS UNTO ITSELF A PERMANENT UTILITY EASEMENT FOR CONSTRUCTION OF A SANITARY SEWER SYSTEM ONTO PARK PROPERTY ALONG TOMAHAWK CREEK IN THE VICINITY OF 124TH TERRACE AND EAST OF NALL AVENUE.

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

Section 1. That the City of Leawood, Kansas, does hereby convey unto itself a permanent utility easement under the following described real estate, to wit:

A strip of land 15.00 feet in width across part of the Southwest Quarter of Section 21, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, lying 7.50 feet on the right and 7.50 feet on the left of the following described centerline: Commencing at the Northwest corner of the Southwest Quarter of said Section 21; thence S 1° 46'51" E, along the West line of the Southwest Quarter of said Section 21, a distance of 950.08 feet; thence N 88° 13'09" E, perpendicular to the last described line, a distance of 976.32 feet to the true point of beginning, thence S 82° 18'37" E, a distance of 104.53 feet to a point of terminus.

Section 2. That a copy of said permanent utility easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:

R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1791

Publication Fees: $14.42

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1791--3/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1791

First published in The Legal Record, Tuesday, March 23, 1999.

ORDINANCE NO. 1791

AN ORDINANCE WHEREBY THE CITY CONVEYS UNTO ITSELF A PERMANENT UTILITY EASEMENT FOR CONSTRUCTION OF A SANITARY SEWER SYSTEM ONTO PARK PROPERTY ALONG TOMAHAWK CREEK IN THE VICINITY OF 124TH TERRACE AND EAST OF NALL AVENUE.

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

Section 1. That the City of Leawood, Kansas, does hereby convey unto itself a permanent utility easement under the following described real estate, to wit:

A strip of land 15.00 feet in width across part of the Southwest Quarter of Section 21, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, lying 7.50 feet on the right and 7.50 feet on the left of the following described centerline: Commencing at the Northwest corner of the Southwest Quarter of said Section 21; thence S 1° 46'51" E, along the West line of the Southwest Quarter of said Section 21, a distance of 950.08 feet; thence N 88°13'09" E, perpendicular to the last described line, a distance of 976.32 feet to the true point of beginning; thence S 82° 18'37" E, a distance of 104.53 feet to a point of terminus.

Section 2. That a copy of said permanent utility easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(S E A L) Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM: R.S. Wetzler — City Attorney

$14.42

ORDINANCE NO. 1790 C

AN ORDINANCE AMENDING ARTICLE 8 (LIGHTING NUISANCE) OF CHAPTER 11 (PUBLIC OFFENSES); AND REPEALING EXISTING SECTIONS.

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

Section 1. Code Amended. That sections 11-802, 11-804, and 11-806 of Article 8 (LIGHTING NUISANCE) of Chapter 11 (Public Offenses) of the Code of the City of Leawood are hereby amended to read as follows:

11-802. DEFINITIONS. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

Chief of Police - means the chief of police or any authorized representative.

Fully Shielded Fixture - An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture.

Occupant - means any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest.

Owner - means any person who, alone or jointly or severally with others, shall have legal title to a fee interest in the parcel of real property, with or without accompanying actual possession thereof.

Person - means and includes any individual, firm, estate, corporation, association, partnership, cooperative or governmental agency.

Planning Director - means the Director of Planning and development or any authorized representative of the Director of Planning and Development.

Premises - means any public or private property, vacant or occupied lot, plot, parcel of land, street, sidewalk, alley, boulevard, highway, right-of-way, park, parkway, public square or viaduct, including the structures or buildings thereon.

Primary Structure - means a dwelling, garage or attached shed.

Residential - means a place where a human(s) dwell.

11-804. LIGHTING NUISANCE. (A) A lighting nuisance is any exterior light fixture or light source erected or maintained by any property owner or occupant that:

(1) Is a light that does not comply with the shielding requirements as set forth in section 11-804(B) of this ordinance;

(2) Illuminates any portion of the premises of another person with a light intensity greater than 0.5 foot-candle as measured by a photoelectric photometer having a spectral response similar to that of the human eye, in accordance with standard spectral luminous efficiency curve adopted by the International Commission on Illumination;

(3) Is not mounted on a primary structure except for low wattage, ground mounted landscape lighting that poses no driving hazard; or

(4) Is intermittent, except for motion detector lighting and temporary (not to exceed 45 days) holiday lighting.

(B) Table of Shielding Requirements

Fixture Lamp Type	**Shielding Requirement**
All of the following lamps if over 50 watts: Low/High Pressure Sodium, Mercury Vapor, Metal Halide, Flourescent, Linear Halogen, and Linear Tungsten-Halogen, all over 50 watts	Fully Shielded
Incandescent* over 150 watts	Fully Shielded
Incandescent* 150 watts or less	No Shielding Required
Fossil fuel	No Shielding Required
Any light source of 50 watts or less	No Shielding Required

*Note: Incandescent includes non-linear halogen and non-linear tunsten-halogen lamps.

11-806. NOTICE OF VIOLATION. When an allegation of a lighting nuisance, as set forth at 11-804 herein, is received by the planning director, said director will conduct an inspection of the premises within five business days. Whenever the planning director has determined that a lighting nuisance exists on any premises within the city's corporate limits, he or she shall or she shall issue written notice as provided herein and have said notice served on the owner or agent of such property by restricted mail or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing said notice by restricted mail to the last known address of the owner. This notice shall:

(a) Be in writing.

(b) State the nature of such alleged lighting nuisance and that such condition constitutes nuisance lighting.

(c) Describe the premises where the lighting nuisance is alleged to exist or to have been committed.

(d) Specify a period 5days (120 hours) for the removal and abatement of the nuisance.

(e) State that failure, neglect or refusal to remove and abate lighting nuisances renders the owner or occupant prosecutable in municipal court, and upon a finding of guilty, punishable by a fine of not more than $500.00 or imprisonment of not more than 180 days, or by both such fine and imprisonment.

(f) State that each day (twenty-four hour period) that such lighting nuisance exists after the 5 days (120 hours) waiting period constitutes a separate punishable offense as set forth herein.

Section 2. Existing sections repealed. That existing sections 11-802, 11-804 and 11-806

of Article 8 (LIGHTING NUISANCE) of Chapter 11 (PUBLIC OFFENSES) of the Code of the City of Leawood are hereby repealed. (Prior law: Ordinance No. 1750C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22 day of March, 1999.

Approved by the Mayor the 22 day of March, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORD1790C

Publication Fees: $36.06

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal *Record which is a newspaper printed in the State of Kansas*, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive *week(s), as follows:*

ORDINANCE NO. 1790C--3/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$36.06

ORDINANCE NO. 1790 C

First published in The Legal Record, Tuesday, March 23, 1999.

ORDINANCE NO. 1790 C

AN ORDINANCE AMENDING ARTICLE 8 (LIGHTING NUISANCE) OF CHAPTER 11 (PUBLIC OFFENSES); AND REPEALING EXISTING SECTIONS.

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

Section 1. Code Amended. That sections 11-802, 11-804, and 11-806 of Article 8 (LIGHTING NUISANCE) of Chapter 11 (Public Offenses) of the Code of the City of Leawood are hereby amended to read as follows:

11-802. DEFINITIONS. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them as follows, except where the context clearly indicates a different meaning:

Chief of Police - means the chief of police or any authorized representative.

Fully Shielded Fixture - An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixture.

Occupant - means any person who has a legal or equitable interest in a parcel of real property other than a fee interest, including a life tenant, tenant, lessee, tenant at will, tenant at sufferance or adverse possessor, as well as a person in possession or a person who has charge, care or control of the parcel of real property, as the agent or personal representative of the person holding legal title to a fee interest.

Owner - means any person who, alone or jointly or severally with others, shall have legal title to a fee interest in the parcel of real property, with or without accompanying actual possession thereof.

Person - means and includes any individual, firm, estate, corporation, association, partnership, cooperative or governmental agency.

Planning Director - means the Director of Planning and development or any authorized representative of the Director of Planning and Development.

Premises - means any public or private property, vacant or occupied lot, plot, parcel of land, street, sidewalk, alley, boulevard, highway, right-of-way, park, parkway, public square or viaduct, including the structures or buildings thereon.

Primary Structure - means a dwelling, garage or attached shed.

Residential - means a place where a human(s) dwell.

11-804. LIGHTING NUISANCE. (A) A lighting nuisance is any exterior light fixture or light source erected or maintained by any property owner or occupant that:

(1) Is a light that does not comply with the shielding requirements as set forth in section 11-804(B) of this ordinance;

(2) Illuminates any portion of the premises of another person with a light intensity greater than 0.5 foot-candle as measured by a photoelectric photometer having a spectral response similar to that of the human eye, in accordance with standard spectral luminous efficiency curve adopted by the International Commission on Illumination;

(3) Is not mounted on a primary structure except for low wattage, ground mounted landscape lighting that poses no driving hazard; or

(4) Is intermittent, except for motion detector lighting and temporary (not to exceed 45 days) holiday lighting.

(B) Table of Shielding Requirements

Fixture Lamp Type	Shielding Requirement
All of the following lamps if over 50 watts: Low/High Pressure Sodium, Mercury Vapor, Metal Halide, Flourescent, Linear Halogen, and Linear Tungsten-Halogen, all over 50 watts	Fully Shielded
Incandescent* over 150 watts	Fully Shielded
Incandescent* 150 watts or less	No Shielding Required
Fossil fuel	No Shielding Required
Any light source of 50 watts or less	No Shielding Required

*Note: Incandescent includes non-linear halogen and non-linear tunsten-halogen lamps.

11-806. NOTICE OF VIOLATION. When an allegation of a lighting nuisance, as set forth at 11-804 herein, is received by the planning director, said director will conduct an inspection of the premises within five business days. Whenever the planning director has determined that a lighting nuisance exists on any premises within the city's corporate limits, he or she shall or she shall issue written notice as provided herein and have said notice served on the owner or agent of such property by restricted mail or by personal service, or if the same is unoccupied and the owner is a nonresident, then by mailing said notice by restricted mail to the last known address of the owner. This notice shall:

(a) Be in writing.

(b) State the nature of such alleged lighting nuisance and that such condition constitutes nuisance lighting.

(c) Describe the premises where the lighting nuisance is alleged to exist or to have been committed.

(d) Specify a period 5days (120 hours) for the removal and abatement of the nuisance.

(e) State that failure, neglect or refusal to remove and abate lighting nuisances renders the owner or occupant prosecutable in municipal court, and upon a finding of guilty, punishable by a fine of not more than $500.00 or imprisonment of not more than 180 days, or by both such fine and imprisonment.

(f) State that each day (twenty-four hour period) that such lighting nuisance exists after the 5 days (120 hours) waiting period constitutes a separate punishable offense as set forth herein.

