



CITY OF WESTWOOD, KANSAS

CITY COUNCIL MEETING

4700 RAINBOW BLVD. WESTWOOD, KS 66205

Thursday, March 14, 2024 at 7:00 PM

AGENDA

Welcome to your Westwood City Council meeting. This meeting may be attended remotely via Zoom:

Access Online: <https://us02web.zoom.us/j/89908289796>

Access by Phone: (312) 626-6799 / **Webinar ID:** 899 0828 9796

[Note: This agenda is subject to changes, additions, or deletions at the discretion of the Governing Body]

CITY COUNCIL WORK SESSION AGENDA - 6:00 PM

- I. **CALL TO ORDER**
 - II. **WORK SESSION ITEMS/DISCUSSION OF UPCOMING MATTERS**
 - A. City Code recodification review: Chapters 1 - 7, 9
 - III. **ADJOURNMENT TO REGULAR MEETING**
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REGULAR MEETING AGENDA

- I. **CALL TO ORDER**
- II. **APPROVAL OF THE AGENDA**
- III. **PUBLIC COMMENT**

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda, or about items on the regular agenda for which the Governing Body, at its discretion, accepts public comment. Public comment should be limited to 2-3 minutes and, unless the topic of public comment is before the Governing Body as part of its agenda, no action will be taken by the Governing Body on public comment items. Please state your name and address for the record. Persons attending virtually online will be able to make public comment by using the "raise hand" function on Zoom.
- IV. **PRESENTATIONS AND PROCLAMATIONS**
 - A. Proclamation recognizing Westwood resident Adam Minto for achieving the rank of Eagle Scout
 - B. Johnson County Board of County Commissioners update (Commissioner Becky Fast)

V. CONSENT AGENDA

All items listed below are considered to be routine by the Governing Body and will be enacted in one motion (roll call vote). There will be no separate discussion of these items unless a member of the Governing Body so requests, in which event the item will be removed from the consent agenda and considered separately following approval of the consent agenda.

[A.](#) Consider approval of February 8, 2024 City Council meeting minutes

[B.](#) Consider approval of Appropriations Ordinance 760

VI. MAYOR'S REPORT

VII. CITY COUNCILMEMBER REPORTS

VIII. STAFF REPORTS

[A.](#) Administrative Report (City Administrator Leslie Herring)

[B.](#) Public Works Report (Public Works Director John Sullivan)

[C.](#) Police Department Report (Police Chief Curt Mansell)

[D.](#) Treasurer's Report (City Treasurer Michelle Ryan)

E. City Attorney Report (Ryan Denk)

IX. OLD BUSINESS

[A.](#) Review draft of community-wide survey

X. NEW BUSINESS

[A.](#) Consider fence variance for 4815 Booth St.

[B.](#) Consider Resolution No. 126-2024 authorizing binding property and liability insurance coverage with Midwest Public Risk

[C.](#) Consider authorization of purchase of 2023 Police Dodge Durango & related equipment

[D.](#) Consider agreement with Johnson County, KS for Stormwater Best Management Practices (BMP) Cost-Share Program for March 18, 2024 – January 31, 2025 period

[E.](#) Provide direction to staff on Spring 2024 expenses at 5050 and 5000 Rainbow Blvd.

XI. ANNOUNCEMENTS/GOVERNING BODY COMMENTS

XII. EXECUTIVE SESSION

A. Consultation with the City Attorney on matters relating to real property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney-client relationship under K.S.A. 75-4319(b)2

XIII. ADJOURNMENT

UPCOMING MEETINGS

Regular meetings of the Westwood City Council are held at 7:00 PM on the second Thursday of each month. The next regular meeting of the Westwood City Council will be held Thursday, April 11, 2024, at 7:00 PM at Westwood City Hall. The City Calendar may be accessed at www.westwoodks.org. To receive further updates and communications, please see or sign up for the following:

Westwood Buzz Email: <https://bit.ly/3wA4DWx>

Facebook: [City of Westwood Kansas-Government
Westwood, KS Police Department](#)



2024 Recodification Review

City Council Work Session: 3/14/24
(Chapters 1 - 7, 9)

City Council Work Session: 4/11/24
(Chapters 8, 10 - 16)



Recodification Process

Recodification is the process by which all adopted ordinances (and modern, current State and Federal laws, where applicable) are integrated into a City's Codebook so that the Codebook reflects the current and comprehensive laws of the City.

- In January 2023, the City engaged CivicPlus (which acquired Municode) to begin the 12 - 18-month process of recodifying the City Code, which has not been done since 2008.
- In addition to recodification services, this scope of service includes the digitization and integration of the City Code into the City's website for transparency, convenience, and easy updating when new ordinances are approved.
- Five weeks ago, City staff received the full Code with legal review notes and embarked on internal review of the documents.
- Over the past month, the City Administrator, City Clerk, Building Official, Public Works Director, and Police Chief have met weekly to review and annotate the Code chapters in preparation for Governing Body review and final legal review with the City Attorney and CivicPlus legal counsel.
- Following integration of the Governing Body's input and changes to the Code chapters, City staff will meet with CivicPlus to resolve any

Chapter 1: Administration

- Note: This chapter was reviewed in depth in 2022.
- Add: Municode missed adding in Charter Ord. 19 establishing the role of City Administrator.
- Move: Governing Body expense reimbursement rules to Governing Body Handbook; update Governing Body Handbook accordingly (Art. 2)



Chapter 2: Animal Control and Regulation

- Note: This chapter was reviewed at some level of detail in 2022.
- Under Review: Animal control officer duties and authority being reviewed against interlocal agreement with City of Mission. (Art. 1)
- Flagged for Council Direction: Should the City continue its pet registration program? (Art. 2)



Chapter 3: Beverages

- Note: This chapter was last modified in 2021.
- Change: Fee for caterer's liquor license and temporary event liquor license from being established administratively to being set out in the master fee schedule adopted by resolution of the Governing Body.



Chapter 4: Buildings and Construct ion

- Note: Articles 1 – 10 of this chapter were completely revised in 2021. Article 11 was completely revised in 2022.
- Note: Staff intends to recommend adoption of 2024 ICC code sections following review by Johnson County Building Officials Association this year.
- Under Review: If there is no legal reason requiring the City to have a Board of Building Code Appeals, staff recommends consideration for transfer of authority to an existing body, possibly Planning Commission. Staff will review with the City Attorney.



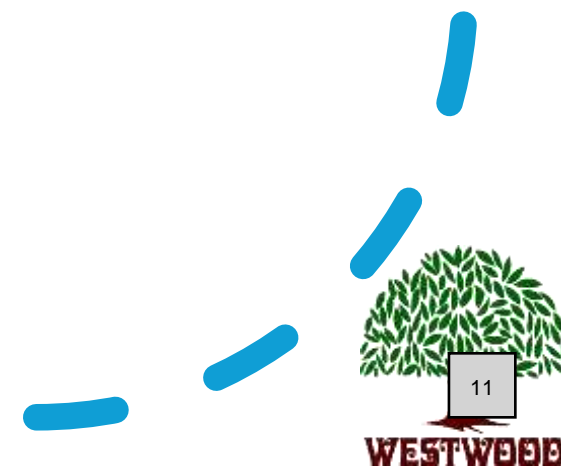
Chapter 5: Business Regulations

- Note: Chapter last reviewed in 2022 to add short term rental regulations. (Art. 11)
- Move: Occupation fee amounts from City Code to master fee schedule adopted by the City Council by resolution. (Art. 1)
- Add: Application fee for solicitor's license, to be included in master fee schedule. (Art. 2)
- Change: Drive-in Businesses to Businesses with Curbside Service. (Art. 3)
- Delete: Requirement that massage therapists maintain a City-issued ID card. (Art. 4)
- Change: license required for amusement devices to allow amusement devices but to prohibit gambling devices. (Art. 5)
- Revise: Wrecker and Tow Services to reflect the City's use of the County's tow rotation system. (Art. 6)
- Delete: Water Conditioning Contractors article. (Art. 7)



Chapter 6: Elections

- Note: This chapter was last revised in 2021 with the adoption of Ord. 1019.
- Revise: Chapter to reflect Ord. 1019.



Chapter 7: Fire

- Under Review: City staff has asked CFD2 to review this chapter and indicate if revisions are recommended.



Chapter 9: Municipal Court

- Add: Allowance for remote/virtual court appearance under certain circumstances.
- Change: Judge's salary is set by contract, not by ordinance.
- Change: Court Clerk's salary is no longer set by ordinance.
- Change: Court costs to be set out in master fee schedule adopted by resolution of the Governing Body.



CHAPTER 1.

ADMINISTRATION

- Article 1. General Provisions
- Article 2. Governing Body
- Article 3. Officers and Employees
- Article 3A. Oaths and Bonds
- Article 4. Investment of Public Funds
- Article 5. Personnel Policy and Employee Benefits
- Article 6. Open Records

ARTICLE 1. GENERAL PROVISIONS ¹

1-101. CODE DESIGNATED.

The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Westwood, Kansas," and may be so cited. The Code may also be cited as the "Westwood City Code."
(Code 2008, § 1-101)

1-102. DEFINITIONS AND RULES OF CONSTRUCTION

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

The following definitions and rules of construction shall apply to this Code and to all ordinances unless the context requires otherwise:

Generally.

(1) Whenever the requirements or provisions conflict, the most restrictive requirements shall apply.

(2) Whenever the requirements or provisions are in conflict with any statute, the most restrictive requirements shall apply.

(3) All provisions shall be liberally construed so that the intent of the city council may be effectuated.

(4) Words and phrases shall be construed according to the common and

¹ **Legal analysis: Article I. General Provisions.** Revised to be more complete. All code provisions will be edited in light of Article 1.

approved usage of the language, but technical words, technical phrases and words and phrases that have acquired peculiar and appropriate meanings shall be construed according to such meanings.

(5) Provisions shall be interpreted and applied so as to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare.

(6) If any manifest error is discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the manifest intention of any provision, the use of a word or words to which no meaning can be attached, or the use of one word or words where it is manifest that a different word or words should have been used to express the intent of any provision, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the words correctly spelled, and as supplied, omitted or substituted, were used originally. However, this subsection shall not have the effect of permitting any change to be made should there exist doubt as to the meaning of the provision in question.

(7) Grammatical errors shall not vitiate, and a transposition of words and clauses may be resorted to when the sentence or clause is without meaning as it stands.

(a) City - shall mean the City of Westwood, Kansas. Any reference to "within the City" shall mean within the corporate City limits of the City of Westwood, Kansas.

(b) Code - shall mean "The Code of the City of Westwood, Kansas."

(c) Computation of Time. - The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows, except that the terms "and" and "or" may be interchangeable when the context so requires:

(1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.

(2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.

(3) The term "either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

(d) County - means the County of Johnson in the State of Kansas.

(e) Day - a calendar day beginning at 12:01 a.m. and ending at 12:00 midnight.

(f) Delegation of Authority. - Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

(g) Gender. - ~~Words importing the masculine gender include the feminine and neuter.~~
Words of gender include all other genders.

(h) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.

(i) In the city - shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Includes. The term "includes" does not limit a term to a specified example.

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

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" has a prohibitory effect and states a prohibition.

(k) Month - shall mean a calendar month.

Must. The term "must" is to be construed as being mandatory.

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

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

(n) Officers, departments, etc. - Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise. Reference to a public office or officer shall be deemed to apply to any office, officer, or employee exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

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

~~of such building or land. property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property.~~

(p) ~~Person - includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual. any human being, any governmental or political subdivision or public agency, any public or private corporation, any limited liability company, any partnership, any firm, association or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing or any other legal entity.~~

~~_____ *Personal property.* includes money, goods, chattels, things in action, evidences of debt and energy.~~

~~_____ *Preceding, following.* The terms "preceding" and "following" mean next before and next after, respectively.~~

~~_____ *Premises, as applied to real property, includes land and structures.*~~

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

(r) Real Property or real estate - includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(s) ~~Shall, may. "Shall" is mandatory and "may" is permissive. is to be construed as being mandatory.~~

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

(u) Signature, subscription - shall be the handwriting of such person, or includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness, or the electronic signature of the person.²

(v) State - shall be construed to mean the State of Kansas.

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

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

(y) Tenses. - Words used in the past or present tense include the future as well as the

² **Legal analysis: (u) Signature, subscription.** Updated to include electronic signatures.

past and present.

(z) Writing or written - ~~may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.~~ includes any form of recorded message capable of comprehension by ordinary visual means.

(aa) Year - means a calendar year, except where otherwise provided.
(Code 1983; Code 2008, § 1-102)

1-103. EXISTING ORDINANCES.

The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments.

(Code 1983; Code 2008, § 1-103)

1-104. EFFECT OF REPEAL OR AMENDMENT OF ORDINANCES.

~~The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein.~~ ____

____ (a) Unless specifically provided otherwise, the repeal of an ordinance does not revive any previously repealed ordinance.

____ (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal or amendment took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

____ (c) The repeal or amendment of an ordinance does not affect any vested right, privilege, obligation or liability.

(Code 1983; Code 2008, § 1-104)

1-105. CATCHLINES OF SECTIONS; HISTORY NOTES; REFERENCES

~~The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.~~

____ (a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.

(b) History notes that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(c) Editor's notes, charter references, cross references and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.

(d) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

(Code 1983; Code 2008, § 1-105)

~~1-106. PARENTHETICAL AND REFERENCE MATTER.~~

~~The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code.~~

~~(Code 1983; Code 2008, § 1-106)~~

1-107. AMENDMENTS TO CODE; EFFECT OF NEW ORDINANCES; AMENDATORY LANGUAGE; REPEAL.

(a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code.

(b) Any portion of this code may be amended by specific reference to the section number as follows: "Section of the code of the City of Westwood is hereby amended to read as follows: (the new provisions shall then be set out in full). . ."

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

(d) All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) of the code of the City of Westwood is hereby repealed."

(Code 2008, § 1-107)

Sec. 1-107a. Supplementation of Code. ³

³ **Legal analysis: Sec. 1-107a. Supplementation of Code.** Revise to reflect the potential for supplementation through the city's SPS service that may not immediately result in a printed supplement. In the alternative, this provision can be deleted in its entirety.

(a) Supplements to this Code shall be prepared and may be printed whenever authorized or directed by the **town**. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. ~~The pages of the~~ printed supplements shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be removed from the Code by the omission thereof from reprinted or republished pages.

(c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:

(1) Arrange the material into appropriate organizational units.

(2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.

(3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.

(4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.

(5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).

(6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

1-108. ORDINANCES. ⁴

The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. No ordinance shall be valid unless a majority of all the members- elect of the City of Westwood shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance, unless a number

⁴ **Legal analysis: 1-108. ORDINANCES.** Revise this and all subsequent statutory history notes to be placed into standard state law reference format.

greater than a majority is otherwise required by law.
 (Code 2008, § 1-108)
 (K.S.A. 12-3002)

1-109. SAME; SUBJECT AND TITLE; AMENDMENT.

No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed.

(Code 2008, § 1-109)
 (K.S.A. 12-3004)

1-110. SAME; PUBLICATION.

(a) No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication.


(b) The Legal Record is hererby designated as the official city newspaper. ⁵
 (Code 2008, § 1-110; Ord. 918)
 (K.S.A. 12-3007)

1-111. SAME; ORDINANCE BOOK.

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

(Code 2008, § 1-111)
 (K.S.A. 12-3008)

1-112. RESOLUTIONS, MOTIONS.

Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2008, § 1-112) 

1-113. CITY RECORDS.

The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as

⁵ **Legal analysis: 1-110. SAME; PUBLICATION.** Please advise whether the Legal Record is still the official city newspaper.

provided in the state open records act and the city policy regarding open public records.
 (Code 2008, § 1-113)
 (K.S.A. 12-120:121)

1-114. ALTERING CODE.

It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Westwood to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body.

(Code 1983, 1-110; Code 2008, § 1-114)

1-115. SCOPE OF APPLICATION.

Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense.

(Code 1993, 1-111; Code 2008, § 1-115)

1-116. GENERAL PENALTY; CONTINUING VIOLATIONS

a) In this section, the term "violation of this Code" means any of the following:

(1) Doing an act that is prohibited or made or declared unlawful, an offense, or a violation by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by order, rule or regulation authorized by ordinance.

(2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.

(3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, or a violation by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by order, rule or regulation authorized by ordinance.

(b) In this section, the term "violation of this Code" does not include the failure of a city officer or city employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

(c) Except as otherwise provided by law or ordinance, a person convicted of a violation of this Code shall be punished by a fine not exceeding \$1,000.00, a definite term of imprisonment for not more than 179 days days, or any combination thereof.

(d) Except as otherwise provided by law or ordinance:

(1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.

(2) With respect to violations that are not continuous with respect to time, each act constitutes a separate offense.

(e) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.

(f) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief.

(g) Nothing in this section shall be construed to prohibit the city from prosecuting any violation of this article by means of a code enforcement system established pursuant to the authority of Kansas law.

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

~~(a) A fine of not more than \$1,000; or,~~

~~(b) Imprisonment in jail for not more than 179 days; or,~~

~~(c) Both such fine and imprisonment not to exceed (a) and (b) above.
(Code 1993, 1-112; Code 2008, § 1-116)~~

1-117. SEVERABILITY.