Section 2. Existing sections repealed. That existing sections 11-802, 11-804 and 11-806 of Article 8 (LIGHTING NUISANCE) of Chapter 11 (PUBLIC OFFENSES) of the Code of the City of Leawood are hereby repealed. (Prior law: Ordinance No. 1750C)

Section 3. Take Effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 22 day of March, 1999.

Approved by the Mayor the 22 day of March, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1789

AN ORDINANCE ADOPTING AN AMENDMENT TO THE LEAWOOD, KANSAS, 1997 MASTER DEVELOPMENT PLAN MAP.

WHEREAS, the Plan commission of the City of Leawood has previously adopted the Master Development Plan Map for the City pursuant to the authority granted by Kansas Statutes; and

WHEREAS, a certified copy of the Master Development Plan Map, adopted by the Plan Commission, was adopted by the Governing Body March 31, 1997; and

WHEREAS, pursuant to K.S.A. 12-747, the Master Development Plan Map adopted by the Plan Commission and any current amendments must be adopted by the Governing Body prior to its becoming effective; and

WHEREAS, a certified copy of the Amendment to the 1997 Master Development Plan Map as adopted by the Plan Commission on February 23, 1999, together with written summary of the Public Hearing thereon, have been submitted to the Governing Body;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

Section 1. That the Governing Body of the City of Leawood, Kansas, hereby adopts Amendment to the 1997 Master Development Plan Map. The adopted amendment to the 1997 Master Development Plan Map modifies the Plan Map by redesignating multiple tracts of land, as set forth in exhibit "A" (attached).

Section 2. That there is hereby incorporated by reference the above-described amendments to the 1997 Master Development Plan Map, adopted by the Plan Commission of the City of Leawood on February 23, 1999, and adopted by the Governing Body on March 22, 1999, as set forth in Section 1 of this ordinance, such incorporation by reference being authorized by K.S.A. 12-3009 to and including 12-3012. Not less than three (3) copies of the Ordinance, to each of which shall be attached a copy of the Master Development Plan Map, 1999 Amendment, as adopted March 22, 1999, marked as or stamped "Official copy", shall be filed with the City clerk to be open to inspection and available to the public at all reasonable business hours.

Section 3. That this ordinance shall take effect and be in forced from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn Mayor

Attest:

Martha Heizer

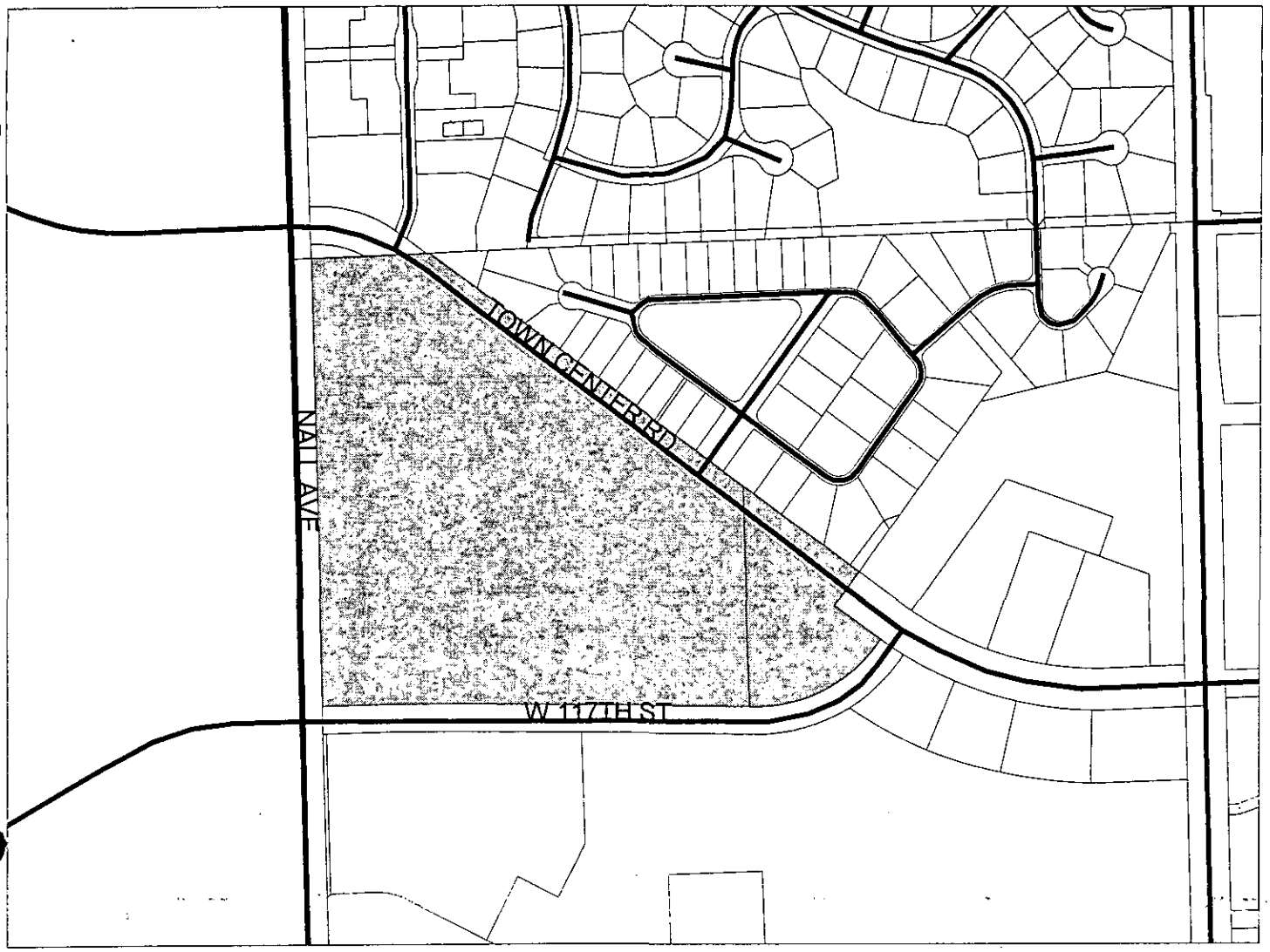
Martha Heizer City Clerk

APPROVED FOR FORM:

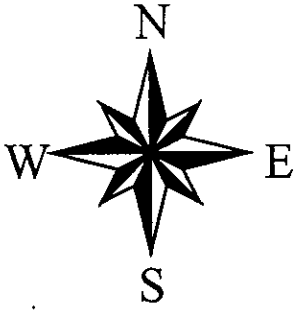
R. S. Wetzler City Attorney

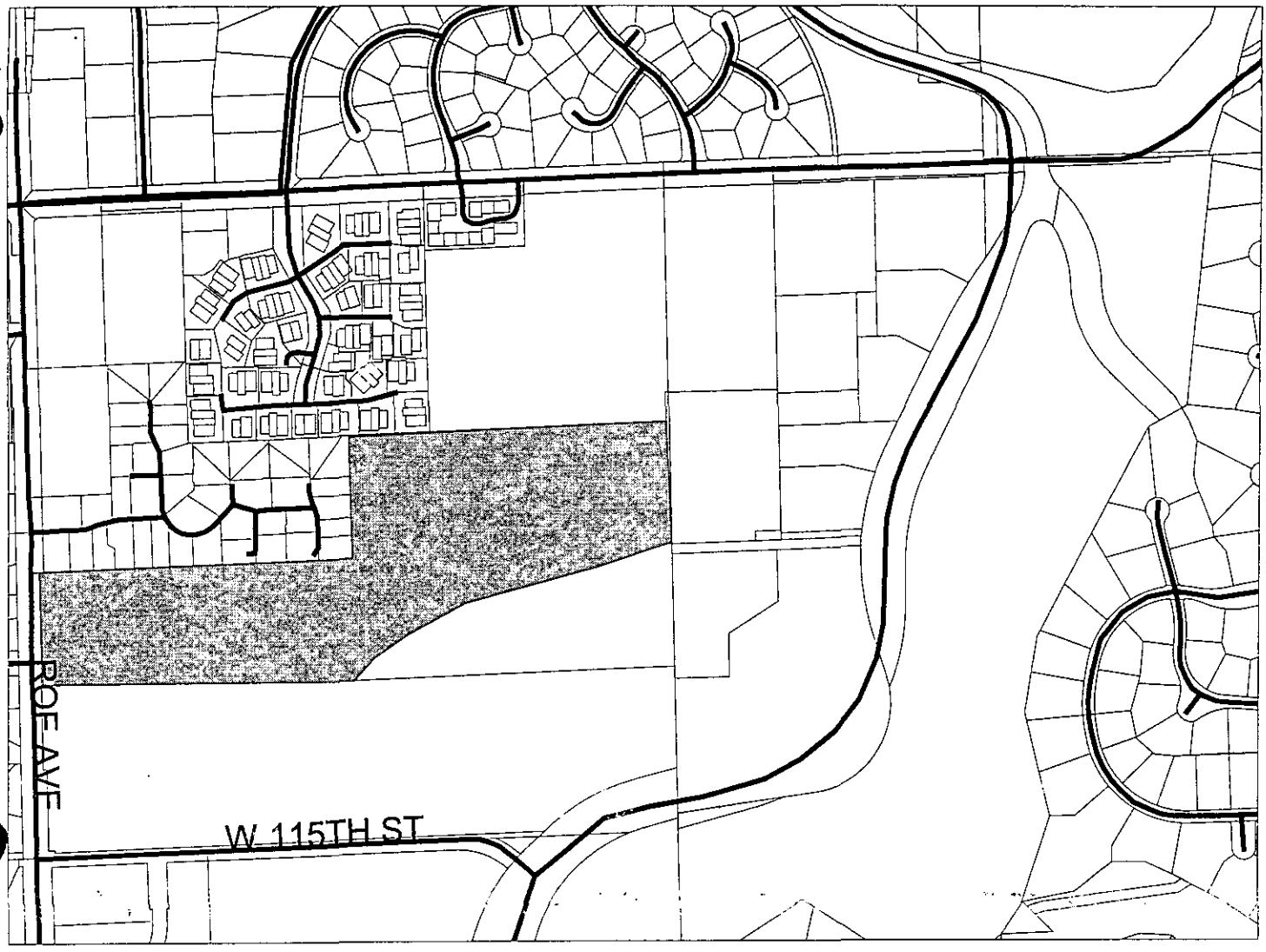
EXHIBIT "A"

	Current	Proposed
Town Center Park: (S.E. corner of Town Center Drive and Nall)	Special Development	Office
Woods: (114th & Roe)	Office	Medium Density Residential - Single Family Detached
Town Center Business Park: (N.E. corner of 117th &Roe)	Office	Retail
AAFP: (114th & Tomahawk Creek Parkway)	Open Space - Public	Office
135th Street Corridor:	Special Development	135th Street Corridor Plan as approved by Plan Commission and Council
Church of the Resurrection: (137th & Nall)	Medium Density Residential Single Family Detached	Public
Christ Community Church: (141st & Kenneth Rd)	Low Density Residential	Public
143rd & Nall:	Low Density Residential	Public
Camden Woods: (S.W. corner of 143rd & Kenneth)	Low Density Residential	Medium Density Residential – Single Family Detached & Retail
Fire Station: (148th & Mission Rd)	Open Space - Public	Public
Village of Ironhorse: (151st & Linden)	Office	Medium Density Residential - Single Family Detached

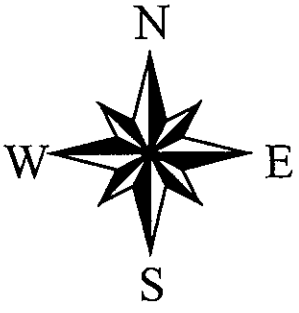


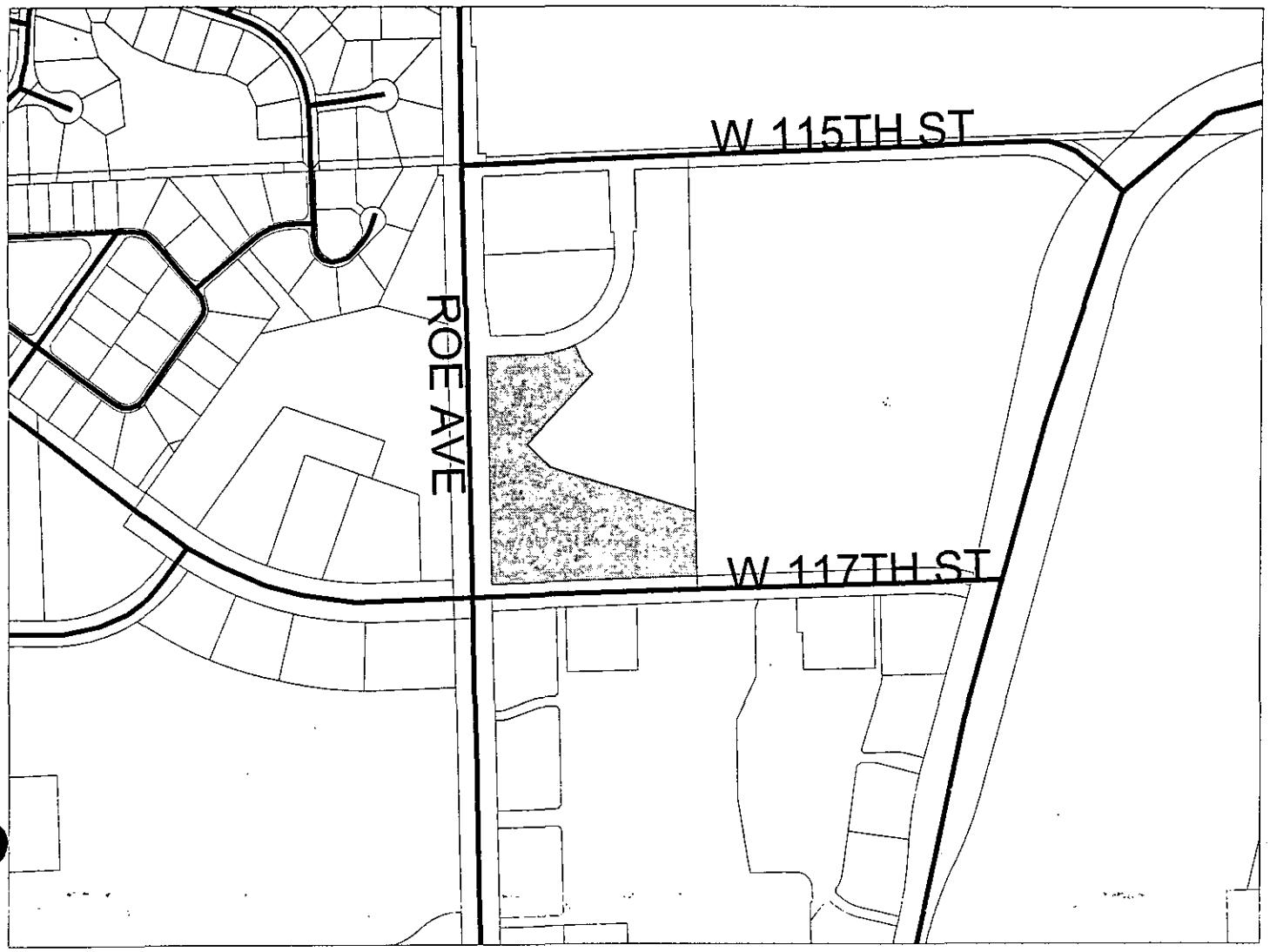
Town Center Park (SD to Office)



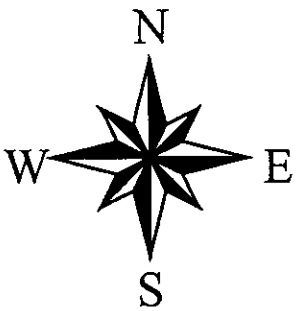


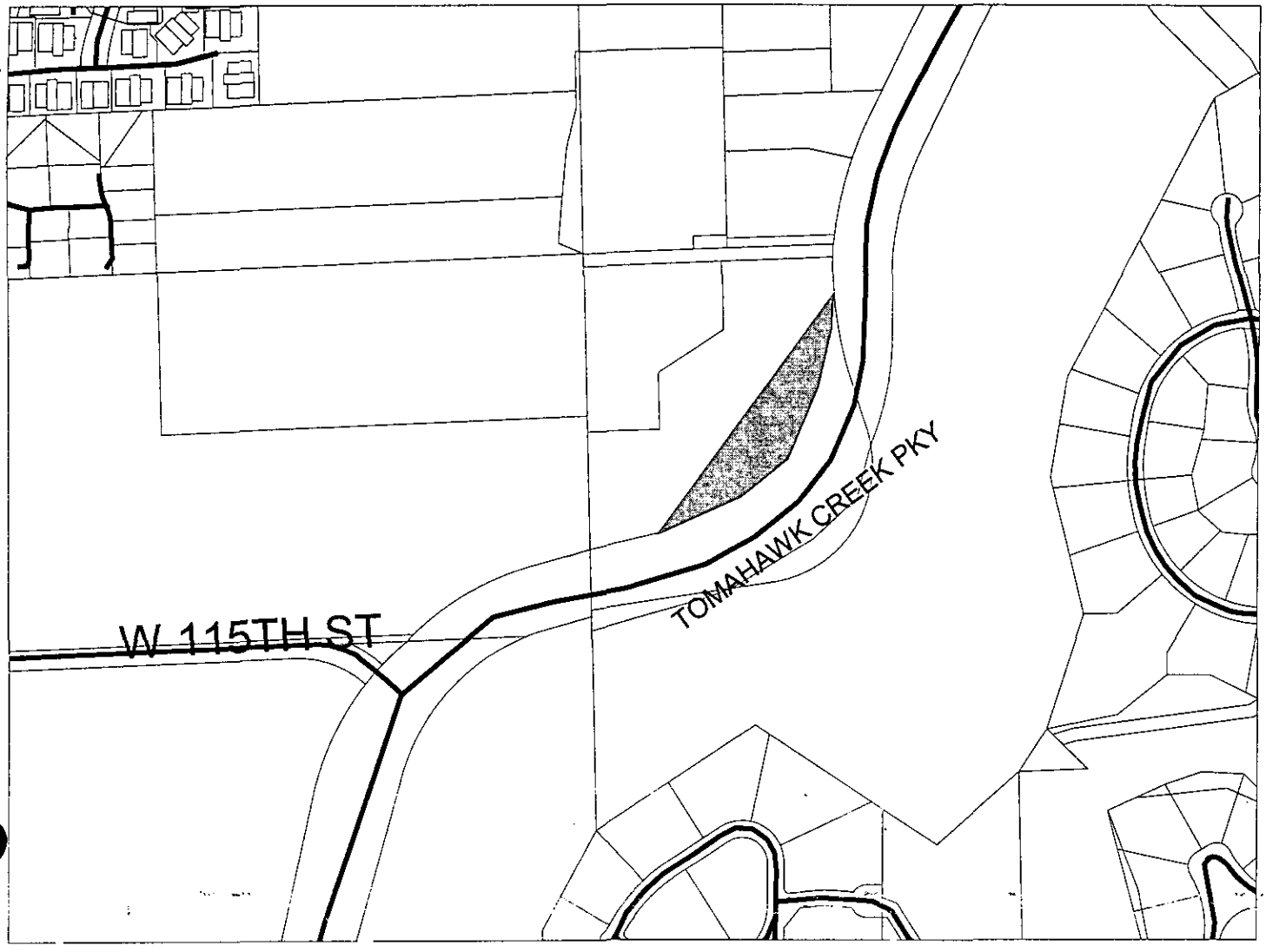
The Woods (Office to MDR-SFD)