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

(Code 1983, 1-113; Code 2008, § 1-117)

ARTICLE 2. GOVERNING BODY

1-201. GOVERNING BODY.

The governing body shall consist of a mayor and five council members to be elected as set out in Chapter 6 of this code.

(Code 2008, § 1-201)

1-202. SAME; POWERS GENERALLY.

All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city.

(Code 2008, § 1-202)
(K.S.A. 12-103)

1-203. SAME; MEETINGS.

(a) Regular meetings of the governing body shall be held on the 2nd Thursday of each month at the City Hall, 4700 Rainbow Blvd. in the City of Westwood, or at any subsequently designated meeting place at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.

(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the city council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.

(Code 2008, § 1-203; Ord. 564)
(K.S.A. 15-106)

1-204. QUORUM.

At all meetings of the governing body, four-fifths (4/5) of the council members-elect shall constitute a quorum to do business. A minority may adjourn from day to day and may compel the attendance of absentees by a fine not exceeding \$100.00 for each offense, unless a reasonable excuse be offered.

(Code 2008, § 1-204; Chtr. Ord. No. 13)
(K.S.A. 15-106)

1-205. POWERS OF THE COUNCIL.

The governing body may enact, ordain, alter, modify or repeal any and all ordinances not repugnant to the constitution and the law of the State of Kansas and the United States, and such as it shall deem expedient for the good government of the city, the preservation of the peace and good order, the suppression of vice and immorality, the benefits of trade and commerce, and such other ordinances, rules, and regulations as may be necessary to carry such power into effect.

(Code 1993, 1-204; Code 2008, § 1-205)

1-206. POWERS OF THE MAYOR.

The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:

- (a) Have the superintending control of all officers and affairs of the city;
- (b) Take care that the ordinances of the city are complied with;

- (c) Sign the commissions and appointments of all officers elected or appointed;
- (d) Endorse the approval of the governing body on all official bonds;
- (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
- (f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
- (g) Sign all orders and drafts drawn upon the city treasury for money.
(Code 1983, 1-205; Code 2008, § 1-206)
(K.S.A. 301:302, 305:306, 308:309)

1-207. PRESIDENT OF THE COUNCIL.

The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto.

(Code 1983, 1-206; Code 2008, § 1-207)
(K.S.A. 15-310:311)

1-208. ADMINISTRATIVE POWERS.

The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor.

(Code 1983, 1-211; Code 2008, § 1-208)

1-209. VACANCIES IN GOVERNING BODY; HOW FILLED.

In case of a vacancy in the council occurring by reason of resignation, death or removal from office or from the city, the mayor, by and with the advice and consent of a majority of the remaining council members, shall appoint some suitable elector to fill the vacancy until the next election of that office. In case any person elected as a council member neglects or refuses to qualify within 30 days, after the filing of this or her certificate of election, he or she shall be deemed to have refused to accept such office and a vacancy shall exist, and thereupon the mayor may, with the consent of a majority of the remaining council members, appoint some suitable elector to fill said vacancy. In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election of that office and a vacancy shall occur In the office of the council member becoming mayor.

(Code 1993, 1-208; Code 2008, § 1-209; C.O. No. 6, Sec. 2)

1-210. COMPENSATION.

The salary of councilmembers shall be \$250.00 per month, for each council member, and \$700.00 per month for the mayor.
(Code 1983, 1-212; Code 2008, § 1-210; Ord. 661; Ord. 944)

1-211. EXPENSES.

Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

(a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or council member.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or council member, provided such expenses shall be documented by proper receipts.
(Code 2008, § 1-211)

1-212. COMMITTEES. 6

The governing body may provide such standing or special committees as may be needed, and unless it shall otherwise determine, such committees shall be appointed by the mayor.

(Code 1970, 1-109; Code 1993, 1-209; Code 2008, § 1-212; Ord. 1, Rule 21; Ord. 733; Ord. No. 1026, § 1(1-212), 5-12-2022)

1-213. PROPERTY INVENTORY RECORD. 7

A city property record shall be maintained in which will be listed an inventory of all property owned by the city. Such inventory shall also include the date of purchase, cost and description of such property. The mayor or his or her designee shall maintain such book and make a physical inventory of all property owned by the city at least once a year.
(Code 1993, 1-214; Code 2008, § 1-213; Ord. 500)

1-214. INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES.

There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Westwood, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2004, 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 Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by

⁶ **Legal analysis: 1-212. COMMITTEES.** In the history notes, please confirm that Rule 21 is a part of Ord. 1 and not a separate item.

⁷ **Legal analysis: 1-213. PROPERTY INVENTORY RECORD.** Much of this article was amended by Ord. 1026. Sec. 1-213 was not specifically repealed or amended, but was not accounted for in the ordinance numbering scheme. Please advise whether or not this language was intended to be retained.

the Code of the City of Westwood, Kansas," 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 section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. Changes to said Code shall include, but not be limited to, the change to the quorum requirement set out in Charter Ordinance 13.

(Code 2008, § 1-214; Ord. No. 1026, § 1(1-213), 5-12-2022)

1-215. CODE OF ETHICS.

(a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibilities of Public Office - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(c) Dedicated Service - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) Fair and Equal Treatment - (1) Interest in Appointments. Canvassing of members of the city council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the city council.

(2) Use of Public Property - No official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

(3) Obligations to Citizens - No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to

every other citizen.

(e) Conflict of Interest - No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) Incompatible Employment - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(2) Disclosure of Confidential Information - No elected or appointive city official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

(3) Gifts and Favors. - No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (a) an occasional nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(Code 2008, § 1-215; Ord. No. 1026, § 1(1-214), 5-12-2022)

Sec. 1-216. Term of office.

The term of office for all elected members of the Governing Body, including all members of the City Council and the Mayor, in those elections following the 2019 election shall commence upon their swearing-in, which shall occur at the City's December City Council meeting following the certification of the election.

(Ord. No. 1019, § 2, 4-8-2021)

ARTICLE 3. OFFICERS AND EMPLOYEES

1-301. APPOINTMENT.

The mayor, by and with the consent of the council, may appoint a city clerk, city treasurer, city attorney, municipal judge, chief of police and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices for an indefinite term and may be removed by a majority vote of the total membership elected or appointed to the council, and may be suspended at any time by the mayor. All such appointments shall be entered on the journal of proceedings of the governing body.

(Code 2008, § 1-301; C.O. No. 9, Sec. 3)

(K.S.A. 15-204)

1-302. QUALIFICATIONS.

The officer elected and appointed shall be qualified as follows:

- (a) The mayor and council members shall be qualified electors of said city under the constitution and laws of this state.
- (b) The city clerk and city treasurer are not required to be qualified electors of Johnson County, Kansas.
- (c) The municipal judge and city attorney shall be a resident of Johnson County, Kansas and admitted to practice law before the Supreme Court of the State of Kansas.
- (d) The city engineer shall be a professional engineer registered by the State of Kansas.
- (e) The Chief of Police, policemen, and other officers deemed necessary shall be residents of Johnson County, Kansas or of an adjoining county in the state.
(Code 1993; Code 2008, § 1-302; C.O. No. 6, Sec. 4)

1-303. EMPLOYEES.

- (a) The mayor shall have authority to hire all other employees, or such authority may be delegated to the respective department heads.
- (b) Compensation of City employees shall be established by the Mayor. Prior to making any changes to the Compensation of any employee of the City, the Mayor shall consult with the Administration and Compensation Committee relating to the intended change in Compensation. For purposes of this section, the term "Compensation" shall include employee rates of pay, salary, pay rate ranges and salary ranges.
- (c) The department head or authorized representative of any department within the city shall conduct a pre-employment investigation of all persons applying for or seeking a position as an employee of the city within such respective department. The Westwood Police Department shall aid the department head or authorized representative in fulfilling the requirements of this subsection by supplying any requested information it may

possess regarding the person seeking employment to the requesting department head or authorized representative.

(d) The Mayor shall additionally have authority to establish written job descriptions for employees of the City. The Mayor shall consult with the Administration and Compensation Committee prior to making any changes in written job descriptions.
(Code 1970, 1-209; Code 2008, § 1-303; Ord. 601, Sec. 1; Ord. 665; Ord. No. 994, § 1, 10-11-2018)

1-304. REMOVAL.

(a) A majority of all members elect of the governing body may remove any appointed officer.

(b) For good cause, the mayor may suspend at any time any appointed officer.

(c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.

(d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing.
(Code 2008, § 1-304)
(K.S.A. 15-204)

1-305. VACANCY IN OFFICE.

Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the mayor, with the consent of the council. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment.

(Code 1983, 1-304; Code 2008, § 1-305)
(K.S.A. 15-209)

1-306. TERM OF OFFICE.

All appointive officers shall hold office for an indefinite term.

(Code 1993, 1-305; Code 2008, § 1-306; C.O. No. 9, Sec. 3; Ord. No. 1026, § 2(1-306), 5-12-2022)

1-307. CITY CLERK.

The duties of the city clerk shall be as follows:

(a) At all the meetings of the governing body, record the names of members present, and record the yeas and nays of the governing body on any matters voted upon;

(b) Make and keep a record of all proceedings and meetings of the governing body in a minute book provided therefor by the governing body;

(c) Have charge of the corporate seal of the city and shall be custodian of all city records;

- (d) Make a record of all ordinances passed by the governing body in an ordinance book provided by it, and shall cause all such ordinances to be published in the form directed by law;
- (e) File all notices of the publication of ordinances passed by the governing body and shall file all papers and records which shall be open to public inspection at reasonable times;
- (f) Keep a record of all licenses, permits, warrants drawn upon the treasurer of the city, receipts of the city, and expenditures of the city in a book provided by the governing body;
- (g) Keep a full and accurate account of the bonds issued by the city, recording them by number, date, amount of each individual bond, date of maturity, rate of interest, and date of cancellation in a book provided by the governing body;
- (h) Carry on all official correspondence of the city;
- (i) Provide for the collection of all money due the city keeping a record of the various funds into which the money is paid;
- (j) Keep a full account of all purchases and expenditures made by the city seeing that warrants for same are duly drawn upon proper funds;
- (k) Issue receipts for all money received by the city;
- (l) Make monthly reports to the governing body of receipts and expenditures of the city, stating the various funds so affected and the balance remaining in each of the several funds;
- (m) Have the power to take acknowledgments;
- (n) Receive, audit, and present all claims to the next governing body meeting following the time received;
- (o) Perform such other and further duties as may be established administratively by the Mayor after consultation with the Administration and Compensation Committee by a written job description.
(Code 1970, 1-205; Code 1993, 1-306; Code 2008, § 1-307; Ord. 1, Rule 4); Ord. No. 994, § 2, 10-11-2018) ⁸

~~1-308. FISCAL RECORDS.~~⁹

⁸ **Legal analysis: 1-307. CITY CLERK.** Same as previous question regarding Rule 4 in the history notes.

⁹ **Legal analysis: 1-308. FISCAL RECORDS and 1-309. SEAL; OATHS.** Ord. No. 1026 appears to show the language of Sec. 308 and 309 being replaced with new language of a different subject matter. Please verify that the subjects of the former Sec's. 308 and 309 (Fiscal Records and Seal, Oaths) was intended to be deleted rather than retained and renumbered.

The city clerk shall:

- ~~(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;~~
- ~~(b) Assist in preparing the annual budget;~~
- ~~(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;~~
- ~~(d) Keep an accurate account of all bonds issued by the city;~~
- ~~(e) Keep a record of all special assessments.
(Code 2008, § 1-308)~~

~~1-309. SEAL; OATHS.~~

The city clerk shall:

- ~~(a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;~~
- ~~(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;~~
- ~~(c) Keep suitable files of all such oaths required to be deposited in his or her office.
(Code 2008, § 1-309)~~

1-310. SAME; WITHHOLDING AGENTS. (REPEALED)

(Code 2008, § 1-310)

1-311. ASSISTANT CITY CLERK. (REPEALED)

(Code 1993, 1-307; Code 2008, § 1-311; Ord. 674; C.O. No. 9; Ord. No. 994, § 3, 10-11-2018)

1-312. CITY TREASURER. (REPEALED)

(Code 1970, 1-206; Code 1993, 1-308; Code 2008, § 1-312)

1-313. CHIEF OF POLICE. (REPEALED)

(Code 1993, 1-309; Code 2008, § 1-313; Ord. 2, Sec. 5; Ord. No. 994, § 4, 10-11-2018)

1-314. SAME; POWERS. (REPEALED)

(Code 1993, 1-310; Code 2008, § 1-314; Ord. 2, Sec. 5; Ord. 261)

1-315. CITY ATTORNEY; OFFICE; DUTIES. (REPEALED)

(Code 2008, § 1-315)

1-316. CITY PROSECUTOR; OFFICE; DUTIES. (REPEALED)

(Code 2008, § 1-316)

1-317. CITY ENGINEER. (REPEALED)

(Code 1993, 1-312; Code 2008, § 1-317)

1-318. PROPERTY MAINTENANCE OFFICIAL. (REPEALED)

(Code 2008, § 1-318; Ord. No. 994, § 5, 10-11-2018)

1-319. BUILDING OFFICIAL. (REPEALED)

(Code 2008, § 1-319; Ord. No. 994, § 6, 10-11-2018)

1-320. MUNICIPAL COURT CLERK. (REPEALED)

(Code 1993, 1-314; Code 2008, § 1-320; Ord. No. 994, § 7, 10-11-2018)

1-308. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION.

The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments.

(Code 2008, § 1-321; Ord. No. 1026, § 2(1-308), 5-12-2022)

1-309. CONFLICT OF INTEREST.

(a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:

(1) In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent, whichever is less, individually, or collectively with his or her spouse; or

(2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or

(3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.

(b) The prohibitions contained in subsection (a) of this section shall not apply to the following:

- (1) Contracts let after competitive bidding has been solicited by published notice; and
- (2) Contracts for property or services for which the price or rate is fixed by law. (Code 2008, § 1-322; Ord. No. 1026, § 2(1-309), 5-12-2022) (K.S.A. 75-4301a)

ARTICLE 3A. OATHS AND BONDS

1-3A01. OATH.

All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

Oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of (here enter name of office or position). So help me God."

Affirmation: " I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of (enter name of office or position). This I do under the pains and penalties of perjury.

(Code 2008, § 1-3A01; Ord. No. 1026, § 3(1-3A01), 5-12-2022)
(K.S.A. 75-4308, 54-104, 54-106)

1-3A02. OATHS FILED.

All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed with the city clerk.

(Code 1983, 1-316; Code 2008, § 1-3A02; Ord. No. 1026, § 3(1-3A02), 5-12-2022)

~~1-3A03. BOND OF MAYOR, COUNCIL MEMBERS.~~¹⁰

~~The mayor and each council member shall, before entering upon the duties of his or her office, give a good and sufficient surety bond, to be executed by a bonding company authorized to do business in Kansas, payable to and for the use and benefit of the city, in the sum of \$10,000 conditioned for the faithful discharge of his or her duties, and that he or she will save the city harmless from all loss from his or her neglect of duty or malfeasance in office, or for the willful expenditure or misappropriation of any moneys,~~

¹⁰ **Legal analysis: 1-3A03. BOND OF MAYOR, COUNCIL MEMBERS.** In Ord. No. 1026, this section is not specifically repealed, but "Surety Bonds; Appointive Officers" has been numbered as Section. 1-3 A03. Please advise whether "Bond of Mayor, Council Members" was intended to be removed/replaced, or whether it was simply passed over in the numbering scheme.

~~properties or securities of the city in violation of law. The cost of such surety bonds will be borne by the city. If the mayor or a council member is or shall be the custodian of any money or negotiable securities belonging to the city as part of any trust fund or other fund of the city amounting to more than \$10,000, he or she shall, as custodian of such money or securities furnish a surety bond as herein provided in a sum equal to the total amount of such money and securities in his or her hands as such custodian, the cost of the bond to be borne by the city.~~

~~(Code 1970, 1-302; Code 1983, 1-317; Code 2008, § 1-3A03)~~

1-3A04. SURETY BONDS; APPOINTIVE OFFICERS.

The following appointive city officers shall each, before entering upon duties of their offices, give a good and sufficient surety company bond to the city, duly approved, conditioned upon the faithful performance and discharge of their respective duties, and for the proper application and payment of all money or property coming into his or her hands by virtue of his or her office, in the following amounts:

- (a) City treasurer - \$100,000;
- (b) City administrator - \$50,000;
- (c) City clerk - \$50,000;
- (d) Building official - \$50,000;
- (e) Municipal court clerk - \$50,000;

(Code 1983, 1-318; Code 2008, § 1-3A04; Ord. 2, Sec. 6; Ord. 674; Ord. No. 1026, § 3(1-3A03), 5-12-2022)
(K.S.A. 78-111)

1-3A05. SURETY BONDS; PREMIUMS.

All premiums on surety bonds shall be paid by the city out of the general fund.

(Code 1970, 1-304; Code 1993, 1-319; Code 2008, § 1-3A05; Ord. No. 1026, § 3(1-3A04), 5-12-2022)

1-3A06. SURETY BONDS; APPROVAL.

All surety bonds given to the city shall be approved as to their form by the city attorney and as to their sufficiency by the governing body unless otherwise provided by the laws of the state. However, this provision shall not apply to appearance bonds for municipal court cases which have been ordered or approved by the judge and the municipal court.