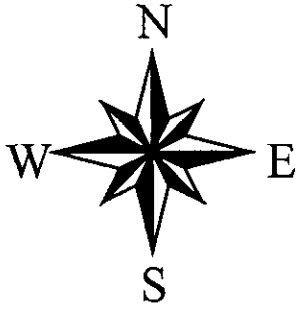


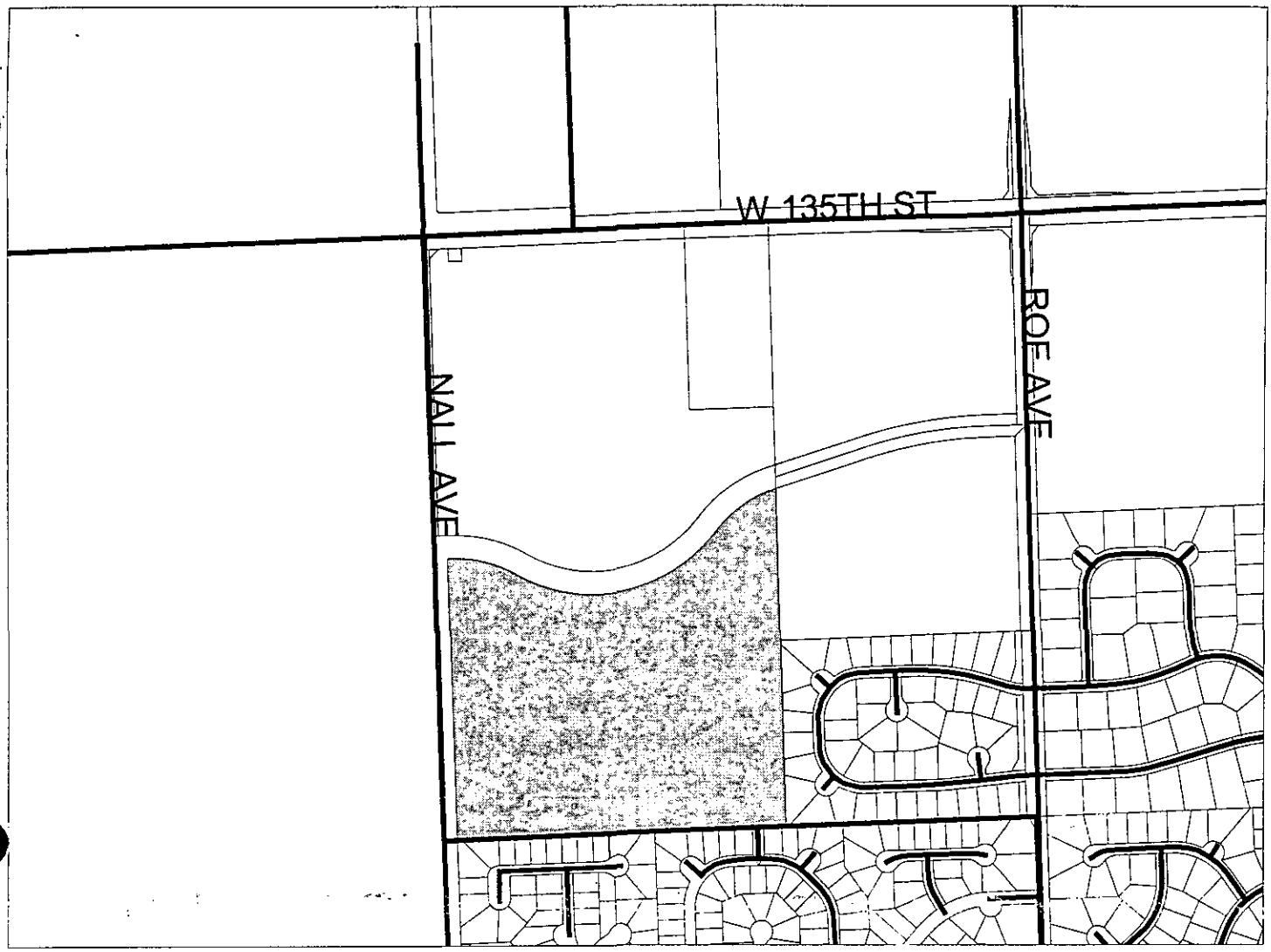
Town Center Business Park (Office to Retail)



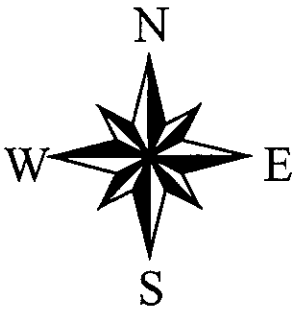


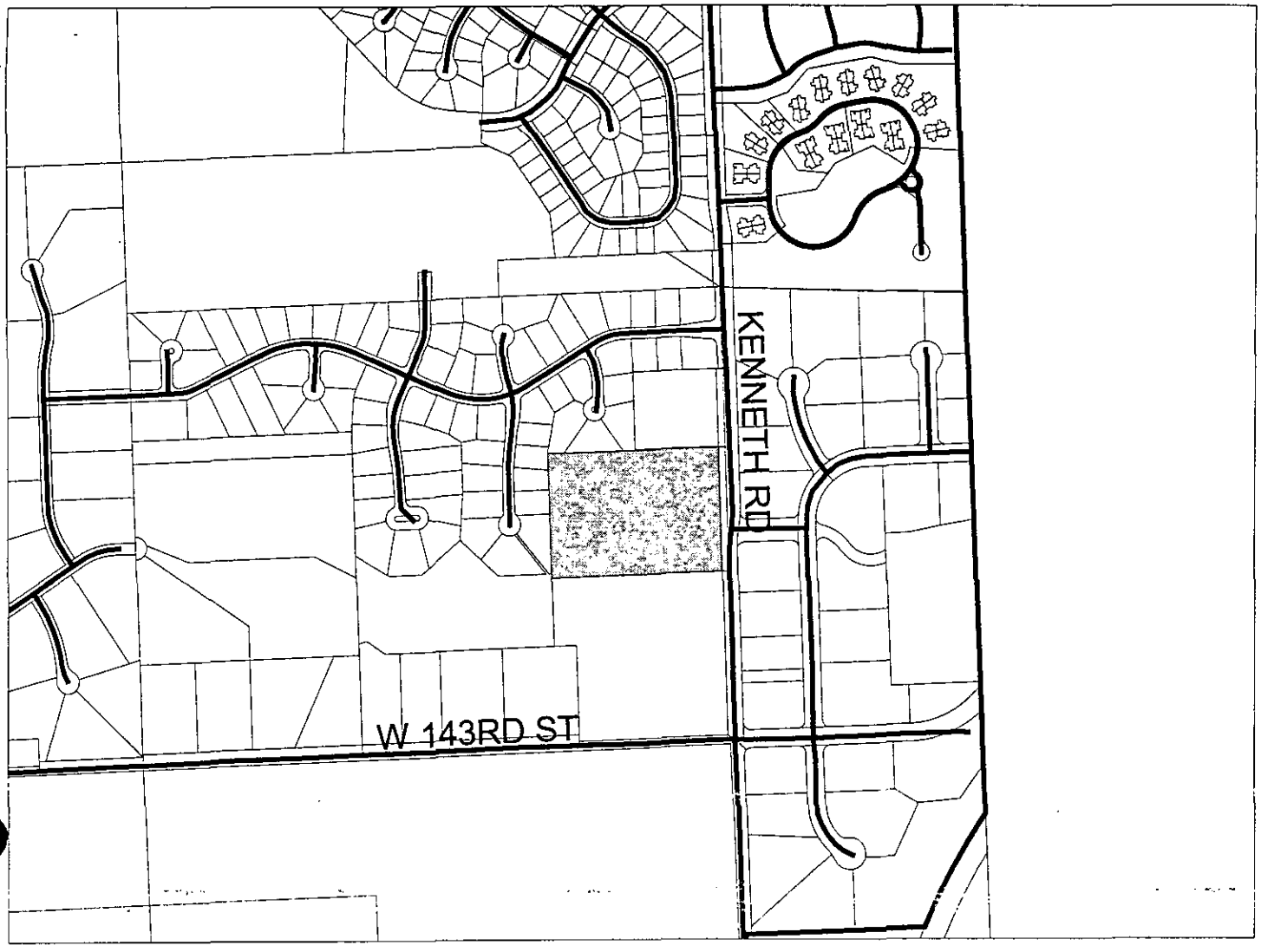
AAFP (Open Space - Public to Office)



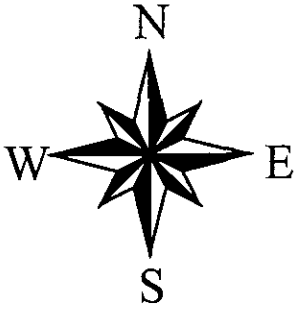


Church of the Resurrection (MDR-SFD to Public)

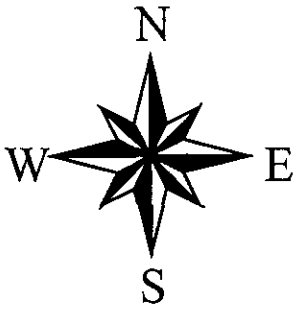


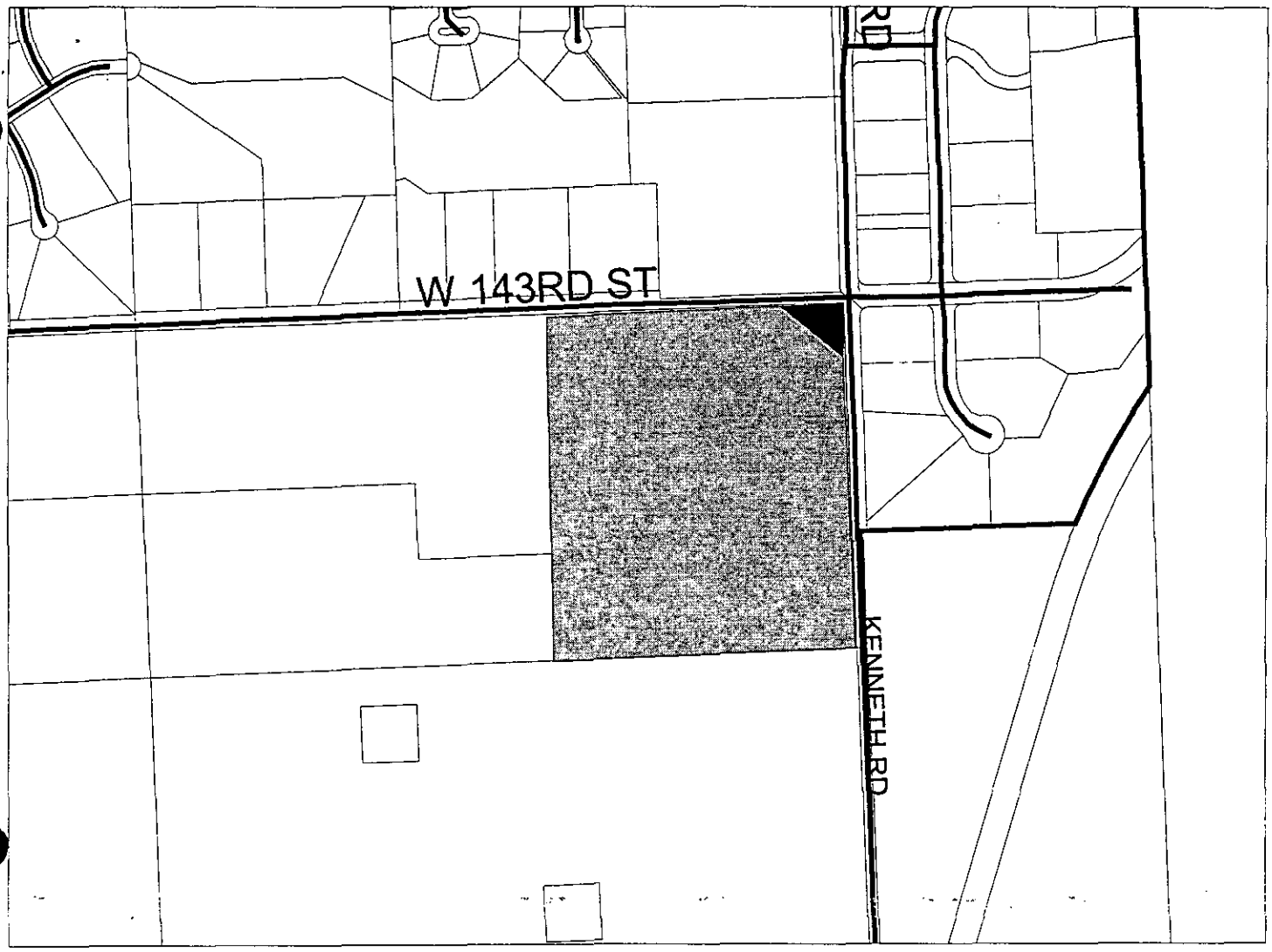


Christ Community Church (LDR to Public)

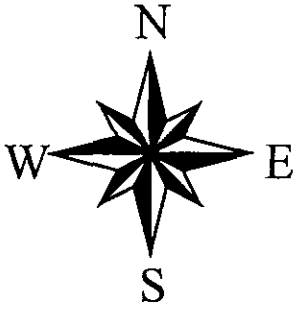


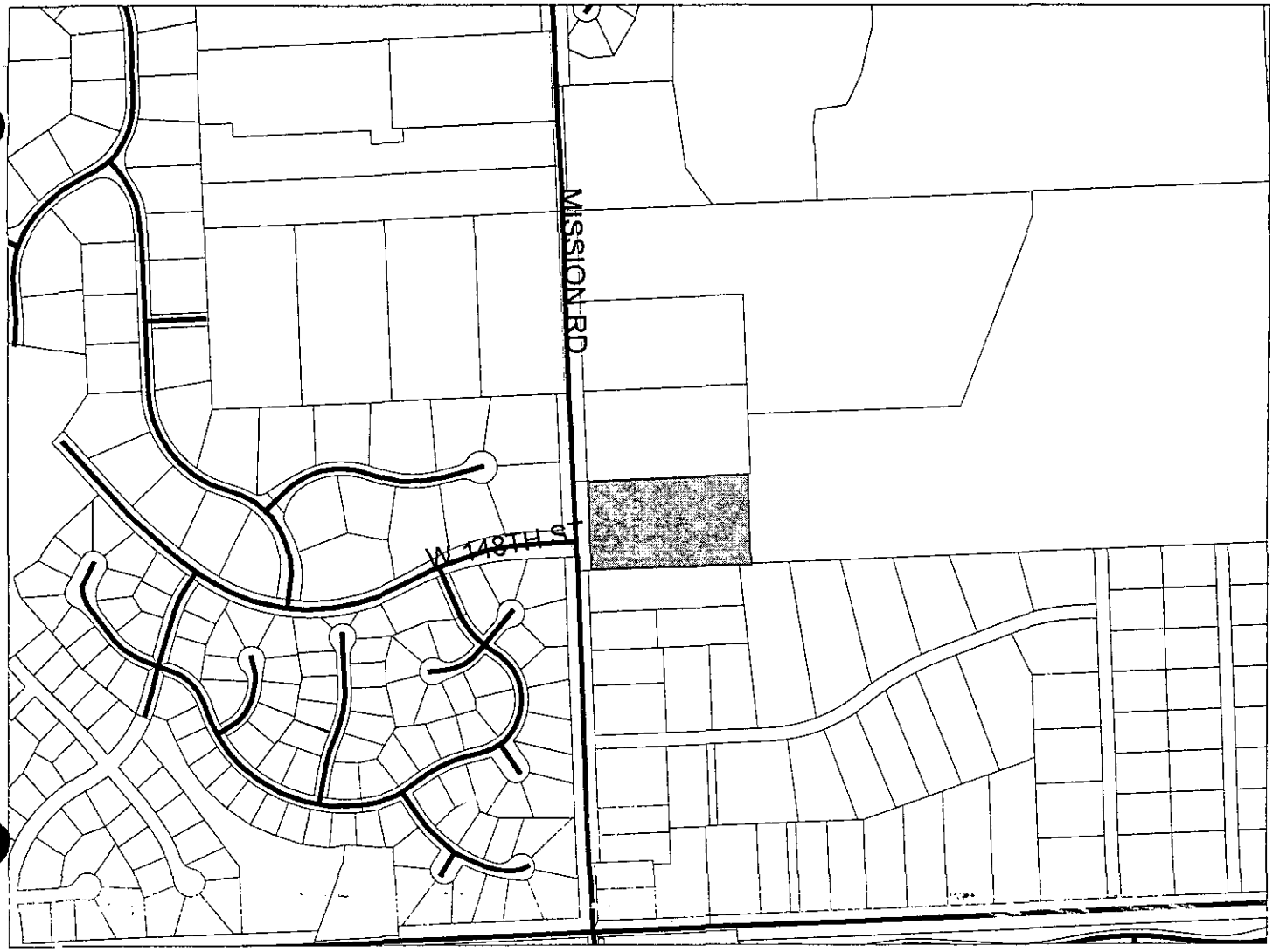
143rd and Nall (LDR to Public)



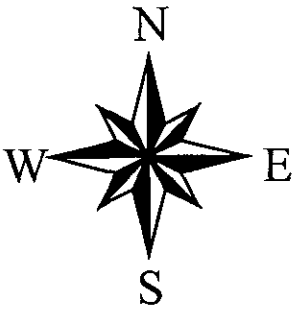


Camden Woods (LDR to MDR-SFD & Retail)

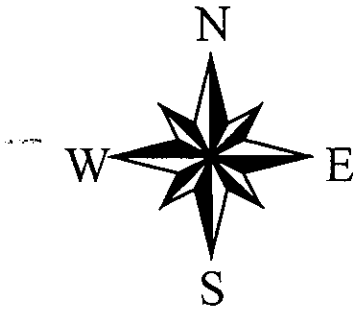




Fire Station #3 (Open Space - Public to Public



Village at Ironhorse (Office to MDR - SFD)



ORD1789

Publication Fees: $32.45

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1789--3/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$32.45

ORDINANCE NO. 1789

First published in The Legal Record, Tuesday, March 23, 1999.

ORDINANCE NO. 1789

AN ORDINANCE ADOPTING AN AMENDMENT TO THE LEAWOOD, KANSAS, 1997 MASTER DEVELOPMENT PLAN MAP.

WHEREAS, the Plan commission of the City of Leawood has previously adopted the Master Development Plan Map for the City pursuant to the authority granted by Kansas Statutes; and

WHEREAS, a certified copy of the Master Development Plan Map, adopted by the Plan Commission, was adopted by the Governing Body March 31, 1997; and

WHEREAS, pursuant to K.S.A. 12-747, the Master Development Plan Map adopted by the Plan Commission and any current amendments must be adopted by the Governing Body prior to its becoming effective; and

WHEREAS, a certified copy of the Amendment to the 1997 Master Development Plan Map as adopted by the Plan Commission on February 23, 1999, together with written summary of the Public Hearing thereon, have been submitted to the Governing Body;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD:

Section 1. That the Governing Body of the City of Leawood, Kansas, hereby adopts Amendment to the 1997 Master Development Plan Map. The adopted amendment to the 1997 Master Development Plan Map modifies the Plan Map by redesignating multiple tracts of land, as set forth in exhibit "A" (attached).

Section 2. That there is hereby incorporated by reference the above-described amendments to the 1997 Master Development Plan Map, adopted by the Plan Commission of the City of Leawood on February 23, 1999, and adopted by the Governing Body on March 22, 1999, as set forth in Section 1 of this ordinance, such incorporation by reference being authorized by K.S.A. 12-3009 to and including 12-3012. Not less than three (3) copies of the Ordinance, to each of which shall be attached a copy of the Master Development Plan Map, 1999 Amendment, as adopted March 22, 1999, marked as or stamped "Official copy", shall be filed with the City clerk to be open to inspection and available to the public at all reasonable business hours.

Section 3. That this ordinance shall take effect and be in forced from and after its publication in the official City newspaper.

Passed by the Council the 22nd day of March, 1999.

Approved by the Mayor the 22nd day of March, 1999.

(SEAL)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

R. S. Wetzler — City Attorney

EXHIBIT "A"

	Current	Proposed
Town Center Park: (S.E. corner of Town Center Drive and Nall)	Special Development	Office
Woods: (114th & Roe)	Office	Medium Density Residential - Single Family Detached
Town Center Business Park: (N.E. corner of 117th &Roe)	Office	Retail
AAFP: (114th & Tomahawk Creek Parkway)	Open Space - Public	Office
135th Street Corridor:	Special Development	135th Street Corridor Plan as approved by Plan Commission and Council
Church of the Resurrection: (137th & Nall)	Medium Density Residential Single Family Detached	Public
Christ Community Church: (141st & Kenneth Rd)	Low Density Residential	Public
143rd & Nall:	Low Density Residential	Public
Camden Woods: (S.W. corner of 143rd & Kenneth)	Low Density Residential	Medium Density Residential – Single Family Detached & Retail
Fire Station: (148th & Mission Rd)	Open Space - Public	Public
Village of Ironhorse: (151st & Linden)	Office	Medium Density Residential - Single Family Detached

CITY OF LENEXA, MORE SPECIFICALLY DEALING WITH EDUCATIONAL REQUIREMENTS AND EXEMPTIONS FOR LICENSING OF MASSAGE THERAPISTS, AND REPEALING THE EXISTING CODE SECTIONS 2-3A-4, AND 2-3E-2.

WHEREAS, the City of Lenexa regulates massage therapy for the benefit of the public health, safety, and welfare; and

WHEREAS, current City Code regulates various aspects of massage therapy, including licensing; and

WHEREAS, under current City Code, to be eligible for a massage therapy license, the applicant must meet certain educational requirements, to wit: completion of a 500 hour course of instruction based on massage therapy, theory, method or practice; and

WHEREAS, there also exists a 100 hour course of instruction available to State licensed registered or practical nurses; and

WHEREAS, the 100 hour nurse massage therapy course of instruction is not listed in current City Code as meeting the educational requirements for a massage therapy license; and

WHEREAS, given the educational and professional requirements necessary to obtain and maintain a valid State nurses license, the 100 hour nurse massage therapy course more than adequately meets the public health, safety, and welfare concerns relating to the educational requirement for a massage therapy license.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LENEXA, JOHNSON COUNTY, KANSAS:

SECTION ONE: That Title 2, Chapter 3, Article A, Section 2-3A-4 is hereby amended to read as follows:

2-3A-4 REQUIREMENTS FOR THE LICENSE.

To be eligible for a massage therapist license, an applicant must provide proof of the following:

A. That the applicant has successfully completed:

1. A course of instruction made up of not less than five hundred (500) hours, in the theory, method, or practice of massage. Proof that the applicant has passed the National Certification Examination for Therapeutic Massage and Bodywork will be accepted as proof of fulfillment of this requirement of completion of a course of instruction; or

2. A nurse massage therapeutic training course of instruction consisting of not less than one hundred (100) hours, in the theory, method, or practice of massage and is a state-licensed professional or practical nurse.