(Code 1970, 1-305; Code 1993, 1-320; Code 2008, § 1-3A06; Ord. No. 1026, § 3(1-3A05), 5-12-2022)

1-3A07. SURETY BONDS; FILING.

All surety bonds shall be filed with the city clerk except the city clerk's bond which shall be filed with the city treasurer.

(Code 1970, 1-306; Code 1993, 1-321; Code 2008, § 1-3A06; Ord. No. 1026, § 3(1-

3A06), 5-12-2022)

1-3A08. BLANKET BOND.

The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (Code 1970, 1-307; Code 1993, 1-322; Code 2008, § 1-3A08; Ord. No. 1026, § 3(1-3A07), 5-12-2022)

ARTICLE 4. INVESTMENT OF PUBLIC FUNDS

1-401. AUTHORITY TO INVEST.

(a) Public moneys or funds of the city which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by other Kansas General Laws, may be invested in all investments prescribed by K.S.A. 12-1675 and amendments thereto.

(b) The governing body shall, from time to time, adopt policies that will describe which investments may be purchased with temporarily idle funds of the city; provided, however, that no policy shall allow an investment that is contrary to the provisions of K.S.A. 12-1675 and amendments thereto or any other Kansas State Statute. (Ord. No. 1026, § 4(1-401), 5-12-2022)

1-402. INCOME FROM INVESTMENTS.

The interest and other earnings from investments made pursuant to this chapter shall be credited to the general fund of the city and shall be used, insofar as possible, to relieve the ad valorem tax levies of the city. A complete and detailed record of all investments made pursuant to this chapter shall be maintained at all times. The provisions of this section shall not apply where the credit and allocation is prohibited by state or federal statutes or law; provided, however, all interest earned from the investment of the solid waste management fund at the city shall be returned to the fund to reduce any special assessments to participants who receive solid waste collection service from the city. (Ord. No. 1026, § 4(1-402), 5-12-2022)

1-403 through 1-408. REPEALED.

ARTICLE 5. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-501. PERSONNEL POLICIES AND GUIDELINES.

The city will promulgate administratively a personnel policy, which shall be adopted by resolution and provided to all employees. (Code 2008, § 1-501; Ord. No. 1026, § 5(1-501), 5-12-2022)

1-502. SOCIAL SECURITY.

Ordinance No.308 passed by the governing body of the city and signed by the mayor on January 12, 1961, which ordinance extends the benefits of the Social Security Act to the city employees of Westwood, is incorporated by reference herein and made a part thereof as if the same had been set out in full herein.

(Code 1993, 1-501; Code 2008, § 1-502; Ord. 308; Ord. No. 1026, § 5(1-502), 5-12-2022)

(K.S.A. 40-2301)

~~1-503. EMPLOYEES RETIREMENT; RESOLUTION.~~¹¹

~~The city shall extend employee benefits to its employees as it may, from time to time, determine are appropriate and lawful, and may do so by resolution or by any other lawful means.~~

~~(Code 2008, § 1-503)~~

1-504. COMPENSATION.

The salary ranges of employee held offices shall be fixed by Resolution and the compensation of nonemployee held offices shall be fixed by agreement.

(Code 1983; Code 2008, § 1-504; Ord. No. 1026, § 5(1-503), 5-12-2022)

ARTICLE 6. OPEN RECORDS

1-601. POLICY.

(a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.

(Code 1993; Code 2008, § 1-601)

1-602. RECORD CUSTODIANS.

(a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted

¹¹ **1-503. EMPLOYEES RETIREMENT; RESOLUTION.** While much of this article was addressed in Ord. 1026, this section as titled (but not as numbered) was not specifically repealed, but was taken out of the numbering order. Please advise whether this section was intended to be deleted, or retained as is.

by this city for inspecting and copying open public records.

(b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.

(Code 2008, § 1-602)

1-603. LOCAL FREEDOM OF INFORMATION OFFICERS.

The Local Freedom of Information Officer shall:

- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) be available to assist the city and members of the general public to resolve disputes relating to the Kansas Open Records Act;
- (c) respond to inquiries relating to the Kansas Open Records Act;
- (d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.

(Code 2008, § 1-603)

1-604. PUBLIC REQUEST FOR ACCESS.

All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record.

(Code 1993, 1-603; Code 2008, § 1-604)

1-605. FACILITIES FOR PUBLIC INSPECTION.

All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except

when the requested records are not in that office and are available in another city office.
(Code 1993, 1-603; Code 2008, § 1-605)

1-606. PROCEDURES FOR INSPECTION.

Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records.
(Code 1993, 1-605; Code 2008, § 1-606)

1-607. APPOINTMENT OF OFFICIAL CUSTODIANS.

The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
- (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
- (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
- (d) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
- (e) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
(Code 1993, 1-606; Code 2008, § 1-607)

1-608. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

- (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such- duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
(Code 1993, 1-607; Code 2008, § 1-608)

1-609. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER.

The City Clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603.
(Code 2008, § 1-609)

1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS.

(a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

(Code 1993, 1-609; Code 2008, § 1-610)

1-611. FEE ADMINISTRATION.

The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 1993, 1-610; Code 2008, § 1-611)

1-612. FEES TO BE CHARGED.

When a request has been made for inspection of any public record or any record to which the requestor may by law have access, a fee shall be charged as established by the Governing Body of the City of Westwood, Kansas.

(Ord. 827, Sec. 1; Code 2008, § 1-612; Ord. No. 1026, § 6(1-612), 5-12-2022)

~~1-613. FEE SCHEDULE.~~¹²

~~Fees for the inspection or copying of any record of the City of Westwood shall be charged on the following basis:~~

~~(a) Record search / record inspection, including all records over three (3) years old—the actual cost of employee or official engaged in record search (minimum 1 hour of 1 employee's or official's time)~~

~~(b) Copy fee for ordinances—No charge for first 10 pages, \$1.00 per page thereafter, except as herein provided.~~

¹² **Legal analysis: 1-613. FEE SCHEDULE.** Ord. No. 1026 appears to be replacing the "Fee Schedule" language of this section with the "Repayment of Fees" language below. Please confirm whether this was intended to be removed and replaced, or was simply overlooked in the numbering scheme.

- ~~(c) — Copy fee for other records, police reports — \$0.50 per page~~
- ~~(d) — Electronic media copying — \$25.00 per video tape~~
- ~~(e) — City of Westwood Code Book — Actual cost of copying entire book at a commercial copying establishment, plus minimum 1 hour (\$20.00) fee for employee time.~~
- ~~(f) — City of Westwood Zoning Code — \$5.00 per copy of Code.~~
- ~~(g) — Fees for providing access to records maintained on computer facilities shall be the cost for the employee time only (with a 1 hour minimum charge).~~
- ~~(h) — Records city cannot duplicate because of size, same as (e).
(Code 2008, § 1-613; Ord. 827, Sec. 2)~~

1-614. PREPAYMENT OF FEES.

- (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.
- (b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$50.00.
- (c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.
(Code 1993, 1-613; Code 2008, § 1-614; Ord. No. 1026, § 6(1-613), 5-12-2022)

1-615. PAYMENT.

All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city.
(Code 1993, 1-614; Code 2008, § 1-615; Ord. No. 1026, § 6(1-614), 5-12-2022)

ARTICLE VII. EMERGENCY PREPAREDNESS

SECTION 1. DEFINITIONS.

For the purpose of this article, certain terms or words used herein shall be interpreted or defined as follows in this article:

- (a) Disaster—the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, pandemics, air contamination, blight, drought, infestation, explosion, or riot
(Ord. No. 1008, § 1, 3-26-2020)

SECTION 2. EMERGENCY PROCLAMATION; ACTION.

Whenever, in the judgment of the mayor or in the event of his or her inability to act, the president of the council determines that an emergency exists as a result of a public or natural disaster, or other civil disobedience causing danger of injury or damages to persons or property, he or she shall have power to impose by proclamation any or all of the following regulations necessary to preserve the health, safety, peace and order of the city:

- (a) To impose a curfew upon all or any portion of the city requiring all persons in such designated curfew areas to remove themselves from the public streets, alleys, parks or other public places or buildings; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters, city authorized or requested law enforcement officers and personnel, and such other individuals and/or individuals performing specified activities may be exempted from such curfew;
- (b) To order the closing of any public buildings and business establishments anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms;
- (c) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic;
- (d) To call upon regular and auxiliary law enforcement, peacekeeping and/or public safety agencies and organizations within or without the city to assist in preserving and keeping the peace, and to ensure the public health, safety and welfare within the city. (Ord. No. 1008, § 2, 3-26-2020)

SECTION 3. EMERGENCY PROCLAMATION; EFFECTIVE WHEN.

The proclamation of emergency provided in this article shall become effective upon its issuance and publication on the City's website and further dissemination to the public by appropriate news media or other outlets designated for informing the general public. (Ord. No. 1008, § 3, 3-26-2020)

SECTION 4. EMERGENCY PROCLAMATION; TERMINATION.

Any emergency proclaimed in accordance with the provisions of this article shall terminate after seven (7) days from the issuance thereof, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body. (Ord. No. 1008, § 4, 3-26-2020)

SECTION 5. EMERGENCY PROCLAMATION; VIOLATION, PENALTY.

Any person who willfully fails or refuses to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the

proclamation of emergency authorized in this article shall be guilty of a misdemeanor, and upon conviction therefore, shall be punished by a fine of not more than \$500.00 or by imprisonment in jail for a period of not to exceed six (6) months, or by both such fine and imprisonment.

(Ord. No. 1008, § 5, 3-26-2020)

SECTION 6. ADOPTING JOHNSON COUNTY EMERGENCY OPERATIONS PLAN.

The City of Westwood, Kansas hereby adopts the Johnson County Emergency Operations Plan, as may be amended by Johnson County, Kansas, from time to time, as the Emergency Operation Plan of the City of Westwood, Kansas.

(Ord. No. 1008, § 6, 3-26-2020)

SECTION 7. ADOPTING NATIONAL INCIDENT MANAGEMENT SYSTEM.

The City of Westwood, Kansas hereby additionally adopts the National Incident Management System, as the same may be amended from time to time by the Federal Department of Homeland Security, to the extent it is not inconsistent with the Johnson County Emergency Operations Plan.

(Ord. No. 1008, § 7, 3-26-2020)

CHAPTER 2.

ANIMAL CONTROL AND REGULATION

- Article 1. Animals and Fowl Generally
- Article 2. Dogs and Cats
- Article 3. Northeast Animal Control Commission
- Article 4. Bees
- Article 5. Animal Nuisances
- Article 6. Other Animals

ARTICLE 1. ANIMALS AND FOWL GENERALLY**2-101. DEFINITIONS.**

For the purposes of this chapter, the following words and phrases shall mean:

- (a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.
- (b) Animals - means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.
- (c) Animal Shelter - means the facility or facilities operated by the city or its authorized agents or an authorized service provider for the purpose of impounding, adopting or caring for any seized, stray, homeless, relinquished or abandoned animals under the authority of this chapter or state law.
- (d) At-large - means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be at-large.
- (e) Bite - means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by the teeth of any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite. ¹
- (f) Cat - means any member of the species felis catus, regardless of sex.
- (g) Dog - means any member of the species canis familiaris, regardless of sex.
- (h) Fowl - means all animals that are included in the zoological class aves, which shall

¹ **Legal analysis: 2-101. DEFINITIONS, (e) Bite.** Revised for clarity.

include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons. Generally excepting parrots, parakeets and similar birds commonly kept as pets.

(i) Harbor - means ~~any person who shall~~ the act of allowing any animals to habitually remain or lodge or to be fed within ~~his or her~~ one's home, store, yard, enclosure or place of business or any other premises where ~~he or she~~ one resides or controls. Harborer means any person who shall in engage in or allow the act of harboring within any premises where he or she resides or that is within his or her control. ²

(j) Impoundment - means taking an animal into the confinement, care, or custody of the city or its designated animal control entity, including, but not limited to, the municipal pound as designated herein.

(k) Kennel - means any establishment, commercial or otherwise, maintained for breeding, rearing, grooming, boarding, or otherwise harboring in an enclosure in one location only, more than five dogs. ³

(l) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(m) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(n) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(o) Owner - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (q) above. ⁴

(p) Vaccination - means an injection of a vaccine, approved by the State Department of Health and Environment and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(q) Veterinarian - means a doctor of veterinary medicine currently and validly licensed by the State of Kansas. ⁵

(Code 2008, § 2-101; Ord. No. 999, § 1(2-101), 12-13-2018)

2-102. CRUELTY TO ANIMALS.

² **Legal analysis: 2-101. DEFINITIONS, (i) Harbor.** Revised for clarity.

³ **Legal analysis: 2-101. DEFINITIONS, (k) Kennel.** Please advise whether the city would like to include cats among this definition as well, and if so, how many.

⁴ **Legal analysis: 2-101. DEFINITIONS, (o) Owner.** Please advise if this is meant to refer to "subsection (n) above," as opposed to subsection (q).

⁵ **Legal analysis: 2-101. DEFINITIONS, (q) Veterinarian.** Conform to K.S.A. 47-816 (f).

It shall be unlawful for any person to:

- (a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;
- (b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;
- (c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-103.
- (d) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;
- (e) Neglect or refuse to supply such animal with Necessary and Adequate Care necessary for health and well-being of such kind of animal. For purposes of this Section, Necessary and Adequate Care shall be defined to include the normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal, which includes, but is not limited to:
 - i). Provision of adequate food including wholesome foodstuffs suitable for the species provided at suitable intervals in a sanitary manner in quantities sufficient to maintain good health in an animal considering its age and condition;
 - ii). Provision of adequate health care including the provision to each healthy animal of all immunizations and preventive care required to maintain good health; space adequate to allow the animal rest and exercise sufficient to maintain good health; and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death;
 - iii). Provision of adequate shelter including a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, conditions and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather condition; and,
 - iv). Provision of adequate water including continual access to or access at suitable intervals to a supply of clean, fresh, potable water provided in a sanitary manner suitable for the species, condition and age of the animal in sufficient amounts to maintain good health in the animal.
- (f) Abandon or leave any animal in any place without making provisions for its proper care;
- (g) These provisions shall not apply to the exceptions sanctioned under section 2- 103.
- (h) By any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with harmful or poisonous substances;

- (i) To leave any unattended animal confined in a vehicle for more than five (5) minutes without heat or air conditioning in extreme weather conditions, defined as less than thirty degrees Fahrenheit (30° F.) or more than eighty degrees Fahrenheit (80° F.).⁶

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.

(Code 2008, § 2-102; Ord. No. 999, § 1(2-102), 12-13-2018)

2-103. SAME; EXCEPTIONS.

The provisions of section 2-102 shall not apply to:

- (a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;
- (b) Bona fide experiments carried on by commonly recognized research facilities;
- (c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;
- (d) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;
- (e) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;
- (f) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments;
- (g) Normal or accepted practices of pest control, as defined in ~~subsection (x)~~ of K.S.A. 2-2438a (x), and amendments thereto.
(Code 2008, § 2-103; Ord. No. 999, § 1(2-103), 12-13-2018)

2-104. KEEPING ANIMALS.

It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply

⁶ **Legal analysis: 2-102. CRUELTY TO ANIMALS, (i).** Revised for clarity.

to:

- (a) The maintaining of dogs which are regulated by Article 2 of this chapter;
- (b) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, fish, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;
- (c) The transporting of animals through the city by ordinary and customary means. (Code 2008, § 2-104; Ord. No. 999, § 1(2-104), 12-13-2018)

2-105. ANIMAL TRAPS.

It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap. Nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. This Section shall not apply to the use of any trap specifically designed to kill rats, mice, gophers, moles, or vermin of significance to the public health. (Code 2008, § 2-105; Ord. No. 999, § 1(2-105), 12-13-2018)

2-106. ANIMAL CONFINES; SHELTERS.

- (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and ~~offensive odors that annoy any neighbor~~ likely to offend a person of reasonable sensitivities, and devoid of rodents and vermin. ⁷
- (b) Excrement shall be removed at least daily from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.
- (c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.
- (d) All animal shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.
- (e) Barbed wire fences and electrically charged fences, except invisible pet fences, shall

⁷ **Legal analysis: 2-106. ANIMAL CONFINES; SHELTERS, (a).** Revised to conform to U.S. Supreme Court concepts of offensive noises, odors, etc.

not be permitted for animal confines.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(Code 2008, § 2-106; Ord. No. 999, § 1(2-106), 12-13-2018)

~~2-107. KEEPING OF LIVESTOCK OR FOWL PROHIBITED.~~⁸

~~It shall be unlawful for any person, either as owner, or as the agent, representative employee or bailee of any owner, or for any firm or corporation to keep, harbor or maintain any cattle, hogs, horses, mules, sheep, goats or other animals, chickens, ducks, geese, turkeys, or any other domestic fowl on any premises within the corporate limits of the city.~~

~~(Code 1983, § 2-107; Ord. No. 999, § 1(2-107), 12-13-2018)~~

2-108. VICIOUS ANIMALS.

(a) Prohibited: It shall be unlawful for any person to keep, possess or harbor a vicious animal within the city. Impoundment of animals whose owners have been cited for violation of this section shall be at the discretion of the animal control officer, if he or she reasonable believes said animal to be dangerous to the public health, welfare, or safety.

(b) Defined: For purposes of this chapter a vicious animal shall include:

(1) Any animal with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or

(2) Any animal which attacks a human being or domestic animal without provocation;

(3) Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting;

(4) Any animal which is urged by its owner or harborer to attack, or whose owner or harborer threatens to provoke such animal to attack, any law enforcement officer while such officer is engaged in the performance of official duty.

(c) Complaint: Whenever a sworn complaint is filed in the municipal court against the owner of an animal alleging that such animal is vicious and in violation of this section, the

⁸ **Legal analysis: 2-107. KEEPING OF LIVESTOCK OR FOWL PROHIBITED.** Delete as duplicative of and less comprehensive than Section 2-104.

municipal judge shall hold a hearing to determine whether or not the animal is vicious within the meaning of this section and thereby in violation of this section. The owner of the animal shall be notified in writing of the time and place of the hearing at least one week prior to the hearing. In making a determination, the municipal judge shall consider the following:

- (1) The seriousness of the attack or bite;
- (2) Past history of attacks or bites;
- (3) Likelihood of attacks or bites in the future;
- (4) The condition and circumstances under which the animal is kept or confined;
- (5) Other factors which may reasonably relate to the determination of whether or not the animal is vicious.

The municipal judge may order the impoundment of the animal, and / or the removal of the animal from the city. If such impoundment, or removal from the city is not possible or if prior court orders to restrain such animal have gone unheeded, the municipal judge may order the animal immediately destroyed.

(d) Vicious Dogs to be Muzzled: It shall be the duty of every owner, keeper or harbinger of any dog in the city, which dog is vicious or has been known to bite, chase, or run after any person or animal in the streets, alleys, or any public place in the city, to keep the same muzzled with a good and sufficient wire or leather muzzle, securely fastened so as to wholly prevent such dog from biting any animal or person until such time as a determination has been made by the court as to whether the dog is vicious or not. Any person owning, keeping or harboring any dog within the city limits contrary to this section shall be guilty of a violation of this code.

(e) Immediate Destruction: Nothing in this chapter shall be construed to prevent the animal control officer or any law enforcement officer from taking whatever action is reasonably necessary to protect himself or herself or members of the public from injury or danger, including immediate destruction of any vicious animal without notice to the owner. ⁹

(f) Release of: If a complaint has been filed in the municipal court against the owner of an impounded animal for a charge under this section, the animal shall not be released except on the order of the municipal judge, who may also direct the owner to pay all impounding fees in addition to any penalties for violation of this chapter. The municipal judge may, upon making a finding that an animal is vicious or that it represents a clear and present danger to the citizens or to other animals in the community, order the animal to be destroyed in a humane manner by the animal shelter. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation

⁹ **Legal analysis: 2-108. VICIOUS ANIMALS.** Please advise whether this is still the policy in place; revise accordingly.

of this section.

(g) Confinement; Destruction; Removal by Judge. The municipal court judge shall have the authority to order any animal deemed to be dangerous or vicious to be confined, destroyed or permanently removed from the corporate City limits.

(Code 2008, § 2-108); Ord. No. 999, § 1(2-108), 12-13-2018; Ord. No. 1027, § 1, 5-12-2022)

2-109. Reserved.

(Code 1993, 2-103; Code 2008, § 2-109; Ord. 634, Sec. 1; Ord. No. 999, § 1(2-109), 12-13-2018)

2-110. IMPOUNDMENT; FEE; NOTICE; RECORD.

(a) The animal control officer shall impound any animal found at-large in the City or constituting a nuisance or otherwise in violation of this chapter in a suitable pound or enclosure provided or contracted for by the City. The impounding officer shall make diligent inquiry as to the owner of the animal and shall notify the owner thereof of such impoundment as soon as reasonably possible.

(b) In case the identity of the owner of the impounded animal cannot be ascertained, the animal control officer or law enforcement officer shall, upon taking any such animal into custody and impounding the same, make a record thereof, with a description of the animal and the date and place taken into custody and the place of impounding.

(c) The city and/or the municipal pound shall be entitled to charge a fee for impoundment, together with any other fees or charges for feeding and maintaining any impounded animal.

(Code 2008, § 2-110; Ord. No. 999, § 1(2-110), 12-13-2018)

2-111. REDEMPTION OF IMPOUNDED ANIMALS.

At any time before the sale or destruction of any animal impounded under the provisions of this article, except for animals impounded under sections 2-108 (vicious) and 2-112 (rabid), the owner thereof may redeem the animal by paying the animal control officer or any person in charge, the impounding fee and all costs incurred as a result of such impoundment.

(Code 2008, § 2-111; Ord. No. 999, § 1(2-111), 12-13-2018)

2-112. IMPOUNDMENT OF RABIES SUSPECTS. ¹⁰

(a) Any animal control officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering

¹⁰ **Legal analysis: 2-112. IMPOUNDMENT OF RABIES SUSPECTS.** Revised for clarity. Please advise if these revisions do not reflect the intention behind these provisions.

from a ~~disease~~ rabies and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. If in the opinion of the local health officer symptoms develop justifying a microscopic examination, then the animal shall be killed humanely euthanized and examination made by the State Department of Health and Environment.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer to be ~~killed~~ humanely euthanized and examination made by the State Department of Health and Environment.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

(Code 2008, § 2-112; Ord. No. 999, § 1(2-112), 12-13-2018)

2-113. ANIMALS BITTEN BY RABID ANIMALS.

Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer, animal control officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination; and

(b) If the bitten animal has a current vaccination, it shall be confined for 90 days; and

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 2008, § 2-113; Ord. No. 999, § 1(2-113), 12-13-2018)

2-114. ANIMAL CONTROL OFFICER; AUTHORITY TO IMPOUND; CITATION ALTERNATIVE.

(a) There is hereby created the position of animal control officer for the city and such

officer shall be charged with the enforcement of this chapter. The City may provide for the designation of the position of animal control officer through an appropriate interlocal agreement providing for the delegation of some or all of the duties of the animal control officer. Any person designated by the city as an animal control officer shall have such powers and authority as allowed by law in the enforcement of this chapter. Such animal control officers shall not have authority to issue municipal court citations for violation of this chapter which authority is reserved to law enforcement officers employed by the City.

(b) Animal control officers in enforcing this chapter may:

- 1). Take up and impound all animals found in the City in violation of the provisions of this Article;
- 2). Enter without a warrant upon private property to regulate or prohibit the running at large of any animal or the creation of an animal nuisance where such animal is found in plain sight, other than in a residence structure, and to seize such animal from said private property;
- 3). Enter without a warrant upon private property to apprehend a dangerous animal, a wild creature, or an animal suspected of being infected with rabies where such animal is found in plain sight, other than in a residential structure, and to seize such animal from said property;
- 4). Enter upon private property to investigate cruelty to animals; and,
- 5). Destroy, without notice, any animal that is dangerous, fierce or vicious; suspected of being infected with rabies, distemper or other zoonotic disease that presents an immediate danger to the public health and safety; or that is injured severely with no apparent chance of survival or in such pain as to warrant humane destruction.

(c) Law enforcement officers of the City may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall appear in the municipal court of the city to answer the charged violation of this chapter. In exercising such citation authority, law enforcement officers may exercise such powers of animal control officers identified in sub-section (b) of this section incident to and necessary to the exercise of such citation authority.

(Code 2008, § 2-114; Ord. No. 999, § 1(2-114), 12-13-2018)

2-115. SAME; CAPTURE/DESTRUCTION.

When deemed necessary by the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

- (a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;
- (b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal as defined in 2-112, any vicious animal as defined in section 2-108, or any animal creating a nuisance as defined in section 2-502, where such animal is impossible or impractical to catch, capture or tranquilize, or whenever any animal poses a danger to persons, other animals, or property.

(Code 2008, § 2-115; Ord. No. 999, § 1(2-115), 12-13-2018)

2-116. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

(a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the animal control officer or any law enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any condition or violation which creates an unsafe, dangerous or hazardous condition, the animal control officer or law enforcement officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the animal control officer or law enforcement officer by this chapter; provided that if such building or premises be occupied, such officer shall first present proper credentials and request entry; and if such building or premises be unoccupied, such officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the animal control officer or law enforcement officer shall seek and obtain a search warrant prior to making entry. When the animal control officer or law enforcement officer shall have first obtained a proper search warrant to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the animal control officer or law enforcement officer for the purpose of inspection and examination pursuant to this chapter.

(Code 2008, § 2-116; Ord. No. 999, § 1(2-116), 12-13-2018)

2-117. VEHICULAR ACCIDENTS INVOLVING ANIMALS.

Any person who as the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.

(Code 2008, § 2-117; Ord. No. 999, § 1(2-117), 12-13-2018)

2-118. EMERGENCY; PROCLAMATION.

The chief of police is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in

such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal may be prosecuted for such violation thereof.
(Code 1993; 2-122, § 2-118; Ord. 599, Sec. 12; Ord. No. 999, § 1(2-118), 12-13-2018)

2-119. DEATH OF ANIMALS.

All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property.
(Code 2008; , § 2-119; Ord. No. 999, § 1(2-119), 12-13-2018)

2-120. MUNICIPAL POUND ESTABLISHED.

A municipal pound shall be designated to carry out the provisions of this chapter. Such a pound may be operated under the authority of a contract with the City by a contractor or sub-contractor and all services required herein may be provided by a contractor or sub-contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

- (a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.
- (b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.
- (c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.
- (d) Facilities for the humane destruction of animals.
(Code 2008, § 2-120; Ord. No. 999, § 1(2-120), 12-13-2018)

2-121. BREAKING POUND.

- (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.
- (b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.
(Code 2008, § 2-121; Ord. No. 999, § 1(2-121), 12-13-2018)

ARTICLE 2. DOGS AND CATS

2-201. REGISTRATION AND VACCINATION REQUIRED; FEE.

(a) Every owner of any dog or cat over six months of age shall annually register with the city clerk his or her name and address with the name, sex and description of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat, or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog into the city. It shall be unlawful for the owner of any previously registered dog to fail to maintain current registration of such dog or cat.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over six months of age to fail to maintain effective rabies immunization of such dog or cat.

(c) The owner or harbinger of any dog or cat shall, at the time of registering such dog, present to the city clerk a certificate from an accredited veterinarian showing that a male dog or cat has been neutered or a female dog or cat has been spayed, if the dog or cat has been neutered or spayed.

(d) The city clerk shall collect an annual registration fee as established by resolution by the governing body for each neutered male dog or cat and for each spayed female dog or cat, and an additional fee as established by resolution by the governing body for each unneutered male dog or cat and for each unspayed female dog or cat.

(e) The registration year shall be from January 1st through December 31st of each year. The fee shall be payable before March 1st of each year without penalty.

Every owner or harbinger of dog(s) or cat(s) who shall fail to register the same prior to the 1st day of March of each year shall pay in addition to the registration fee a penalty fee for late registration as established by resolution by the governing body.

(Code 2008, § 2-201; Ord. No. 999, § 1(2-201), 12-13-2018)

2-202. TAGS.

It shall be the duty of the city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs and cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefor, and shall deliver to the owner or keeper of the dog a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog may request a duplicate tag for the remainder of the registration period. When so requested, the city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of a fee as established by resolution by the governing body. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened.

(Code 2008, § 2-202; Ord. No. 999, § 1(2-202), 12-13-2018)

2-203. SAME; COUNTERFEIT TAG.

It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 2008, § 2-203; Ord. No. 999, § 1(2-203), 12-13-2018)

2-204. EVIDENCE OF VACCINATION.

It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within two years, when requested by the animal control officer or any law enforcement officer. (Code 2008, § 2-204; Ord. No. 999, § 1(2-204), 12-13-2018)

2-205. VISITING DOGS and CATS. ¹¹

The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 60 days. However, such dogs or cats shall be kept under restraint by the owner thereof at all times. (Code 2008, § 2-205; Ord. No. 999, § 1(2-205), 12-13-2018)

2-206. RUNNING AT LARGE; FINE.

(a) It shall be unlawful for the owner or harbinger of any dog or cat to permit such animal to run at large within the city at any time;

(b) Any dog or cat running at large within the city shall be impounded as set out in section 2-207;

(c) The owner of any dog or cat impounded for running at large without the tag required by section 2-201 shall, for the first offense, pay a fine of \$50.00 plus the board bill. For a second offense of running at large without a tag, the fine shall be \$200.00. ¹²

(d) For the first offense of an animal running at large with a tag as required by section 2-201, the owner or harbinger claiming any animal, shall, in addition to presenting a registration receipt, pay the cost of the board bill. For a second offense within a one year period, the owner or harbinger shall pay a fine of \$50.00 plus the board bill. For a third and all subsequent offenses within a one year period, the owner or harbinger shall pay a fine of \$100.00 plus the cost of the board bill.

(Code 2008, § 2-206; Ord. No. 999, § 1(2-206), 12-13-2018)

2-207. IMPOUNDMENT; RECORD; NOTICE; REDEMPTION; MINIMUM FEE.

¹¹ **Legal analysis: 2-205. VISITING DOGS and CATS.** Please advise whether the city would like to revise this provision to include or exclude the rabies vaccination requirement for visiting pets.

¹² **Legal analysis: 2-206. RUNNING AT LARGE; FINE, (c) and (d).** Please review the fines listed herein and advise as to any changes. In the alternative, revise to attach the fines to resolution, similar to what is provided in 2-201.

- (a) Any dog or cat found in violation of the provisions of this article shall be subject to impoundment by the city.
- (b) A record of all dogs and cats impounded shall be kept by the municipal pound containing the following information: color, sex, weight, height, identifying marks, registration number (if any) and the date of impoundment.
- (c) No dog or cat impounded under this section shall be disposed of until after expiration of a minimum of three full business days of custody during which the public has clear access to inspect and recover the dog or cat through time periods ordinarily accepted as usual business hours. During such time of custody, the city, the animal control officer or the municipal pound shall attempt to notify the owner or custodian of any dog impounded by such facility if the owner or custodian is known or reasonably ascertainable. Such dog or cat may at any time be released to the legal owner, moved to a veterinary hospital for treatment or observation, released in any manner, if such dog or cat was a gift to the animal shelter, or euthanized by a licensed veterinarian if it appears to the veterinarian that the dog or cat is diseased or disabled beyond recovery. If within three full business days the owner does not appear to claim the dog or cat, then the animal may be sold, euthanized or otherwise disposed of.
- (d) If at any time before the sale or destruction of any dog or cat impounded under the provisions of this article, the owner of an impounded dog or cat does appear and redeem the animal, it shall be turned over to the person claiming it upon payment of any impoundment fees or penalties plus the actual costs of impoundment, and shall not apply to any dog alleged as being vicious under Section 2-108 of this Code or suspected of rabies under Section 2-112 of this Code.
- (e) The minimum impoundment fee shall be the same as in 2-110.
- (f) Any dog or cat impounded may not be released without a current rabies vaccination.
- (g) Impoundment hereunder shall not preclude any court from imposing and executing any fine which might otherwise be levied under this article for violation of any of the provisions thereof; nor shall impoundment be a defense in any prosecution commenced hereunder.
- (h) The redemption of any dog or cat impounded for a violation of any provision of this chapter shall be prima facie evidence of the violation of such provision by the person redeeming the dog or cat.
(Code 2008, § 2-207; Ord. No. 999, § 1(2-207), 12-13-2018)

2-208. DISPOSITION OF UNCLAIMED DOGS AND CATS.

If any dog or cat is not redeemed by its owner or harbinger within the time allowed for redemption as specified in section 2-206 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of

impoundment and keeping, plus any registration fee due for the current year.
(Code 2008, § 2-208; Ord. No. 999, § 1(2-208), 12-13-2018)

2-209. CONFINEMENT OF DOGS AND CATS IN HEAT.

Any unsprayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog(s) or cat(s) may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisance, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement.
(Code 2008, § 2-209; Ord. No. 999, § 1(2-209), 12-13-2018)

2-210. LIMIT ON DOGS AND CATS.

It shall be unlawful to have more than three dogs or three cats over the age of three (3) months, or more than three of any combination of numbers of dogs and cats, living or residing in or on any residence or lot within the City.
(Code 2008, § 2-210; Ord. 559, Sec. 14; Ord. No. 999, § 1(2-210), 12-13-2018; Ord. No. 1027, § 2, 5-12-2022)

2-211. MUZZLING.

Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary.
(Code 2008, § 2-211; Ord. No. 999, § 1(2-211), 12-13-2018)

ARTICLE 3. Reserved

ARTICLE 4. BEES

2-401. KEEPING OF BEES.

It shall be unlawful for any person to place, establish or maintain any colony of bees in or upon any premises within the corporate limits of the city unless the bees are kept in accordance with the provisions of this article.
(Code 1993; Code 2008, § 2-401; Ord. No. 999, § 1(2-401), 12-13-2018)

2-402. LICENSE REQUIRED.

It shall be unlawful for any person to place or keep an apiary upon any property within the city limits without a license issued by the city clerk. The fee shall be set by resolution of the governing body of the city, and the fees shall defray, in part, the cost of inspection

and enforcement of this article. The license shall be valid for a period of three years from the date of issuance.

(Code 1993; Code 2008, § 2-402; Ord. No. 999, § 1(2-402), 12-13-2018)

2-403. DEFINITIONS.