B. That the applicant has successfully completed the requirements for certification in first aid and in cardiopulmonary resuscitation by the American Heart Association or the equivalent.

SECTION TWO: That Title 2, Chapter 3, Article E, Section 2-3E-2 is hereby amended to read as follows:

2-3E-2 RESTRICTION TO LICENSED PREMISES.

A. All massage therapy other than in-office massage therapy provided under the provisions of this Chapter shall be conducted on the premises of a licensed massage therapy establishment, except that massage therapy may be conducted in a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

B. Massage therapy is prohibited in the guest rooms of hotels unless the hotel is licensed as a massage therapy establishment and the massage therapy is conducted by a licensed massage therapist employed by the hotel.

C. The provisions of this Chapter shall not apply to hospitals, nursing homes, sanitariums, or to persons licensed to practice as registered professional nurses under the laws of this State working under the direction and supervision of any licensed healing arts practitioner, nor shall this Chapter apply to barbers or cosmetologists lawfully carrying out their profession or business and holding valid, unrevoked licenses or certificates of registration issued by this State.

SECTION THREE: Penalty: Any violation of the above provisions shall be punishable in accordance with Code Section 2-3F-1 of the Code of the City of Lenexa, unless otherwise specifically set out.

ORDINANCE NO. 1788

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELLING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located at the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated July 15, 1998, in the principal amount of $100,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood,

Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of One Hundred Thousand Dollars ($100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of a single bearer note numbered 1, in the denomination of $100,000. Said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.69% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes

and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized

and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORD1788

Publication Fees: $81.01

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1788--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$81.01

ORDINANCE NO. 1788

First published in The Legal Record, Tuesday, March 2, 1999.

ORDINANCE NO. 1788

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 171 (MUNICIPAL POOL BATHHOUSE), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF RECONSTRUCTION, REMODELLING AND REPLACEMENT OF THE BATHHOUSE AT THE MUNICIPAL POOL COMPLEX IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1735, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> reconstruct, remodel and replace the bathhouse at the municipal pool complex located at the city park at 10601 Lee Boulevard within the City

(the "Project") at an estimated cost of $500,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 171 (Municipal Pool Bathhouse), dated July 15, 1998, in the principal amount of $100,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 171 (Municipal Pool Bathhouse), in the aggregate principal amount of One Hundred Thousand Dollars ($100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of a single bearer note numbered 1, in the denomination of $100,000. Said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.69% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

CONTINUED ON PAGE 5

CONTINUED FROM PAGE 4

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1787

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 158 (TRAFFIC SIGNALIZATION), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF THE INTERSECTION OF STATE LINE ROAD AT 92ND STREET IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-687, et seq., as amended, and Ordinance No. 1202, as amended by Ordinance No. 1778, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> to improve and reimprove the intersection of State Line Road at 92nd Street located within the City of Leawood

(the "Project") at an estimated cost of $458,040; and

WHEREAS, the Project has commenced and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering,

legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 158 (Traffic Signalization), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to

redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so

executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORD1787

Publication Fees: $90.62

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1787--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$90.62

ORDINANCE NO. 1787

First published in The Legal Record, Tuesday, March 2, 1999

ORDINANCE NO. 1787

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 158 (TRAFFIC SIGNALIZATION), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT AND REIMPROVEMENT OF THE INTERSECTION OF STATE LINE ROAD AT 92ND STREET IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-687, et seq., as amended, and Ordinance No. 1202, as amended by Ordinance No. 1778, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> to improve and reimprove the intersection of State Line Road at 92nd Street located within the City of Leawood

(the "Project") at an estimated cost of $458,040; and

WHEREAS, the Project has commenced and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 158 (Traffic Signalization), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so

CONTINUED ON PAGE 9

CONTINUED FROM PAGE 8

executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1786

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 151 (FIRE STATION NO. 3), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $600,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF ACQUISITION OF CERTAIN REAL PROPERTY WITHIN THE CITY AND ACQUISITION, CONSTRUCTION AND INSTALLATION OF A NEW FIRE STATION THEREON, INCLUDING PARKING FACILITIES AND ACCESS ROADS, AND FURNISHING AND EQUIPPING THE SAME.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> acquisition of certain real property in Leawood South Park currently leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads, and furnishing and equipping the same

(the "Project") at an estimated cost of $3,195,000; and

WHEREAS, the Project has been commenced, and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of $600,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes,

Project 151 (Fire Station No. 3), in the aggregate principal amount of Six Hundred Thousand Dollars ($600,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 6 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Midwest Capital, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.72% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring

the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized

and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1786

Publication Fees: $79.46

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1786--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$79.46

ORDINANCE NO. 1786

First published in The Legal Record; Tuesday, March 2, 1999.

ORDINANCE NO. 1786

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 151 (FIRE STATION NO. 3), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $600,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF ACQUISITION OF CERTAIN REAL PROPERTY WITHIN THE CITY AND ACQUISITION, CONSTRUCTION AND INSTALLATION OF A NEW FIRE STATION THEREON, INCLUDING PARKING FACILITIES AND ACCESS ROADS, AND FURNISHING AND EQUIPPING THE SAME.

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> acquisition of certain real property in Leawood South Park currently leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads, and furnishing and equipping the same

(the "Project") at an estimated cost of $3,195,000; and

WHEREAS, the Project has been commenced, and the City has incurred or expects to incur costs payable within the next six (6) months in the amount of $600,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 151 (Fire Station No. 3), in the aggregate principal amount of Six Hundred Thousand Dollars ($600,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 6 inclusive, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area; such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Midwest Capital, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.72% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

CONTINUED ON PAGE 11

CONTINUED FROM PAGE 10

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1785

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being hereby declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the City has incurred or expects to incur costs payable in respect of the improvements to existing City parks (the "Project") within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or

after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and

substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other

documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1785

Publication Fees: $74.48

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1785--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:
March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$74.48

ORDINANCE NO. 1785

First published in The Legal Record, Tuesday, March 2, 1999.

ORDINANCE NO. 1785

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 148 (CITY PARK DESIGN, PHASE I), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENTS TO EXISTING CITY PARKS IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-1302, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City of Leawood, Kansas (the "City") called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being hereby declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition.

WHEREAS, the City has incurred or expects to incur costs payable in respect of the improvements to existing City parks (the "Project") within the next six (6) months in the amount of $200,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to pay the costs of the Project as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to pay the costs of the Project now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 148 (City Park Design, Phase I), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security of the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of said Notes shall be deposited with the City Treasurer in a special fund created for the purpose of paying the costs and expenses of the Project.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Section 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or

CONTINUED ON PAGE 12

CONTINUED FROM PAGE 11

permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby funds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORDINANCE NO. 1784

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 144 (MISSION ROAD, 103RD - I-435), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $1,500,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD, 103RD - I-435, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1204, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of certain sections of Mission Road from 103rd Street to I-435, within the City of Leawood

(the "Project") at an estimated cost of $2,000,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 144 (Mission Road, 103rd - I-435), dated July 15, 1998, in the principal amount of $1,500,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 144 (Mission Road, 103rd - I-435), in the aggregate principal amount of One Million Five Hundred Thousand Dollars ($1,500,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 15, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.20% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the

event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Midwest Capital, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.79% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the

general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

ATTEST:

Peggy J. Dunn
, Mayor

Martha Heiger
, City Clerk

APPROVED FOR FORM:

, City Attorney

ORD1784

Publication Fees: $83.24

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1784--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$83.24

ORDINANCE NO. 1784

First published in The Legal Record, Tuesday, March 2, 1999.

ORDINANCE NO. 1784

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 144 (MISSION ROAD, 103RD - I-435), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $1,500,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF MISSION ROAD, 103RD - I-435, INCLUDING GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES AND APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS OR OTHER IMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTION COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A. 12-685, et seq., as amended, and Ordinance No. 1204, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

improvement of certain sections of Mission Road from 103rd Street to I-435, within the City of Leawood

(the "Project") at an estimated cost of $2,000,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 144 (Mission Road, 103rd - I-435), dated July 15, 1998, in the principal amount of $1,500,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 144 (Mission Road, 103rd - I-435), in the aggregate principal amount of One Million Five Hundred Thousand Dollars ($1,500,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of bearer notes numbered 1 through 15, inclusive, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.20% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Midwest Capital, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.79% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of

CONTINUED ON PAGE 6

CONTINUED FROM PAGE 5

the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heiger, City Clerk

APPROVED FOR FORM:

, City Attorney

ORDINANCE NO. 1783

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 137 (STATE LINE ROAD, PHASE IV), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF STATE LINE ROAD FROM A POINT 25.50 FEET SOUTH OF THE CENTERLINE OF 103RD STREET TO A POINT 123.76 FEET SOUTH OF THE CENTERLINE OF CARONDELET, TO INCLUDE GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES, APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS, OR OTHER IMPROVEMENTS OR ANY TWO OR MORE OF SUCH IMPROVEMENTS OR REIMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTIONS COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A 12-685, et seq., as amended, and Ordinance No. 1372, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of State Line Road from a point 25.50 feet south of the centerline of 103rd Street, to a point 123.76 feet south of the centerline of Carondolet, a distance of approximately 2646 feet, within the City Leawood

(the "Project") at an estimated cost of $3,680,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 137 (State Line Road, Phase IV), dated July 15, 1998, in the

principal amount of $200,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 137 (State Line Road, Phase IV), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(SEAL)

ATTEST:

Peggy J. Dunn, Mayor

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzler, City Attorney

ORD1783

Publication Fees: $87.02

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1783--3/2/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 2, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$87.02

ORDINANCE NO. 1783

First published in The Legal Record, Tuesday, March 2, 1999.

ORDINANCE NO. 1783

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES, PROJECT 137 (STATE LINE ROAD, PHASE IV), OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $200,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF IMPROVEMENT OR REIMPROVEMENT OF STATE LINE ROAD FROM A POINT 25.50 FEET SOUTH OF THE CENTERLINE OF 103RD STREET TO A POINT 123.76 FEET SOUTH OF THE CENTERLINE OF CARONDELET, TO INCLUDE GRADING, REGRADING, CURBING, RECURBING, GUTTERING, REGUTTERING, PAVING, REPAVING, MACADAMIZING, REMACADAMIZING, CONSTRUCTING, RECONSTRUCTING, OPENING, WIDENING, EXTENDING, ROUNDING CORNERS, STRAIGHTENING, RELOCATING, CONSTRUCTION OR RECONSTRUCTION OF ANY NECESSARY BRIDGES, APPROACHES THERETO, VIADUCTS, OVERPASSES, UNDERPASSES, CULVERTS, STORM DRAINAGE, TRAFFICWAY ILLUMINATION, TRAFFIC CONTROL DEVICES, PEDESTRIAN WAYS, BICYCLE WAYS, OR OTHER IMPROVEMENTS OR ANY TWO OR MORE OF SUCH IMPROVEMENTS OR REIMPROVEMENTS AND OTHER INCIDENTAL CONSTRUCTIONS COSTS, IN THE CITY OF LEAWOOD.