As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage clearly indicates another meaning:

- (a) Apiary - A place where bee colonies are kept.
 - (b) Bee - Any stage of the common domestic honey bee, *Apis Mellifera* species.
 - (c) Colony - A hive and its equipment and appurtenances including bees, comb, honey, pollen, and brood.
 - (d) Hive - A structure intended for the housing of a fee colony.
 - (e) Tract - A contiguous parcel of land under common ownership.
- (Code 1993; Code 2008, § 2-403; Ord. No. 999, § 1(2-403), 12-13-2018)

2-404. CERTAIN CONDUCT DECLARED UNLAWFUL.

(a) The purpose of this article is to establish certain requirements of sound beekeeping practices, which are intended to avoid problems that may otherwise be associated with the keeping of bees in populated areas.

(b) Notwithstanding compliance with the various requirements of this article it shall be unlawful for any beekeeper to keep any colony or colonies in such a manner or of such disposition as to cause any unhealthy condition, interfere with the normal use and enjoyment of human or animal life of others, or interfere with the normal use and enjoyment of any public property or property of others.

(Code 1993; Code 2008, § 2-404; Ord. No. 999, § 1(2-404), 12-13-2018)

2-405. HIVES.

All bee colonies shall be kept in Langstroth type hives with removable frames, which shall be kept in sound and usable condition.

(Code 1993; Code 2008, § 2-405; Ord. No. 999, § 1(2-405), 12-13-2018)

2-406. WATER.

Each beekeeper shall ensure that a convenient source of fresh, clean water is available at all times on his / her property to the bees so that the bees will not congregate at swimming pools, bibcocks, pet watering bowls, bird baths, or other water sources where they may cause human, bird, or domestic pet contact.

(Code 1993; 2-408; Code 2008, § 2-406; Ord. No. 999, § 1(2-406), 12-13-2018)

2-407. GENERAL MAINTENANCE.

Each beekeeper shall ensure that no bee comb or other materials that might encourage robbing are left upon the grounds of the apiary site. Upon their removal from the hive all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee proof enclosure.

(Code 1993, 2-409; Code 2008, § 2-407; Ord. No. 999, § 1(2-407), 12-13-2018)

2-408. QUEENS.

In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation or exhibits an unusual disposition towards swarming, it shall be the duty of the beekeeper to promptly requeen the colony. Queens shall be selected from stock breed for gentleness and non-swarming characteristics.

(Code 1993, 2-410; Code 2008, § 2-408; Ord. No. 999, § 1(2-408), 12-13-2018)

2-409. COLONY DENSITIES.

(a) It shall be unlawful to keep more than the following number of colonies on any tract within the city, based upon the size or configuration of the tract on which the apiary is situated:

- (1) One-quarter acre or less tract size - two colonies;
- (2) More than one-quarter acre but less than one-half acre tract size - four colonies.

(b) For each two colonies authorized under colony densities (subsection (a)) there may be maintained upon the same tract one nucleus colony in a hive structure not exceeding one standard 95/8 inch depth ID frame hive body with no supers attached as required from time to time for management of swarms. Each such nucleus colony shall be disposed of or combined with an authorized colony within 30 days after the date is acquired.

(Code 1993, 2-411; Code 2008, § 2-409; Ord. No. 999, § 1(2-409), 12-13-2018)

2-410. MARKING HIVES; PRESUMPTION OF BEEKEEPING.

(a) In apiaries the name and telephone number shall be branded, painted, or otherwise clearly marked upon the structure of at least two hives and place at opposite ends of the apiary. Instead of marking the hives, the beekeeper may conspicuously post a sign setting forth the name, address and telephone number of the beekeeper.

(b) Unless marked in accordance with subsection (a) it shall be presumed for purposes of this article that the beekeeper is the person or persons who own or otherwise have the present right of possession and control of the tract upon which a hive or hives are situated. The presumption may be rebutted by a written agreement authorizing another person to maintain the colony or colonies upon the tract setting forth the name, address, and telephone number of the other person who is acting as the beekeeper.

(Code 1993, 2-412; Code 2008, § 2-410; Ord. No. 999, § 1(2-410), 12-13-2018)

2-411. INSPECTION.

The city inspector or his or her designated agent shall have the right to inspect any hive between the hours of 8:00 a.m. and 5:00 p.m. Where practicable, prior notice shall be

given to the beekeeper if he or she resides at the apiary or if his or her name is marked on the hives. The provisions of this section shall not be construed to require the inspection for the destruction of (1) any bee colony not residing in a hive structure intended for beekeeping or (2) any swarm of bees or (3) any colony residing in a beekeeping hive, which by virtue of its condition, has obviously been abandoned by the beekeeper. (Code 1993, 2-413; Code 2008, § 2-411; Ord. No. 999, § 1(2-411), 12-13-2018)

2-412. PUBLIC NUISANCE.

Colonies kept contrary to this article are hereby declared a public nuisance and may be abated according to law.

(Code 1993, 2- 414; Code 2008, § 2-412; Ord. No. 999, § 1(2-412), 12-13-2018)

ARTICLE 5. ANIMAL NUISANCES

2-501. NUISANCE PROHIBITED.

It shall be unlawful for the owner or harbinger of any animal to cause or permit such animal to perform, create or engage in an animal nuisance. Any animal found acting in any way forbidden by this article, in the determination of the animal control officer and/or law enforcement officer, shall hereby be declared a nuisance and its owner or harbinger shall be subject to citation.

(Code 1993; Code 2008, § 2-501; Ord. No. 999, § 1(2-501), 12-13-2018)

2-502. NUISANCE; ANIMAL ACTIVITIES PROHIBITED.

It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, nuisance is defined to include, but not be limited to, any animal which:

- (a) Runs at large or upon the private property of any other person or firm than the owner;
- (b) Molests or disturbs persons or vehicles by chasing, barking, or biting, or otherwise interferes with their use of public property including the public right-of- way;
- (c) Attacks or injures persons, or other domestic animals;
- (d) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;
- (e) Scatters refuse that is bagged or otherwise contained;
- (f) Creates noxious or offensive odors;
- (e) Causes any condition which threatens or endangers the health or well- being of persons or other animals.

Any animal found acting in any way forbidden by this Section, in the determination of a law enforcement officer, shall hereby be declared a nuisance, and its owner shall be

subject to citation. Knowledge, intent or scienter is not required for this offense. If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath.

(Code 2008, § 2-502; Ord. No. 999, § 1(2-502), 12-13-2018)

2-503. NOISY ANIMALS.

(a). No person shall own or keep any animal that, by making excessive noise, disturbs an individual residing in, working in or owning a structure that is within 600 feet of the property on which the animal is kept.

(b). For purposes of this section, excessive noise means and includes any noise produced by an animal that is so loud and continuous or untimely as to disturb the sleep or peace of a neighbor of reasonable sensibilities.

(c). It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.

(Code 2008, § 2-503; Ord. No. 999, § 1(2-503), 12-13-2018)

2-504. EXCREMENT.

(a) It shall be unlawful for any person to appear with an animal upon the public ways, within public places or upon the property of another, absent that person's consent, without some means for the removal of excrement.

(b) It shall be unlawful for any person to fail to immediately remove any excrement deposited by his or her animal upon any public or private property, other than the property of the owner of the animal. This section shall not apply to a blind or disabled person while walking his or her work dog.

(Code 1993, 2-502; Code 2008, § 2-504; Ord. No. 999, § 1(2-504), 12-13-2018)

2-505. FEMALE IN HEAT.

All female animals in heat shall be confined in an enclosure or building in such a manner that the animal cannot come into contact with a male animal except for planned breeding.

(Code 1993, 2-503; Code 2008, § 2-505; Ord. No. 999, § 1(2-505), 12-13-2018)

2-506. DISEASED ANIMALS.

It shall be unlawful for the owner of any domestic animal to knowingly cause or allow the same to run at large or be exposed in any public place anywhere in the city; or to ship or remove such animal from the owner's premises when same is afflicted with a contagious or infectious disease except under the supervision of the animal control officer. It shall be the duty of the animal control officer to order the disposition of such diseased animal and treatment of the affected premises to prevent the communication and spread of contagion or infection except in cases where the state veterinarian is empowered to act and does act.

(Code 1993, 2-504; Code 2008, § 2-506; Ord. No. 999, § 1(2-506), 12-13-2018)

2-507. DAMAGE TO PROPERTY.

It shall be unlawful for any person owning or possessing a dog, cat, or other animal to permit such dog, cat or animal to go upon any sidewalk, or private lands or premises without the permission of the owner of such premises and break, tear up, crush, urinate, defecate, or otherwise destroy, damage, or disturb any lawn, flower bed, plant, shrub, tree, garden, trash collection, house, structure, or any personal property in any manner whatsoever.

(Code 1993, 2-505; Code 2008, § 2-507; Ord. No. 999, § 1(2-507), 12-13-2018)

2-508. PENALTY.

Any person violating any of the provisions of this article shall upon conviction thereof be fined in a sum not exceeding \$500.00 or be imprisoned not to exceed 180 days, or be both so fined and imprisoned.

(Code 1993, 2-506; Code 2008, § 2-508; Ord. No. 999, § 1(2-508), 12-13-2018)

ARTICLE 6. OTHER ANIMALS

2-601. EXOTIC ANIMALS.

(a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and siamangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cattle, Bovine, livestock
- (9) Cheetahs.
- (10) Crocodilians, 30 inches in length or more.

- (11) Constrictor snakes, six feet in length or more.
- (12) Coyotes.
- (13) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (14) Eagles
- (15) Elephants.
- (16) Falcons
- (17) Game cocks and other fighting birds.
- (18) Hawks
- (19) Hippopotami.
- (20) Hyenas.
- (21) Jaguars.
- (22) Leopards.
- (23) Lions.
- (24) Lynxes.
- (25) Monkeys.
- (26) Ostriches.
- (27) Owls and other raptors
- (28) Pigs
- (29) Pumas; also known as cougars, mountain lions and panthers.
- (30) Raccoons.
- (31) Rhinoceroses.
- (32) Skunks.
- (33) Tigers.
- (34) Wolves.
- (c) The prohibitions of this section shall not apply to bona fide pet shops, zoos,

circuses, carnivals, educational institutions, or medical institutions, if: ¹³

- (1) Their location conforms to the provisions of the zoning ordinance of the city;
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors; and
- (3) Animals are maintained in quarters so constructed as to prevent their escape.
- (d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city.

(Code 2008, § 2-601; Ord. No. 999, § 1(2-601), 12-13-2018)

¹³ **Legal analysis: 2-601. EXOTIC ANIMALS.** Revised such that (1) through (3) are inclusive. Please advise if this was not the intended meaning of this provision.

CHAPTER 3.

BEVERAGES

- Article 1. General Provisions
- Article 2. Cereal Malt Beverages
- Article 3. Alcoholic Liquor
- Article 4. Private Clubs
- Article 5. Drinking Establishments
- Article 6. Caterers
- Article 7. Temporary Permits

ARTICLE 1. GENERAL PROVISIONS**3-101. DEFINITIONS.**

3-101. DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

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

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

(c) Caterer - means an individual, partnership or corporation which sells alcoholic liquor or cereal malt beverage by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor or cereal malt beverage in accordance with the terms of such permit. ¹

(d) Class A Club - means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

(e) Class B Club - means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or

¹ **Legal analysis: 3-101. DEFINITIONS, "Caterer."** Conform to K.S.A. 41-2601(c).

alcoholic beverages and for entertainment.

(f) Club - means a Class A or Class B club.

(g) Drinking Establishment - means premises which may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold. ²

(h) "Enhanced Cereal Malt Beverage" means cereal malt beverage as that term is defined in K.S.A. 41-2701, and amendments thereto, and such term shall include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act.

(i) General Retailer - means a person who has a license to sell cereal malt beverages at retail for consumption on the licensed premises. One who operates a cereal malt beverage establishment as provided in Chapter 3, Article 2. ~~3-2~~ ³

(j) Limited Retailer - means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(k) Place of Business. - Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(l) Retailer - means any person who sells or offers for sale any cereal malt beverage for use or consumption and not for resale in any form.

(m) Temporary Permit - means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(n) Wholesaler or distributor. - Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail. ⁴

(Code 2008, § 3-101; Ord. No. 1021, § 1(3-101), 8-12-2021)

3-102. RESTRICTION ON LOCATION.

(a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any church or school, said distance to be measured from the nearest property line of such church or school, to the nearest portion of the building occupied by the premises.

² **Legal analysis: 3-101. DEFINITIONS, "Drinking establishment."** Conform to K.S.A. 41-2601(h).

³ **Legal analysis: 3-101. DEFINITIONS, "General retailer."** Revised for clarity. If the revision does not reflect the intended meaning of this provision, please advise. In the alternative, delete the reference to "3-2."

⁴ **Legal analysis: 3-101. DEFINITIONS, (i),(j),(l), and (n)** Please verify that the city intends for these definition to apply only to sale of beverages to those authorized to sell CMB at retail, and not to any other classifications of alcoholic beverages.

(b) The distance location of subsection (a) above shall not apply to a club, drinking establishment, caterer or temporary permit holder when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.
(Code 1993, 3-115; Code 2008, § 3-102)

3-103. MINORS ON PREMISES.

(a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor. ⁵

(b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.
(Code 1970, 3-207; Code 1993, 3-111; Code 2008, § 3-103)

3-104. CONSUMPTION ON PUBLIC PROPERTY.

The governing body may authorize the consumption of cereal malt beverages or alcoholic beverages on public property pursuant to a valid application being submitted to the governing body and when the governing body determines that such activity would not be detrimental to the health, safety and morals of the community.

(Code 1993, 3-113; Code 2008, § 3-104; Ord. 598)

3-105. PUBLIC SALE; CONSUMPTION.

(a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.

(b) It shall be unlawful for any person to drink or consume any cereal malt beverage or

⁵ **Legal analysis: 3-103. MINORS ON PREMISES.** K.S.A. 41-2610 allows for employment of persons age 18 and older in facilities that sell alcoholic beverages by the drink. Please advise whether the city would like to include such an employment exemption in this section. (“...shall not apply to persons age 18 and older employed in a licensed establishment as permitted by state law.”)

alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city, except as provided in 3-104.

(c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. This section shall not apply to city-sanctioned block parties.

(Code 2008, § 3-105; Ord. 598)

(K.S.A. 41-719) ⁶

3-106. IDENTIFICATION CARD.

(a) It shall be unlawful for any person to:

(1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(4) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(b) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of

⁶ **Legal analysis: 3-105. PUBLIC SALE; CONSUMPTION.** For this and all other instances where state law has been included in history notes, said citation will be removed from the history notes and arranged into a standard State Law Reference format.

any cereal malt beverage.
(Code 2008, § 3-106)

ARTICLE 2. CEREAL MALT BEVERAGES

3-201. LICENSE REQUIRED OF GENERAL AND LIMITED RETAILERS.

(a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner.

(Code 1970, 3-201; Code 1993, 3-102; Code 2008, § 3-201; Ord. No. 1021, § 1(3-201), 8-12-2021)

(K.S.A. 41-2702)

3-202. APPLICATION.

An application for renewal of a CMB license shall be submitted to the city clerk no less than 45 days preceding the expiration of the applicant's current license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

(a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.

(e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;

(f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 8 of this code.

(g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of chapter 7 of this code.

The application shall be accompanied by a statement, signed by the applicant, authorizing

any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the city clerk not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.
(Code 2008, § 3-202; Ord. No. 1021, § 1(3-202), 8-12-2021)

3-202A. LICENSE APPLICATION PROCEDURES.

(a) All applications for a new enhanced cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.

(b) The clerk's office shall endeavor to provide copies of all applications for new CMB licenses to the police department, to the fire department, and to the county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with 3-202 (f) and (g) herein. The departments will then make every effort to recommend approval, or disapproval, of applications within five (5) working days of the department's receipt of the application

(c) For renewal of a CMB license, the city clerk's office shall notify the applicant of an existing license thirty (30) days in advance of its expiration.

(c) Renewal licenses may be issued by the city clerk upon payment of the necessary fee if the licensee's license has not been suspended or revoked pursuant to Section 3-209 during the license term and the licensee continues to meet the qualifications for issuance of the license.

(d) The governing body may decline to consider any application for a new license that has not been submitted 10 days in advance and been reviewed by the above departments.

(e) An applicant who has not had an enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

(Code 2008, § 3-202A; Ord. No. 1021, § 1(3-202A), 8-12-2021)

3-203. LICENSE GRANTED; DENIED.

(a) The minutes of the governing body shall show the action taken on the application.

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

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

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

(Code 1983, 3-105; Code 2008, § 3-203; Ord. No. 1021, § 1(3-203), 8-12-2021)

3-204. LICENSE TO BE POSTED.

Each license shall be posted in a conspicuous place in the place of business for which the license is issued.

(Code 1983, 3-106; Code 2008, § 3-204; Ord. No. 1021, § 1(3-204), 8-12-2021)

3-205. LICENSE, DISQUALIFICATION.

No general or limited retail license shall be issued to:

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

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

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

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

(e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.

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

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

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

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license.

(Code 2008, § 3-205; Ord. No. 1021, § 1(3-205), 8-12-2021)

3-206. RESTRICTION UPON LOCATION.

(a) No general or limited retail license shall be issued for the sale at retail of any enhanced cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any enhanced cereal malt beverage at any place within the city limits that is within a 200-foot radius of any church, school or library.

(c) Provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas.

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing.

(Code 1993, 3-115; Code 2008, § 3-206; Ord. No. 1021, § 1(3-206), 8-12-2021)
(K.S.A. 41-2704)

3-207. LICENSE FEE.