WHEREAS, pursuant to K.S.A 12-685, et seq., as amended, and Ordinance No. 1372, the Governing Body of the City of Leawood, Kansas (the "City") has heretofore authorized the following described improvement project within the City, to wit:

> improvement of State Line Road from a point 25.50 feet south of the centerline of 103rd Street, to a point 123.76 feet south of the centerline of Carondolet, a distance of approximately 2646 feet, within the City Leawood

(the "Project") at an estimated cost of $3,680,000; and

WHEREAS, the Project has been commenced and the City has heretofore issued its Temporary Notes, Project 137 (State Line Road, Phase IV), dated July 15, 1998, in the principal amount of $200,000 (the "Prior Notes") to provide funds to pay costs of the Project heretofore incurred by the City; and

WHEREAS, said Prior Notes become due and payable in the immediate future but all aspects of the Project will not be completed at the date of maturity thereof; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes as the same become due and payable.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LEAWOOD, KANSAS, AS FOLLOWS:

Section One. Authorization of Notes. That in order to provide funds to redeem and pay the Prior Notes to become due in the immediate future, there shall be issued and the City is hereby authorized to issue temporary notes of the City, designated City of Leawood, Kansas, Temporary Notes, Project 137 (State Line Road, Phase IV), in the aggregate principal amount of Two Hundred Thousand Dollars ($200,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance the Project which remain outstanding does not exceed the total estimated cost of said Project.

Section Two. Terms of the Notes. Said issue of Notes shall consist of two (2) bearer notes numbered 1 and 2, each in the denomination of $100,000. Each of said Notes shall be dated March 1, 1999, shall mature by their stated terms and become due and payable on December 1, 1999. The Notes shall bear interest from their dated date, payable at maturity or upon redemption prior thereto as herein provided, at a rate of interest of 3.25% per annum (computed on the basis of actual days elapsed and a 360-day year composed of twelve 30-day months). The Notes shall be subject to redemption at the option of the City upon notice as hereinafter provided and shall be redeemed and cancelled contemporaneously with the issuance of general obligation improvement bonds of the City issued in lieu thereof to provide permanent financing of the Project.

Both principal of and interest on said Notes shall be payable in lawful money of the United States of America by check or draft at the office of the City Treasurer of the City upon presentation and surrender of said Notes.

The City reserves the right to redeem and pay said Notes, in whole or in part (and if in part in denominations of $100,000 selected by the City in its sole discretion), at any time on or after June 1, 1999, at a redemption price of 100% of the principal amount thereof so redeemed plus accrued interest thereon to the redemption date, without premium. In the event the City elects to redeem any of such Notes as aforesaid, the City shall give notice thereof in writing by first class mail to the original purchaser of the Notes and to any known holder of the Notes or by the publication of such notice at least one time in a newspaper published or of general circulation in the metropolitan Kansas City area, such publication of such notice or mailing of written notification of redemption to the original purchaser and the known holder to be at least ten days prior to the redemption date fixed in such notice. Notice of such redemption having been given as aforesaid, interest shall cease to accrue on said Notes from and after the redemption date.

Section Three. Security for the Notes. The full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligations bonds of the City to provide permanent financing of the Project upon the completion thereof. If said bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect a tax upon all taxable tangible property within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section Four. Form of Notes. Each of said Notes shall be in customary form as provided by law, shall be signed by the Mayor and attested by the City Clerk of the City and shall have the seal of said City affixed thereto.

Section Five. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to Country Club Bank, the original purchaser thereof, upon payment of the purchase price therefor which shall not be less than 99.695% of the principal amount thereof plus accrued interest to the date of delivery thereof to the original purchaser thereof.

Section Six. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer to be used to redeem and retire the Prior Notes.

Section Seven. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes, including but not limited to any provisions requiring the rebate of earnings on amounts held in funds or accounts created with respect to the Notes and (2) it will not use or permit the use of any of the proceeds of the Notes or other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes; provided, however, the foregoing provision in (1) above shall be and come null and void if and to the extent that the City shall receive an opinion from nationally recognized bond counsel which concludes that compliance with the foregoing covenant and the provisions of the Code as provided in this section shall not be required to maintain and continue the tax-exempt status of the interest income on the Notes.

Section Eight. Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 1999, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 1999 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or the Project be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 1999.

CONTINUED ON PAGE 8

CONTINUED FROM PAGE 7

Section Nine. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section Ten. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 1st day of March, 1999.

APPROVED by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED FOR FORM:

Richard S. Wetzlef, City Attorney

ORDINANCE NO. 1782

AN ORDINANCE GRANTING A PERMANENT AND TEMPORARY DRAINAGE EASEMENT TO VILLAGE DEVELOPMENT, L.L.C., TO PERMIT THE CONSTRUCTION OF PROPOSED DRAINAGE FACILITIES ON IRONHORSE GOLF COURSE PROPERTY AS INDICATED ON VILLAGE AT IRONHORSE SUBDIVISION CONSTRUCTION PLANS DATED FEBRUARY 3, 1999.

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

Section 1. That the City of Leawood, Kansas, does hereby grant a permanent and temporary drainage easement to Village Development, L.L.C., more particularly designated and described, to wit:

Permanent Easement. All that part of Section 9, Township 14, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of the NW1/4 of said Section 9; thence S 87° 18'10" W, along the North line of the NW1/4 of said Section 9, a distance of 990.68 feet; thence S 2°29'26" E, a distance of 454.18 feet; thence S 28° 33'12" E, a distance of 180.16 feet; thence S 31° 10'40" E, a distance of 80.34 feet; thence S 28° 42'42" E, a distance of 106.90 feet; thence S 25° 33'36" E, a distance of 76.10 feet; thence S 28°33'12" E, a distance of 112.22 feet; thence S 33° 02'28" E, a distance of 126.03 feet; thence S 24°17'53" E, a distance of 132.91 feet; thence N 25° 33'16" E, a distance of 64.08 feet; thence N 52°01'33" E, a distance of 66 feet; thence N 89°01'22" E, a distance of 29.12 feet; thence S 67° 19'43" E, a distance of 55.31 feet, to the true point of beginning of subject tract; thence continuing S 67° 19'43" E, a distance of 33.07 feet; thence S 58° 04'49" E, a distance of 16.10 feet; thence S 31° 55'11" W, a distance of 25 feet; thence N 64° 26'50" W, a distance of 45 feet; thence N 22° 40'17" E, a distance of 25 feet, to the true point of beginning of subject tract.

Temporary Easement. All that part of the NW1/4 of Section 9, Township 14, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of the NW1/4 of said Section 9; thence S 87°18'10" W, along the North line of the NW1/4 of said Section 9, a distance of 990.68 feet; thence S 2°29'26" E, a distance of 454.18 feet; thence S 28° 33'12" E, a distance of 180.16 feet; thence S 31° 10'40" E, a distance of 80.34 feet; thence S 28° 42'42" E, a distance of 106.90 feet; thence S 25° 33'36" E, a distance of 76.10 feet; thence S 28° 33'12" E, a distance of 112.22 feet; thence S 33° 02'28" E, a distance of 126.03 feet; thence S 24° 17'53" E, a distance of 132.91 feet; thence N 25° 33'16" E, a distance of 64.08 feet; thence N 52° 01'33" E, a distance of 66 feet; thence N 89° 01'22" E, a distance of 29.12 feet; thence S 67° 19'43" E, a distance of 15.91 feet, to the true point of beginning of

subject tract; thence continuing S 67°19'43" E, a distance of 69.40 feet; thence S 58° 04'49" E, a distance of 57.40 feet; thence S 45° W, a distance of 50 feet; thence N 61° 44'29" W, a distance of 89.73 feet; thence N 1° 52'04" E, a distance of 50 feet, to the true point of beginning of subject tract.

Section 2. That a copy of said permanent and temporary drainage easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 1st day of March, 1999.

Approved by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1782

Publication Fees: $24.90

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1782--3/30/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

March 31, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1782

First published in The Legal Record, Tuesday, March 30, 1999.

ORDINANCE NO. 1782

AN ORDINANCE GRANTING A PERMANENT AND TEMPORARY DRAINAGE EASEMENT TO VILLAGE DEVELOPMENT, L.L.C., TO PERMIT THE CONSTRUCTION OF PROPOSED DRAINAGE FACILITIES ON IRONHORSE GOLF COURSE PROPERTY AS INDICATED ON VILLAGE AT IRONHORSE SUBDIVISION CONSTRUCTION PLANS DATED FEBRUARY 3, 1999.

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

Section 1. That the City of Leawood, Kansas, does hereby grant a permanent and temporary drainage easement to Village Development, L.L.C., more particularly designated and described, to wit:

Permanent Easement. All that part of Section 9, Township 14, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of the NW1/4 of said Section 9; thence S 87° 18'10" W, along the North line of the NW1/4 of said Section 9, a distance of 990.68 feet; thence S 2°29'26" E, a distance of 454.18 feet; thence S 28° 33'12" E, a distance of 180.16 feet; thence S 31° 10'40" E, a distance of 80.34 feet; thence S 28° 42'42" E, a distance of 106.90 feet; thence S 25° 33'36" E, a distance of 76.10 feet; thence S 28°33'12" E, a distance of 112.22 feet; thence S 33° 02'28" E, a distance of 126.03 feet; thence S 24° 17'53" E, a distance of 132.91 feet; thence N 25° 33'16" E, a distance of 64.08 feet; thence N 52° 01'33" E, a distance of 66 feet; thence N 89° 01'22" E, a distance of 29.12 feet; thence S 67° 19'43" E, a distance of 55.31 feet, to the true point of beginning of subject tract; thence continuing S 67° 19'43" E, a distance of 33.07 feet; thence S 58° 04'49" E, a distance of 16.10 feet; thence S 31° 55'11" W, a distance of 25 feet; thence N 64° 26'50" W, a distance of 45 feet; thence N 22° 40'17" E, a distance of 25 feet, to the true point of beginning of subject tract.