The rules and regulations regarding license fees shall be established administratively, the license fee to be prorated. The licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

(Code 2008, § 3-207; Ord. No. 1021, § 1(3-207), 8-12-2021)

3-208. SUSPENSION OF LICENSE.

The chief of police, upon five (5) days' written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this chapter or other laws pertaining to enhanced cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order.

(Code 2008, § 3-208; Ord. No. 1021, § 1(3-208), 8-12-2021)

3-209. LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.

The governing body of the city shall give thirty (30) days written notice to a person holding a license to sell enhanced cereal malt beverages of its intent to suspend said license and providing the license holder the opportunity to request a hearing before the Governing Body. Such license may be suspended for a period not more than thirty (30) days, or permanently revoked for any of the following reasons:

(a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;

(b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;

- (c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling enhanced cereal malt beverages;
- (d) The sale of enhanced cereal malt beverages to any person under 21 years of age;
- (e) For permitting any gambling in or upon any premises licensed under this article;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
- (g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
- (h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premises licensed under this article;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license under this chapter;
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.
(Code 2008, § 3-209; Ord. No. 1021, § 1(3-209), 8-12-2021)
(K.S.A. 41-2708)

3-210. SAME; APPEAL.

The licensee, within twenty (20) days after the order of the governing body revoking any license, may appeal to the district court of Johnson County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter.
(Code 2008, § 3-210; Ord. No. 1021, § 1(3-210), 8-12-2021)
(K.S.A. 41-2708)

3-211. CHANGE OF LOCATION.

If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the

balance of the year for which a current license is held by the licensee.
(Code 2008, § 3-211; Ord. No. 1021, § 1(3-211), 8-12-2021)

3-212. WHOLESALERS AND/OR DISTRIBUTORS.

It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver enhanced cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.
(Code 2008, § 3-212; Ord. No. 1021, § 1(3-212), 8-12-2021)
(K.S.A. 41-307:~~307a~~)

3-213. BUSINESS REGULATIONS.

It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(c) Except as provided by subsection (d) and subsection (l), no enhanced cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m., and 6:00 a.m.;; closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.

(d) Enhanced cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41- 2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to members and the police and not to the public. ⁷

(f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(h) No licensee or agent or employee of the licensee shall sell or permit the sale of enhanced cereal malt beverage to any person under 21 years of age.

⁷ **Legal analysis: 3-213. BUSINESS REGULATIONS (e).** Revised for clarity.

- (i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.
- (j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.
- (k) No licensee or agent or employee of the licensee shall employ any person under the legal age for consumption of enhanced cereal malt beverage in dispensing enhanced cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.
- (l) The sale at retail of cereal malt beverages in the original package is allowed within the City on any Sunday, except Easter, between the hours of 9:00 a.m. and 8:00 p.m. (Code 2008, § 3-213; Ord. 860, Sec. 1; Ord. No. 1020, § 1, 7-8-2021; Ord. No. 1021, § 1(3-213), 8-12-2021)

3-214. PROHIBITED CONDUCT ON PREMISES.

The following conduct by an enhanced cereal malt beverage licensee, manager or employee of any licensed enhanced cereal malt beverage establishment on the premises thereof is deemed contrary to public welfare and is prohibited:

- (a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males'/females' pubic hair, anus, buttocks or genitals;
- (b) Permitting any employee to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;
- (c) Encouraging or permitting any patron to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;
- (d) Performing or permitting any person to perform acts of or acts which simulate: (1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or (2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.
- (e) Using or permitting any person to use any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this section.
- (f) Showing or permitting any person to show any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:
- (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;
 - (2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;
 - (3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) As used in this section, the term premises means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 2008, § 3-214; Ord. No. 1021, § 1(3-214), 8-12-2021)

3-215. SANITARY CONDITIONS REQUIRED.

All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.

(Code 2008, § 3-215; Ord. No. 1021, § 1(3-215), 8-12-2021)

3-216. MINORS ON PREMISES.

(a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of enhanced cereal malt beverages is licensed for on-premises consumption.

(b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than thirty (30) percent of its gross receipts in each calendar year from the sale of enhanced cereal malt beverages for on premises consumption.

(Code 2008, § 3-216; Ord. No. 1021, § 1(3-216), 8-12-2021)

ARTICLE 3. ALCOHOLIC LIQUOR

3-301. STATE LICENSE REQUIRED.

(a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a state license to do so.

(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.

(Code 2008, § 3-301)

3-302. OCCUPATIONAL TAX.

There is hereby levied an annual occupation tax, which shall be determined administratively on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license.

(Code 2008, § 3-302)

3-303. POSTING OF RECEIPT.

Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.

(Code 2008, § 3-303)

3-304. HOURS OF SALE.

No person shall sell at retail any alcoholic liquor:

(a) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted, except as provided in subsection (b).

(b) Sale at retail of alcoholic liquor in the original package is allowed within the City on any Sunday, except Easter, between the hours of 9:00 a.m. and 8:00 p.m.

(Code 2008, § 3-304; Ord. 860, Sec. 2; Ord. No. 1020, § 2, 7-8-2021)

(K.S.A. 41-712)

3-305. BUSINESS REGULATIONS.

It shall be unlawful for a retailer of alcoholic liquor to:

(a) Permit any person to mix drinks in or on the licensed premises;

(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;

(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;

(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or

(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.

(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.

(Code 2008, § 3-305)

ARTICLE 4. PRIVATE CLUBS

3-401. LICENSE REQUIRED.

It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk.
(Code 2008, § 3-401)

3-402. LICENSE FEE.

(a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee shall be determined administratively.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.
(Code 2008, § 3-402)

3-403. BUSINESS REGULATIONS.

(a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9 6:00 a.m. on any day. ⁸

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age.
(Code 2008, § 3-403; Ord. 860, Sec. 2)
(K.S.A. ~~Supp.~~ 41-2614)

⁸ **Legal analysis: 3-403. BUSINESS REGULATIONS (a).** Conform to K.S.A. 41-2614(a).

ARTICLE 5. DRINKING ESTABLISHMENTS

3-501. LICENSE REQUIRED.

It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk.
(Code 2008, § 3-501)

3-502. LICENSE FEE.

(a) There is hereby levied an annual license fee, which shall be determined administratively, on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.
(Code 2008, § 3-502)

3-503. BUSINESS REGULATIONS.

(a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9 6:00 a.m. on any day. ⁹

(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.
(Code 2008, § 3-503)
(K.S.A. ~~Supp.~~ 41-2614)

⁹ **Legal analysis: 3-503. BUSINESS REGULATIONS (a).** Conform to K.S.A. 41-2614(a).

ARTICLE 6. CATERERS

3-601. LICENSE REQUIRED.

It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk.

(Code 2008, § 3-601)

3-602. LICENSE FEE.

(a) There is hereby levied an annual license fee, which shall be determined administratively, on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.

(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.

(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.

(d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.

(Code 2008, § 3-602)

3-603. BUSINESS REGULATIONS.

(a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.

(Code 2008, § 3-603)

(K.S.A. Supp. 41-2614)

3-604. NOTICE TO CHIEF OF POLICE.

Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least five (5) working days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

(Code 2008, § 3-604)

ARTICLE 7. TEMPORARY PERMITS

3-701. PERMIT REQUIRED.

It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk.
(Code 2008, § 3-701)

3-702. PERMIT FEE.

(a) There is hereby levied a temporary permit fee, which shall be determined administratively, on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.

(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.
(Code 2008, § 3-702)

3-703. CITY TEMPORARY PERMIT.

(a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least fourteen (14) days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:

- (1) the name of the applicant;
- (2) the group for which the event is planned;
- (3) the location of the event;
- (4) the date and time of the event;
- (5) any anticipated need for police, fire or other municipal services.

(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.

(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.
(Code 2008, § 3-703)

3-704. PERMIT REGULATIONS.

(a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.

(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age.

(Code 2008, § 3-704)

CHAPTER 4.

BUILDINGS AND CONSTRUCTION

- Article 1. International and National Codes
- Article 2. Building Code
- Article 3. Residential Code for One and Two Family Dwellings
- Article 4. Mechanical Code
- Article 5. Fire Code
- Article 6. Plumbing Code
- Article 7. Fuel Gas Code
- Article 8. Electrical Code
- Article 9. Existing Building Code
- Article 10. Appeals
- Article 11. Moving Buildings

ARTICLE 1. INTERNATIONAL AND NATIONAL CODES

4-101. DEFINITIONS.

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

- (a) Whenever the word municipality is used in the building code, it shall be held to mean the City of Westwood, Kansas;
- (b) Whenever the term corporation counsel is used in the building code, it shall be held to mean the city attorney of the City of Westwood;
- (c) Whenever the terms building official and code official are used in the building code, it shall be held to mean the building official or his or her authorized designee.
- (d) Builder or building contractor defined.
 - (1) A builder or building contractor for purposes of this article shall be any person, firm, co-partnership, corporation, association, or any combination thereof, whether a resident or not of the city:
 - (A) Who or which undertakes with or for another, for a fixed sum, price, fee or any compensation other than wages, to build, construct, alter, repair, add to, wreck or move any building or structure (or any portion thereof), or any sidewalk, driveway entrance or structure in any street, or any advertising sign, panel poster or billboard, or any other structure, in the city, for which a building or construction permit may now or hereafter be required by the laws of the city; or

(B) Who or which advertises or represents himself, herself, or itself to the public to have the capacity or ability to undertake, or submit a bid or offer to build, construct, alter, repair, add to or wreck, remove, restore, or replace any building, structure or construction work or any portion thereof; or

(C) Who or which builds, constructs, alters, adds to or wrecks any buildings or structures either on his or her own or other property for purposes of sale or speculation.

(2) A builder or building contractor as defined shall not mean or include:

(A) Any subcontractor working under the supervision of a general contractor; or

(B) Any plumbers, gas fitters, electricians, or other specialized occupation for which special licenses or bonds are required by other laws; or

(C) Any owner or his or her authorized agents or employees making ordinary repairs to his, her or its own building or structure not involving the structural parts of the building for which a permit is not required or on which a contractor, as defined, is not required, employed or engaged to perform; or ¹

(D) Any property owner personally performing any improvements, alterations or building construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the building official as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. Personal building construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or building contractor.

(Code 2008, § 4-101; Ord. No. 1009, § 1(4-101), 3-11-2021)

4-102. CONFLICT CLAUSE.

In the event there is a conflict between a provision in any code adopted by reference in Articles 2-9 herein, with an ordinance passed by the governing body of the City of Westwood, the Westwood ordinance shall prevail.

(Code 2008, § 4-101; Ord. No. 1009, § 1(4-102), 3-11-2021)

4-103. CLARIFICATION; MODIFICATION

(a) The building official shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the building official shall see that the spirit of the code is observed, public safety secured, and substantial justice done. The particulars of a

¹ **Legal analysis: 4-101. DEFINITIONS, (d)(2)(C).** Please verify whether the city intended for this to indicate "...ordinary repairs...*not* involving the structural parts of the building for which a permit is *not* required..."

modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building official and a signed copy shall be furnished to the applicant.

(Ord. No. 1009, § 1(4-103), 3-11-2021)

4-104. BOARD OF BUILDING CODE APPEALS

(a) A Board of Building Code Appeals shall determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of the codes incorporated in this Chapter. The Board of Building Code Appeals shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.

(b) The Board of Building Code Appeals shall consist of five members appointed by the Mayor and approved by the appellant on an as-needed, case-by-case basis when an appeal is filed with the City Clerk.

(c) All appeals to the Board of Code Appeals by any party aggrieved by any order or decision shall be filed in writing with the City Clerk. Every appeal shall be taken within thirty (30) days from the date of the order or decision from which the appeal is taken. Each appeal shall be accompanied by a fee sufficient to cover the costs of the appeal which amount shall be determined by the Clerk. In determining such amount, the Clerk shall take into account only the costs of notice and other non-administrative costs. The final disposition of any appeal to the Board shall be in the form of a resolution, which shall affirm, modify or reverse the order or decision from which the appeal is taken.

(d) The Board of Code Appeals shall keep minutes of its proceedings, showing a summary of evidence presented at the hearing, the findings of fact by the Board, the decisions of the Board, and the vote of each member upon each question. Prior to taking binding action, the Board may take under deliberation all matters presented at the hearing. If any member is absent from a hearing or fails to vote, the minutes shall reflect this fact. All minutes and records shall be filed in the office of the City Clerk and shall be a public record.

(e) Any person aggrieved by any action or inaction of the Board of Code Appeals may appeal the same to the District Court of Johnson County, Kansas pursuant to K.S.A. 60-2101(d), and amendments thereto. (~~Ordinance 1009~~)
(Ord. No. 1009, § 1(4-104), 3-11-2021)

4-105. LIABILITY.

This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

(Ord. No. 1009, § 1(4-105), 3-11-2021)

ARTICLE 2. BUILDING CODE

4-201. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL

BUILDING CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International Building Code," 2018 Edition, excluding all appendices, as published by the International Code Council, Inc., save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Building Code shall be marked or stamped "Official Copy as incorporated by ordinance No.1010," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or changes 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format so as to be readily understood.

(Code 2008, § 4-201; Ord. No. 1010, § 1(4-201), 3-11-2021)

4-202. REVISED, AMENDED, OR DELETED SECTIONS OF THE ~~2003~~ 2018 EDITION OF THE INTERNATIONAL BUILDING CODE: ²

The following sections of the International Building Code shall be revised, amended, or deleted:

(a) Section 101.1, entitled "Title," shall be amended to read "These regulations shall be known as the Building Code of the City of Westwood, Kansas, hereinafter referred to as "this code.""

(b) Section 101.2, entitled "Scope," shall be amended to read as follows: "Exception: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the International Residential Code as amended."

(c) Section 101.4.4, entitled "Property maintenance," shall be amended such that: "International Property Maintenance Code" shall be replaced with "City Code of Westwood" as shall any other references in this code.

(d) Section 101.4.8 shall be added to read: "101.4.8 Electrical. The provisions of the 2017 National Electrical Code, as amended, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto."

(f) Section 105.1.3 is hereby added to read as follows: "105.1.3 COUNTY LICENSE REQUIRED. All persons undertaking work which requires a permit as provided in Section 105, or seeking to obtain that permit from the City, are required to have a currently valid contractor's license from the Johnson County Contractor's Licensing Program. That County license shall have been issued by the County in accordance with the provisions of the

² **Legal analysis: 4-202. REVISED, AMENDED, OR DELETED SECTIONS.** Revise heading to indicate the 2018 edition.

Johnson County Contractors Licensing Program and the Contractor Licensing Regulations adopted by the Board of County Commissioners by Resolution 058-01 on August 9, 2001, and any regulations subsequently adopted by the Contractor Licensing Review Board as authorized by said County Licensing Regulations, as said Resolution and regulations may be amended from time to time by said Boards.

Exception: The owner of a single family dwelling shall be allowed to secure a permit to construct, alter or repair said dwelling provided the following conditions are met: (1) the homeowner currently occupies the dwelling or will occupy the dwelling once the construction has been completed; and (2) the homeowner undertakes the work himself/herself, without compensation and no person shall be employed to assist the homeowner in any way on such work except a builder or building contractor licensed by Johnson County. The Building Official may waive the provisions of this Section where it can be established that no license exists for the installation, alteration, or repair of a certain type of work requiring a permit, or due to other unique circumstances.

(g) Section 105.2, entitled "Work exempt from permit," shall be revised to and amended to delete the following exemptions from the permit requirement under "Building:":

(1) One-story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15 square meters).

(2) Fences not over 6 feet (1829 mm) high.

(3) Oil derricks.

(4) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

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

(h) Section 105.2, entitled "Work exempt from permit," shall also be revised and amended for exemption 9 under "Building," to read "Prefabricated swimming pools which are less than 12 inches deep."

(i) Section 105.3.2, "Time limit of application," shall be amended to read as follows: "An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 180 days each. The extension or extensions shall be requested in writing and justifiable cause demonstrated."

(j) Section 109.3, entitled "Building Permit Valuations," shall be amended to add the following sentence at the end of said provision: "Alternatively, building permit fees may be set and established administratively by the City according to the schedule as established by the City and as amended."

(k) Section 109.4, entitled "Work commencing before permit issuance" shall be amended

to read; "Any person who commences work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits, shall be subject to a fee equal to one half of the permit fee, in addition to required fees.

(l) Section 113.1, entitled "General," shall be amended to read as set out in section 4-104 of the City Code.

(m) Section 114.4, entitled "Violation penalties," shall be amended to add the following at the end of said provision: "In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person."

(n) Section 115.2, entitled "Issuance" (Stop Work Order) shall be amended by adding to the first sentence, "or by posting the notice on the property in a conspicuous place."

(o) Section 1612.3, entitled "Establishment of flood hazard area," shall be deleted, and in lieu thereof, shall be inserted the following: "To establish flood hazard areas, the City of Westwood may adopt a flood hazard map and supporting data. If and when the city undertakes such a task, such shall comply with the requirements of Section 1612.3 and shall be incorporated into the city's code requirements."

(p) Section 2701.1, entitled "Scope," is hereby changed to read; "This chapter governs the electrical components, equipment and systems used in buildings and structures covered by this Code. Electrical components, equipment and systems shall be designed and constructed in accordance with the 2017 National Electrical Code."