Temporary Easement. All that part of the NW1/4 of Section 9, Township 14, Range 25, now in the City of Leawood, Johnson County, Kansas, more particularly described as follows: Commencing at the Northeast corner of the NW1/4 of said Section 9; thence S 87°18'10" W, along the North line of the NW1/4 of said Section 9, a distance of 990.68 feet; thence S 2°29'26" E, a distance of 454.18 feet; thence S 28° 33'12" E, a distance of 180.16 feet; thence S 31° 10'40" E, a distance of 80.34 feet; thence S 28° 42'42" E, a distance of 106.90 feet; thence S 25° 33'36" E, a distance of 76.10 feet; thence S 28° 33'12" E, a distance of 112.22 feet; thence S 33° 02'28" E, a distance of 126.03 feet; thence S 24° 17'53" E, a distance of 132.91 feet; thence N 25° 33'16" E, a distance of 64.08 feet; thence N 52° 01'33" E, a distance of 66 feet; thence N 89° 01'22" E, a distance of 29.12 feet; thence S 67° 19'43" E, a distance of 15.91 feet, to the true point of beginning of subject tract; thence continuing S 67°19'43" E, a distance of 69.40 feet; thence S 58° 04'49" E, a distance of 57.40 feet; thence S 45° W, a distance of 50 feet; thence N 61° 44'29" W, a distance of 89.73 feet; thence N 1° 52'04" E, a distance of 50 feet, to the true point of beginning of subject tract.

Section 2. That a copy of said permanent and temporary drainage easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 1st day of March, 1999.

Approved by the Mayor the 1st day of March, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM: /s/ R.S. Wetzler
R.S. Wetzler City Attorney

ORDINANCE NO. 1781

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM NAOMI J. JAMESON TRUST, RICHARD A. JAMESON TRUST AND JANE L. JAMESON TO ALLOW THE DEVELOPERS OF WILSHIRE SUBDIVISION TO EXTEND THE CITY'S STORM DRAINAGE SYSTEM ONTO JAMESON PROPERTY ADJACENT TO WILSHIRE.

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

Section 1. That the City of Leawood hereby accepts a permanent drainage easement over, under and through the following described real estate, to wit:

A tract of land lying 20 feet in width across part of the Southeast One-Quarter of Section 28, Township 13 South, Range 25 East in the City of Leawood, Johnson County, Kansas lying 10 feet of each side of the following described centerline: Commencing at the Southwest corner of the North One-Half of said Southeast One-Quarter, said point being the Southwest corner of Wilshire Third Plat, a subdivision in the City of Leawood, as recorded at the Johnson County Register of Deeds office in Book 84, at Page 1; thence North 89° 49'32" East along the South line of the North One-Half of said Southeast One-Quarter a distance of 934.77 feet to a point, hereinafter referred to as Point "A"; thence continuing North 89° 49'32" East along said South line a distance of 39.70 feet to the POINT OF BEGINNING; thence South 73° 09'35" East a distance of 90.00 feet to the Point of Terminus.

AND ALSO

Beginning at the aforesaid Point "A"; thence South 24° 25'17" East a distance of 30.00 feet to the Point of Terminus.

AND ALSO

A tract of land lying in the Southeast One-Quarter of Section 28, Township 13 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, said tract being more particularly described as follows: Commencing at the Southwest corner of the North One-Half of said Southeast One-Quarter, said point being the southwest corner of said Wilshire Third Plat; thence North 89° 49'32" East, along the South line of the North One-Half of said Southeast One-Quarter, a distance of 1232.39 feet to the POINT OF BEGINNING; thence continuing North 89° 49'32" East along said South line a distance of 105.24 feet to a point; thence South 80° 58'09" West a distance of 104.00 feet to a point; thence North 08° 58'20" West a distance of 16.23 feet to a point on said South line, said property being the POINT OF BEGINNING.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 16th day of February, 1999.

Approved by the Mayor the 16th day of February, 1999.

(S E A L)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED FOR FORM:

R.S. Wetzler City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1781

Publication Fees: $23.52

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1781--2/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

February 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1781

First published in The Legal Record, Tuesday, February 23, 1999.

ORDINANCE NO. 1781

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM NAOMI J. JAMESON TRUST, RICHARD A. JAMESON TRUST AND JANE L. JAMESON TO ALLOW THE DEVELOPERS OF WILSHIRE SUBDIVISION TO EXTEND THE CITY'S STORM DRAINAGE SYSTEM ONTO JAMESON PROPERTY ADJACENT TO WILSHIRE.

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

Section 1. That the City of Leawood hereby accepts a permanent drainage easement over, under and through the following described real estate, to wit:

A tract of land lying 20 feet in width across part of the Southeast One-Quarter of Section 28, Township 13 South, Range 25 East in the City of Leawood, Johnson County, Kansas lying 10 feet of each side of the following described centerline: Commencing at the Southwest corner of the North One-Half of said Southeast One-Quarter, said point being the Southwest corner of Wilshire Third Plat, a subdivision in the City of Leawood, as recorded at the Johnson County Register of Deeds office in Book 84, at Page 1; thence North 89°49'32" East along the South line of the North One-Half of said Southeast One-Quarter a distance of 934.77 feet to a point, hereinafter referred to as Point "A"; thence continuing North 89°49'32" East along said South line a distance of 39.70 feet to the POINT OF BEGINNING; thence South 73°09'35" East a distance of 90.00 feet to the Point of Terminus.

AND ALSO

Beginning at the aforesaid Point "A"; thence South 24°25'17" East a distance of 30.00 feet to the Point of Terminus.

AND ALSO

A tract of land lying in the Southeast One-Quarter of Section 28, Township 13 South, Range 25 East, in the City of Leawood, Johnson County, Kansas, said tract being more particularly described as follows: Commencing at the Southwest corner of the North One-Half of said Southeast One-Quarter, said point being the southwest corner of said Wilshire Third Plat; thence North 89° 49'32" East, along the South line of the North One-Half of said Southeast One-Quarter, a distance of 1232.39 feet to the POINT OF BEGINNING; thence continuing North 89° 49'32" East along said South line a distance of 105.24 feet to a point; thence South 80°58'09" West a distance of 104.00 feet to a point; thence North 08°58'20" West a distance of 16.23 feet to a point on said South line, said property being the POINT OF BEGINNING.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 16th day of February, 1999.

Approved by the Mayor the 16th day of February, 1999.

(S E A L)

Peggy J. Dunn
Peggy J. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

$23.52

ORDINANCE NO. 1780

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM ACUFF RHODES GROUP FOR DRAINAGE PURPOSES IN THE PAVILIONS OF LEAWOOD TO WHITEHORSE CONNECTION.

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

Section 1. That the City of Leawood hereby accepts a permanent drainage easement more particularly designated and described, to wit:

A tract of land 15 feet in width, lying 7.5 feet on each side of the following described lines: Beginning at the Northwest corner of the SE1/4 of Section 4, T14S, R25E; thence S 02° 25'29" E, along the West line of said SE1/4, a distance of 546.69 feet to the TRUE POINT OF BEGINNING; thence N 87° 54'53" E a distance of 327.34 feet to a point hereinafter referred to as POINT "A"; thence N 03° 50'03" W a distance of 43.67 feet; thence N 00° 59'47" E a distance of 36.25 feet, and there terminating.

...and also...

Beginning at POINT "A"; thence S 00° 37'21" E a distance of 43.76 feet, and there terminating.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 16th day of February, 1999.

Approved by the Mayor the 16th day of February, 1999.

(S E A L)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED FOR FORM:

R.S. Wetzler — City Attorney

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

ORD1780

Publication Fees: $14.42

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1780--2/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

February 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

ORDINANCE NO. 1780

First published in The Legal Record, Tuesday, February 23, 1999.

ORDINANCE NO. 1780

AN ORDINANCE ACCEPTING A PERMANENT DRAINAGE EASEMENT FROM ACUFF RHODES GROUP FOR DRAINAGE PURPOSES IN THE PAVILIONS OF LEAWOOD TO WHITEHORSE CONNECTION.

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

Section 1. That the City of Leawood hereby accepts a permanent drainage easement more particularly designated and described, to wit:

A tract of land 15 feet in width, lying 7.5 feet on each side of the following described lines: Beginning at the Northwest corner of the SE1/4 of Section 4, T14S, R25E; thence S 02° 25'29" E, along the West line of said SE1/4, a distance of 546.69 feet to the TRUE POINT OF BEGINNING; thence N 87° 54'53" E a distance of 327.34 feet to a point hereinafter referred to as POINT "A"; thence N 03° 50'03" W a distance of 43.67 feet; thence N 00° 59'47" E a distance of 36.25 feet, and there terminating.

...and also...

Beginning at POINT "A"; thence S 00° 37'21" E a distance of 43.76 feet, and there terminating.

Section 2. That a copy of said easement is attached hereto and thereby incorporated by reference.

Section 3. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 16th day of February, 1999.

Approved by the Mayor the 16th day of February, 1999.

(S E A L)

Peggy G. Dunn
Peggy G. Dunn Mayor

Attest:

Martha Heizer
Martha Heizer City Clerk

APPROVED FOR FORM:
R.S. Wetzler City Attorney

$14.42

ORDINANCE NO. 1779 C

AN ORDINANCE REPEALING EXISTING SECTIONS OF ARTICLE 3 OF CHAPTER 16 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO THE BOARD OF ZONING APPEALS.

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

Section 1. Repeal of Existing Sections. That existing Sections 16-301, 16-302, and 16-303 of the Code of the City of Leawood are hereby repealed. (The Board of Zoning Appeals is governed by Section 5-4 of the Leawood Development Ordinance.)

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

Passed by the Council the 16th day of February, 1999.

Approved by the Mayor the 16th day of February, 1999.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED FOR FORM:

R.S. Wetzler, City Attorney

ORD1779C

Publication Fees: $10.82

The Legal Record
Lewis Legal News, Inc.
213 E. Santa Fe, Suite 2
Olathe, KS 66061

CITY OF LEAWOOD
ATTN: MARTHA HEIZER
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Tammy Schwien, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Administrator of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than five (5) years prior to the first publication of the notice attached, and has been admitted at the post office as second class matter (now called periodicals class).
That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

ORDINANCE NO. 1779C--2/23/99

Tammy Schwien
Legal Notices Administrator

Subscribed and sworn to before me on this date:

February 24, 1999

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 1999.

$10.82

ORDINANCE NO. 1779 C

First published in The Legal Record, Tuesday, February 23, 1999.

ORDINANCE NO. 1779 C

AN ORDINANCE REPEALING EXISTING SECTIONS OF ARTICLE 3 OF CHAPTER 16 OF THE CODE OF THE CITY OF LEAWOOD RELATING TO THE BOARD OF ZONING APPEALS.

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

Section 1. Repeal of Existing Sections. That existing Sections 16-301, 16-302, and 16-303 of the Code of the City of Leawood are hereby repealed. (The Board of Zoning Appeals is governed by Section 5-4 of the Leawood Development Ordinance.)

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