(q) Chapter 32, entitled "Encroachments into the Public Right-of-Way", shall be deleted in its entirety.

(Code 2008, § 4-202; Ord. No. 1010, § 1(4-202), 3-11-2021)

ARTICLE 3. RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLINGS

4-301. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE-AND TWO-FAMILY DWELLINGS.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International Residential Code for One- and Two-Family Dwellings," 2018 Edition, including Appendix Chapters F, H, J, K and N as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. However, with respect to Appendix F, Radon Control Methods, this Appendix shall apply only to the construction of new residential structures and shall not apply to additions to or the remodeling of existing residential structures. No fewer than two (2) copies of the International Residential Code for One- and Two-Family Dwellings shall be marked or stamped "Official Copy as incorporated by ordinance No. 1011" 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format so as to be readily understood. 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 International Residential Code for One- and Two-Family Dwellings similarly marked, as may be deemed expedient.
(Code 2008, § 4-301; Ord. No. 1011, § 1(4-301), 3-11-2021)

4-302. REVISED, AMENDED, OR DELETED SECTIONS OF THE ~~2003~~ 2018 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE-AND TWO-FAMILY DWELLINGS. ³

The following sections of the International Residential Code for One-and Two-Family Dwellings 2018 Edition shall be revised, amended, or deleted:

- (a) Section R101.1, entitled "Title," shall be amended to read: "These provisions shall be known as the Residential Code for One- and Two-Family Dwellings of the City of Westwood, Kansas, and shall be cited as such and will be referred to herein as "this code.""
- (b) Section R105.2, entitled "Work exempt from permit," shall be revised and amended to delete exemptions 1, 2, 3, 4, 5, 7, 9 and 10 from the permit requirement under the heading "Building":
- (c) Section R108.3, entitled "Building permit valuations," shall be amended to add the following sentence at the end of said provision: "Alternatively, building permit fees may be set and established administratively by the City according to the schedule as established by the City and as amended."
- (d) Section R108.6, entitled "Work commencing before permit issuance," shall be amended to read "Any person who commences work requiring a permit on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to a fee equal to one half of the permit fee, in addition to required fees.
- (e) Section R112.1, entitled "General," shall be amended to read as set out in section 4-104 of the City Code.
- (f) Section R113.4, entitled "Violation penalties," shall be amended to add the following at the end of said provision: In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a

³ **Legal analysis: 4-302. REVISED, AMENDED, OR DELETED SECTIONS.** Revise heading to indicate 2018 edition.

separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person.

(g) Section R114., entitled "Notice to Owner (Stop Work Order)" shall be amended so that the second sentence shall read; "The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work, or posted on the property in a conspicuous place; and shall state the conditions under which work will be permitted to resume."

(h) Section R201.3, entitled "Terms defined in other codes," shall be amended to read as follows: "Where terms are not defined in this code and are defined in the 2017 National Electrical Code, International Building Code, International Fire Code, the International Fuel Gas Code, or the International Mechanical Code, such terms shall have meanings ascribed to them as in those codes."

(i) Section R301.2, entitled "Climatic and geographic design criteria, shall be amended as follows: "The criteria herein shall be administratively established by the building official and inserted herein." Section R301.2, Table R301.2(1), is hereby amended to insert the criteria as follows:

Roof Snow Load: 20 pounds per square foot

Wind Speed: 90 miles per hour

Topographic effects: No

Seismic Design Category: A

Weathering: Severe

Frost Line Depth: 36 inches

Termite: Moderate to Heavy

Decay: Slight to Moderate

Winter Design Temperature: Six degrees Fahrenheit

Ice Barrier Underlayment Required: Yes

Flood Hazards: Latest adopted FIRM and FBFM documents

Air Freezing Index: 1000

Mean Annual Temperature: 54.7 degrees Fahrenheit

(j) Section R305.1, entitled "Minimum height," shall be amended to amend only the first sentence thereof to read as follows: "Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 6 feet 8 inches." Also, the subparagraph of section R305.1, entitled "Exceptions 3.," shall be

amended to read as follows: "Not more than 50% of the required floor area of a room or space is permitted to have a sloped ceiling less than 5 feet, 8 inches in height with no portion of the required floor area less than 5 feet in height."

(k) Section R309.5, entitled "Fire Sprinklers," is hereby deleted in its entirety.

(l) Section R313, entitled "Automatic Fire Sprinkler Systems," is hereby deleted in its entirety.

(m) Section R401.1, entitled "Application," shall be amended by adding the following paragraph: "Foundation designs for one- and two-family dwellings may use the approved standards and designs provided in the Johnson County Residential Foundation Guidelines in lieu of the prescriptive requirements of Chapter 4 of this Code as approved by the Building Official."

(n) Section R403.1.1, entitled "Minimum size," is hereby added to read as follows: "The minimum size for all residential concrete footings shall be 8 inches in depth and 16 inches in width. Steel shall be minimum ½" in size with two (2) bars running parallel in the footing. Single story trench footings are to be a minimum of 12 inches in width. Footing projections shall be at least 2 inches and shall not exceed the thickness of the footing. The minimum load-bearing value of soil shall be 2,000 psf. Soils investigation reports are required when it appears the soil bearing value is below 2,000 psf, or when conditions exist as described in R401.4. Footings for structures with more than two stories shall be designed by a licensed Kansas engineer."

(o) Section R501.3, entitled "Fire protection of floors," is hereby amended to read as follows: "Floor assemblies not required elsewhere in this code to be fire resistance rated shall be provided with a ½ inch gypsum wallboard membrane, 5/8-inch wood structural membrane or equivalent on the underside of the floor framing member for open web-type floor truss systems and I joist systems.

Exceptions:

1. Floor systems located directly over a space protected by an automatic sprinkler system in accordance with Section P2904, NFPA 13D, or other approved systems.
2. Floor systems located directly over a crawl space not intended for storage or fuel fired appliances.
3. The aggregate area of the unprotected portions shall not exceed eighty square feet (80 sq. ft.)."

(p) Section R507.1, entitled "Decks," shall be amended by adding the following paragraph: "In lieu of the requirements of Section R507 Decks, the construction of decks and balconies may use the approved standards and designs provided in the latest edition of the Johnson County Building Officials Deck Design publication."

(q) Section R907.3, entitled "Recovering versus Replacement," is hereby amended to read as follows: "New roof coverings shall not be installed without first removing all existing layers of roof coverings down to the roof decking. Exception: Where the existing roof

assembly includes an ice barrier membrane that is adhered to the roof deck, the existing ice barrier membrane shall be permitted to remain in place and covered with an additional layer of ice barrier membrane in accordance with Section R905.”

(r) Section N1101.1, entitled “Scope,” is hereby amended to add the following paragraphs following the first paragraph:

“As an alternative to the provisions of Chapter 11 of this Code, structures validated by an accepted certified energy auditor to meet a HERS rating score of 85 or less shall be deemed to meet this Code. The energy auditor shall present their national certification credentials for review and approval by the Building Official prior to issuance of the permit.”

“Failure to meet with the compliance rating of 85 or less shall result in a “notice” to the owner that the structure has failed to comply with this Code. Such “notice” shall be signed by the contractor and the owner.”

(s) Table N1102.1.2 of the Residential Code is hereby amended as follows:

Table N1102.1.1

Insulation and Fenestration Requirements by Component^a

<i>Climate Zone</i>	<i>Fenestration U-Factor</i>	<i>Skylight U-Factor^b</i>	<i>Glazed Fenestration SHGC^b</i>	<i>Ceiling R-Value^e</i>	<i>Wood Frame Wall R-Value</i>	<i>Masonry Wall R-Value</i>	<i>Floor R-Value</i>	<i>Basement Wall R-Value^c</i>	<i>Slab R-Value & Depth^d</i>	<i>Crawl Space Wall R-Value^c</i>
4	0.35	0.55	0.4	49	13	8/13	19	10/13	NR	10/13

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

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

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

d. R-5 shall be added to the required slab edge R-values for heated slabs.

e. No change.

- f. No change.
- g. No change.
- h. Refers to wall cavity insulation minimum standards only.
- i. The second R-value applies when more than half the insulation is on the interior of the mass wall.
- j. Loose-fill insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1,000 sq. ft." Where the pitch of the roof restricts the minimum thickness at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high density batts around the perimeter edge per R1102.2.

(t) Section N1102.4.1.2, entitled "Testing," is hereby amended to read as follows: "The building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.c. (50 Pascals). Where required by the Code Official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the Code Official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope."

During testing:

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

(u) Section N1103.3.5, entitled "Building Cavities (Mandatory)," shall be deleted in its entirety.

(v) Section N1103.5.3, entitled "Hot water pipe insulation (prescriptive)," shall be deleted in its entirety.

(w) Section P2503.4, entitled "Building Sewer Testing," is hereby amended to read as follows: "The building sewer shall be tested by insertion of a test plug at the point of

connection with the public sewer and filling the building sewer with water, testing with not less than a ten (10') foot head of water and be able to maintain such pressure for fifteen (15) minutes or by air, maintaining five (5) PSI for fifteen (15) minutes. This testing will be required when ordered by the Building Official."

(x) Section P2503.5, entitled "Drain, waste and vent systems testing," is hereby amended to read as follows: "Rough and finished plumbing installations shall be tested in accordance with Sections P2503.5.1 and P2503.5.2. This testing will be required when ordered by the Building Official."

(y) Section P2903.4, entitled "Thermal expansion control," is hereby amended to read: "A means for controlling increased pressure caused by thermal expansion shall be installed in each dwelling unit. A thermal expansion tank shall be the means in which to control thermal expansion. At the time a water heater is new or replaced, a thermal expansion tank shall be installed.

Exception: In cases where a thermal expansion tank is not feasible, the Code Official shall determine an approved method of thermal expansion control.

(z) Section P2904, entitled "DWELLING UNIT FIRE SPRINKLER SYSTEMS," is hereby to be used as a reference for standards and requirements only if a sprinkler system is installed. Automatic Fire Sprinkler systems (section R313) are deleted from the requirements of this code adoption.

(aa) Section P3114.1, entitled "Air admittance valves, General," is hereby amended to read as follows: "Vent systems using air admittance valves shall comply with this section. Individual and branch type air admittance valves shall conform to ASSE 1051. Stack-type air admittance valves shall conform to ASSE 1050. The use of air admittance valves shall only be done so by the approval of the Building Official."

(bb) Section E3902.2, entitled "Garage and accessory building receptacles," is hereby amended to read as follows: "All 125-volt single phase 15 or 20 ampere receptacles installed in garages and grade level portions of accessory buildings used for storage or work areas shall have ground fault circuit interrupter protection for personnel.

Exceptions:

1. Receptacles that are not readily accessible such as a ceiling mounted receptacle for a garage door opener.
2. A single receptacle supplying a dedicated branch circuit that is located and identified for a specific use by a cord and plug connected appliance such as a refrigerator, freezer, or a central vacuum system."

(cc) Section E3902.5, entitled "Unfinished basement receptacles," is hereby amended to read as follows: "All 125-volt single phase 15 and 20 ampere receptacles installed in unfinished basements shall have ground-fault circuit interrupter protection for personnel. For purposes of this section, unfinished basements are defined as portions or areas of the basement not intended as habitable rooms and limited to storage areas, work areas and the like.

Exceptions:

1. A dedicated receptacle supplying only a permanently installed fire alarm or burglar alarm system.
2. Single dedicated receptacles supplying a sump pump.
3. A single receptacle supplying a dedicated branch circuit that is located and identified for a specific use by a cord and plug connected appliance such as a refrigerator, freezer, or a central vacuum system."

(dd) Section E3902.16, entitled "Arc-fault circuit interrupter protection," is hereby amended to read as follows: "All branch circuits that supply 120-volt single phase 15 and 20 ampere outlets installed in libraries, dens, bedrooms, closets and similar rooms or areas shall be protected by a combination type arc-fault circuit interrupter installed to provide protection of the branch circuit. Other rooms, such as family rooms, dining rooms, living rooms, parlors, sunrooms, recreation rooms, hallways and similar rooms or areas are exempt from this requirement. For these purposes a smoke alarm shall not be considered an outlet and is not required to be on an arc-fault circuit. Isolated circuits serving smoke detectors and/or carbon monoxide detectors shall be exempt from arc-fault protection.

Exceptions:

1. Where an outlet branch circuit type AFCI is installed at the first outlet to provide protection for the remaining portion of the branch circuit, the portion of the branch circuit between the branch circuit overcurrent device and the first outlet shall be installed with metal outlet and junction boxes and RMC, IMC, EMT, type MC, or steel armored type AC cables meeting the requirements of Section E3908.8
2. Where an outlet branch circuit type AFCI is installed at the first outlet to provide protection for the remaining portion of the branch circuit the portion of the branch circuit between the branch circuit overcurrent device and the first outlet shall be installed with metal or nonmetallic conduit or tubing that is encased in not less than 2 inches of concrete.
3. AFCI protection is not required for an individual branch circuit supplying only a fire alarm system where the branch circuit is wired with metal outlet and junction boxes and RMC, IMC, EMT, or steel-sheathed armored cable, Type AC or Type MC, meeting the requirements of Section E3908.8.
(Code 2008, § 4-302; Ord. No. 1011, § 1(4-302), 3-11-2021)

ARTICLE 4. EXISTING BUILDING CODE

4-401. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International

Existing Building Code" 2018 Edition, including Appendix B as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Existing Building Code shall be marked or stamped "Official Copy as incorporated by ordinance No. 1012," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format as to be readily understood. 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 International Existing Building Code similarly marked, as may be deemed expedient. (Code 2008, § 4-901; Ord. No. 1012, § 1(4-401), 3-11-2021)

4-402. REVISED, AMENDED; OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE.

The following sections of the International Existing Building Code 2018 Edition shall be revised, amended, or deleted:

(a) Section 101.1, entitled "Title," shall be amended to read: "These regulations shall be known as the International Existing Building Code of the City of Westwood, Kansas, hereinafter referred to as "this code."

(b) Section 105.2, entitled "Work Exempt from Permit," shall be amended to delete the following exemptions from the permit requirements:

(1) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below.

(2) Window awnings supported by an exterior wall.

(c) Section R112.1, entitled "General," shall be amended to read as set out in section 4-104 of the City Code.

(d) Section 113.4, entitled "Violation penalties," shall be amended to add the following:

In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person.

(e) Section 114.2, entitled "Issuance (Stop Work Order)," shall be amended to add to the first sentence, "or posted on the property in a conspicuous place."

(f) Section 201.3, entitled "Terms defined in other codes," shall be amended to add after the term "other International Codes," the term "and the National Electrical Code."

(Code 2008, § 4-902; Ord. No. 1012, § 1(4-402), 3-11-2021)

ARTICLE 5. FIRE CODE

4-501. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL FIRE CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International Fire Code" 2018 Edition, including Appendices B, C, D, E, F, H and I, and excluding all other Appendices, as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Fire Code shall be marked or stamped "Official Copy as incorporated by ordinance No.1013," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format so as to be readily understood. 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 International Fire Code similarly marked, as may be deemed expedient.

(Code 2008, § 4-501; Ord. No. 1013, § 1(4-501), 3-11-2021)

4-502. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL FIRE CODE.

The following sections of the International Fire Code 2018 Edition shall be revised, amended, or deleted:

(a) Section 101.1, entitled "Title," shall be amended to read as follows: "These regulations shall be known as the International Fire Code of the City of Westwood, Kansas, hereinafter referred to as 'this code.'"

(b) Section 103.2, entitled "Appointment," is hereby amended to read as follows: "The Fire Code Official shall also be known as Consolidated Fire District #2 of Johnson County, Kansas and/or the Building Official."

(c) Section 105.1.1, entitled "Permits required," shall be amended to add a final sentence as follows: "The fees for this code and the permits therefor shall be set and established administratively by the City according to the schedule as established by the City and as amended."

(d) Section 105.7, entitled "Required Construction Permits," shall be amended to read as follows: "The building official is authorized to issue construction permits for work as set forth in sections 105.7.1 to 105.7.25. Consolidated Fire District #2 requires and is authorized to issue separate permits for new construction, tenant finishes, installation of new or modification of existing fire sprinkler systems, fire alarm systems and/or

commercial cooking suppression systems.”

(e) Section 109.1, entitled “General,” shall be amended to read as set out in section 4-104 of the City Code.

(f) Section 110.4, entitled “Violation penalties,” shall be amended to read as follows: “In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person.”

(g) Section 112.2, entitled “Issuance (Stop Work Order)” shall be amended to add to the first sentence, “or posted on the property in a conspicuous place.”

(h) Section 112.4, entitled “Failure to comply,” shall be amended to read as follows: “Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a violation of this code, and punished in accordance herewith.”

(i) Section 201.3, entitled “Terms defined in other codes,” shall be amended to read as follows: “Where terms are not defined in this code and are defined in the 2017 National Electrical Code, and 2018 International Building Code, the International Fuel Gas Code, International Mechanical Code, or International Plumbing Code, such terms shall have meanings ascribed to them as in those codes.”

(j) Section 501.3, entitled “Construction Documents,” shall be amended to read as follows: “Construction documents for proposed fire apparatus roads, locations of fire lanes, or security gates across fire apparatus access; and construction documents and hydraulic calculations for fire hydrant systems shall be submitted to the Building Code Official and Fire District #2 of Johnson County, Kansas for review and approval prior to construction.”

(k) Section 5706.2.4.4., entitled “Locations where above-ground tanks are prohibited,” shall be amended to read: “The storage of Class I and II liquids in above-ground tanks is prohibited anywhere in the city, except that a permit for such tanks may be granted by the Governing Body upon good cause shown and assurances by all competent sources that such tank poses no unreasonable threat or danger to persons or property.”
(Code 2008, § 4-502; Ord. No. 1013, § 1(4-502), 3-11-2021)

ARTICLE 6. PLUMBING CODE

4-601. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL PLUMBING CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the “International Plumbing Code” 2018 Edition, , including Appendix F, and excluding all other Appendix

Chapters; B, C, D, and E, as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Plumbing Code shall be marked or stamped "Official Copy as incorporated by ordinance No. 1014," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format to be readily understood. 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 International Plumbing Code similarly marked, as may be deemed expedient.

(Code 2008, § 4-601; Ord. No.1014, § 1(4-601), 3-11-2021)

4-602. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL PLUMBING CODE.

The following sections of the International Plumbing Code 2018 Edition shall be revised, amended, or deleted:

(a) Section 101.1, entitled "Title," shall be amended to read: "These regulations shall be known as the International Plumbing Code of the City of Westwood, Kansas, hereinafter referred to as 'this code.'"

(b) Section 106.6.2, entitled "Fee schedule," shall be amended to read as follows: "The fees for all plumbing work and the permits therefor shall be set and established administratively by the City according to the schedule as established by the City and as amended."

(c) Section 106.6.3., entitled "Fee refunds," shall be amended to read as follows: "The building official is authorized to establish a refund policy."

(d) Section 108.4, entitled "Violation penalties," shall be amended to read as follows:

"Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code shall be guilty of a violation of this code. In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person."

(e) Section 108.5, entitled "Stop work orders," shall be amended so that the second sentence shall have added the following, "or posted on the property in a conspicuous place," and the final sentence thereof shall read: "any person who shall continue any work in or about the structure after having been served with a stop work order, except such

work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a violation of this code and punished in accordance herewith.”

(f) Section R109, entitled “Means of Appeal,” shall be amended to read as set out in section 4-104 of the City Code.

(g) Section 201.3, entitled “Terms defined in other codes,” shall be amended to read as follows: “Where terms are not defined in this code and are defined in the ~~2002~~ 2017 National Electrical Code, International Building Code, International Fire Code, the International Fuel Gas Code, or the International Mechanical Code, such terms shall have meanings ascribed to them as in those codes.” ⁴

(h) Section 305.6.1, entitled “Sewer depth,” shall be amended to read as follows: Building sewers shall be constructed in accordance with the requirements of Johnson County Wastewater.

(i) Section 701.3, entitled “Separate sewer connection,” shall be amended to read as follows: “All residential duplex units and or condominium/townhouse units shall have installed separate sanitary sewer service lines to each living unit from the main line to the living unit.”

(j) Section 702.3, Table 702.3, entitled “Building Sewer Pipe,” is hereby amended by removing the following pipes from the approved material list: “Vitrified clay pipe.”

(k) Section 702.4, Table 702.4, entitled “Pipe Fittings,” is hereby amended by removing the following pipes from the approved material list: “Vitrified clay pipe.”

(l) Section 903.1, entitled “Roof extension,” is hereby amended by inserting “12 in (305mm)” in place of [NUMBER].

(Code 2008, § 4-602; Ord. No. 1014, § 1(4-602), 3-11-2021)

ARTICLE 7. FUEL GAS CODE

4-701. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL FUEL GAS CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the “International Fuel Gas Code” 2018 Edition, including Appendices A, B, C and D, as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Mechanical Code shall be marked or stamped “Official Copy as incorporated by ordinance No. 1015,” 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

⁴ **Legal analysis: 4-602. REVISED, AMENDED, OR DELETED SECTIONS, subsection (d).** Revise to indicate the 2017 edition of the National Electrical Code, as that is the version referred to elsewhere throughout this chapter.

available to the public at all reasonable hours. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format so as to be readily understood. 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 International Mechanical Code similarly marked, as may be deemed expedient. (Code 2008, § 4-701; Ord. No. 1015, § 1(4-701), 3-11-2021)

4-702. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL FUEL GAS CODE.

(a) Section 101.1, entitled "Title," shall be amended to read: "These regulations shall be known as the International Fuel Gas Code of the City of Westwood, Kansas, hereinafter referred to as 'this code.'"

(b) Section 106.6.2, entitled "Fee schedule," shall be amended to read as follows: "The fees for all fuel gas work and the permits therefor shall be set and established administratively by the City according to the schedule as established by the City and as amended."

(c) Section 108.4, entitled "Violation penalties," shall be amended to read as follows:

"Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code shall be guilty of a violation of this code. In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person."

(d) Section R109, entitled "Means of Appeal," shall be amended to read as set out in section 4-104 of the City Code.

(Code 2008, § 4-702; Ord. No. 1015, § 1(4-702), 3-11-2021)

ARTICLE 8. MECHANICAL CODE

4-401. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL MECHANICAL CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International Mechanical Code" 2018 Edition, including Appendix A., but excluding Appendix B., as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Mechanical Code shall be marked or stamped "Official Copy as incorporated by ordinance No. 1016," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format to be readily understood. 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 International Mechanical Code similarly marked, as may be deemed expedient. (Code 2008, § 4-401; Ord. No. 1016, § 1(4-801), 3-11-2021)

4-402. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL MECHANICAL CODE.

The following sections of the International Mechanical Code 2018 Edition shall be revised, amended, or deleted:

(a) Section 101.1, entitled "Title," shall be amended to read: "These regulations shall be known as the Mechanical Code of the City of Westwood, Kansas, hereinafter referred to as 'this code.'"

(b) Section 106.5.2, entitled "Fee schedule," shall be amended to read as follows:

"The fees for mechanical work and the permits therefor shall be set and established administratively by the City according to the schedule as established by the City and as amended."

(c) Section 106.5.3, entitled "Fee refunds," shall be amended to read as follows: "The building official is authorized to establish a refund policy."

(d) Section 108.4, entitled "Violation penalties," shall be amended to read as follows:

"Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code shall be guilty of a violation of this code. In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person."

(e) Section 108.5, entitled "Stop work orders," shall be amended so that the following shall be added to the second sentence, "or shall be posted on the property in a conspicuous place," and the final sentence thereof shall read: "Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be guilty of a violation of this code, and punished in accordance herewith."

(f) Section R109, entitled "Means of Appeal," shall be amended to read as set out in section 4-104 of the City Code.
(Code 2008, § 4-402; Ord. No. 1016, § 1(4-80), 3-11-2021)

ARTICLE 9. ELECTRICAL CODE

4-901. INCORPORATING THE 2017 EDITION OF THE NATIONAL ELECTRICAL CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "National Electrical Code 2017 Edition," hereafter also known as "this code," as published by the National Fire Protection Association, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the National Electrical Code shall be marked or stamped "Official Copy as incorporated by ordinance No. 1017," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format to be readily understood. 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 National Electrical Code similarly marked, as may be deemed expedient.
(Code 2008, § 4-801; Ord. No. 1017, § 1(4-901), 3-11-2021)

4-902. AMENDED SECTION 90.4 OF THE 2017 EDITION OF THE NATIONAL ELECTRICAL CODE -

Section 90.4, entitled "Enforcement," is hereby amended to be replaced with the following paragraphs:

(a) The National Electrical Code is intended to be suitable for mandatory application by governmental bodies that exercise legal jurisdiction over electrical installations, include signaling and communication systems, and for use by insurance inspectors. The authority having jurisdiction for enforcement of the Code has the responsibility for making interpretations of the rules, for deciding on the approval of equipment and materials and for granting the special permission contemplated in a number of the rules.

(b) By Special permission, the authority having jurisdiction may waive special requirements in this Code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety.

(c) This code may require new products, constructions, or materials that may not yet be available at the time the Code is adopted. In such event, the authority having jurisdiction may permit the use of the products, constructions, or materials that comply with the most recent previous edition of this Code adopted by the jurisdiction.

(d) Existing Equipment Electrical conductors and equipment lawfully installed prior to the

effective date of this Code may have their existing use, maintenance or repair continued if the use, maintenance, or repair is in accordance with the original design and location and is not a hazard to life, health or property. The owner or his/her designated agent shall be responsible for adequate maintenance of electrical conductors and equipment.

(e) Right of Entry. Upon presentation of proper credentials, the building official or his/her duly authorized representatives may enter any building structure or premises in the City at reasonable hours to perform any duty imposed upon him/her by this Code.

(f) Stop Orders. Whenever any work is being done contrary to the provisions of this Code, the building official shall notify in writing the persons engaged in the doing or causing such work to be done of violations found specifying a period of time allowed to bring the work into code conformance.

(g) Authority to Condemn Equipment:

(1) Whenever the building official learns or ascertains that any electrical conductor or equipment as defined in this Code has become hazardous to life, health or property, he/she shall order in writing that such equipment be restored to a condition of safety or be dismantled or removed from its present location. The written notice shall fix a time limit for compliance with such order.

(2) The building official is authorized to have electrical current and/or fuel supply to equipment as defined in this Code sealed off by the proper utility supplier where such installation is done without permit or does not meet the provisions of this Code. Where electric current or fuel supply has been sealed off, it shall be unlawful for any unauthorized person to break such seal. Upon corrections being made to meet requirements set forth in this Code, the building official shall contact the proper utility supplier to approve the removal of such seal.

(h) Authority to Abate.

(1) Any portion of an electrical system found by the building official to be unsafe as defined herein is hereby declared to be a nuisance.

(2) Where a nuisance exists or an electrical system is maintained in violation of this Code, or any notice issued pursuant to this section, the building official shall require the nuisance or violation to be abated and where necessary shall seek such abatement in the manner provided by Law.

(i) Administrative Authority. The building official or authorized representatives shall be the authority duly appointed to enforce this Code.

(1) Violations. It shall be unlawful for any person, firm, or corporation to violate any of the provisions of this Code. The issuance or granting of a permit or approval of plans shall not prevent the building official from thereafter requiring the correction of errors in said plans and specifications or from preventing construction operations being carried on hereunder when in violation of this Code, or of any other Ordinance, or from revoking any certificate of approval when issued in error. Every permit issued by the building official under the provisions of this Code shall expire by limitation and become null and void if the

work authorized by such permit is not commenced within 180 days from date of issuance of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work provided no changes have been made or will be made in the original plans and specifications for such work and provided further that such suspension or abandonment has not exceeded one (1) year.

(2) Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code shall be guilty of a violation of this code. In addition to any administrative remedies or other legal or equitable remedies provided, any persons violating the provisions of this code shall, upon conviction thereof, be fined in a sum not to exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the city ordinances is committed, continued or permitted by any such person.

(3) Liability. The building official or any employee charged with the enforcement of this Code acting in good faith without malice for the jurisdiction in the discharge of his/her duties shall not thereby render himself liable personally and he/she hereby is relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reasons of any act or omission in the discharge of his/her duties. Any suit brought against the building official or his/her employees because of such act or omission performed by him/her in the enforcement of any provisions of this Code shall be defended by legal representation of the City until final termination of the proceeding.

(j) Permit Required:

(1) No installation, alteration or removal shall be made to the wiring of any building or structure for light, heat or power or to increase the load of energy carried by such wires or equipment, nor shall any building or structure be wired for electric lights, appliances, motors, apparatus or heating devices, nor shall alterations be made thereto without a permit being first issued by the City and applicable business and contractor licenses.

(2) The building official may in writing suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied or in violation of any Ordinance or regulation of any provisions of this Code.

(k) Permit fees. Permit fees shall be established administratively.

(l) The building official is authorized to establish a refund policy.

(m) Inspections. All work shall be subject to inspection by the building official or his/her appointed designee. Any portion of equipment which will be concealed prior to completion shall be subject to inspection prior to such work being concealed.

(n) Board of Building Code Appeals shall be the same as set out in section 4-104 of the

City Code.
(Ord. No. 1017, § 1(4-902), 3-11-2021)

4-903. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2017 EDITION OF THE NATIONAL ELECTRICAL CODE:

(a) Section 210.12(A), entitled "Dwelling Units," shall be amended to read as follows: All 120-volt, single phase, 15- and 20-ampere branch circuits supplying outlets installed in dwelling unit bedrooms, dens, libraries, closets and similar rooms or areas shall be protected by a listed arc-fault circuit interrupter, combination-type, installed to provide protection of the branch circuit. Arc-fault circuit interrupters, combination types, will not be required for the family rooms, dining rooms, living rooms, parlors, sunrooms, recreation rooms, hallways or similar rooms or areas. Isolated circuits serving smoke detectors and/or carbon monoxide detectors shall be exempt from arc-fault protection.

(b) Section 310.1, entitled "Scope," shall be amended to read as follows: This Article covers general requirements for conductors and their type designations, insulations, markings, mechanical strengths, ampacity ratings and uses. These requirements do not apply to conductors that form an integral part of equipment such as motors, motor controllers and similar equipment or to conductors specifically provided for elsewhere in this Code.

Informational Note: For flexible cords and cables, see Article 400. For fixture wires, see Article 402.

The use of nonmetallic sheathed cable with aluminum or copper clad aluminum conductors size 8 or smaller will not be permitted for branch circuit wiring in construction, alteration, or repair. This shall apply to branch circuits from distribution point.
(Code 2008 § 4-802; Ord. No. 1017, § 1(4-903), 3-11-2021)

ARTICLE 10. ENERGY CONSERVATION CODE

4-1001. INCORPORATING THE 2018 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE.

There is hereby incorporated by reference for the purpose of regulating building and construction practices and to provide for the public safety and welfare within the corporate limits of the City of Westwood, Kansas, that certain document known as the "International Energy Conservation Code" 2018 Edition, including Appendix RA, as published by the International Code Council, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than two (2) copies of the International Mechanical Code shall be marked or stamped "Official Copy as incorporated by ordinance No. 1018," 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. One such copy, however, may be in electronic form, provided that any changes or amendments are attached to or recorded in such electronic format so as to be readily understood. 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 International Energy Conservation Code similarly marked, as may be deemed expedient.

(Ord. No. 1018, § 1(4-1001), 3-11-2021)

4-1002. REVISED, AMENDED, OR DELETED SECTIONS OF THE 2018 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE:

(a) Section R101.1, entitled "Title," shall be amended to read: "These provisions shall be known as the International Energy Conservation Code of the City of Westwood, Kansas, and shall be cited as such and will be referred to herein as "this code.""

(b) Section R109.1, entitled "General," shall be amended to read as set out in section 4-104 of the City Code.

(c) Table R402.1.2 is hereby amended to read as follows:

Table R402.1.2

Insulation and Fenestration Requirements by Component^a

<i>Clim ate Zone</i>	<i>Fenestrat ion U- Factor</i>	<i>Skylig ht U- Factor b</i>	<i>Glazed Fenestrati on SHGC^b</i>	<i>Ceili ng R- Valu e^f</i>	<i>Woo d Fram e Wall R- Valu e</i>	<i>Mas s Wall R- Valu e</i>	<i>Floo r R- Valu e</i>	<i>Base ment Wall R- Value c</i>	<i>Slab R- Valu e & Dept h^d</i>	<i>Crawl Spac e Wall R- Value c</i>
4	0.35	0.55	0.4	49	13	8/13	19	10/13	NR	10/13

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

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

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

d. R-5 shall be added to the required slab edge R-values for heated slabs.

e. No change.

f. No change.

g. No change.

h. Refers to wall cavity insulation minimum standards only.

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

mass wall.

j. Loose-fill insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1,000 sq. ft." Where the pitch of the roof restricts the minimum thickness at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high density batts around the perimeter edge per R1102.2.

(Ord. No. 1018, § 1(4-1002), 3-11-2021)

ARTICLE 11. MOVING BUILDINGS

4-1101. PUBLIC WORKS DIRECTOR; AUTHORITY.

The Public Works Director or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with sections 4-204 through 4-209 of this chapter, which apply in a like manner to this article.

(Code 2008, § 4-1101; Ord. No. 1028, § 1(4-1101), 5-12-2022)

4-1102. PERMIT REQUIRED.

No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor.

(Code 2008, § 4-1102; Ord. No. 1028, § 1(4-1102), 5-12-2022)

(K.S.A. 17-1914)

4-1103. SAME: APPLICATION FOR PERMIT. ⁵

All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and time said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved. If the house, building, derrick or other structure is being moved outside the city, notice shall also be sent by the applicant to the County Clerk for Johnson County, Kansas and the County Clerk for any other Kansas County through which the house, building, derrick or other structure will be moved. Notice shall state whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. Documentation of approved disconnection from each utility provider providing service to the house, building, derrick, or other structure shall be submitted by the applicant to the city clerk .

⁵ **Legal analysis: 4-1103. SAME: APPLICATION FOR PERMIT.** Revised for clarity as to who sends the notice to the county, assuming it is the responsibility of the applicant and not the city.

(Code 2008, § 4-1103; Ord. No. 1028, § 1(4-1103), 5-12-2022)
(K.S.A. 17-1915)

4-1104. SAME; BOND, INSURANCE REQUIRED.

It shall be the duty of any person at the time of making application for a permit as provided in this article to provide public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of not less than \$1 million.

(Code 2008, § 4-1104; Ord. No. 1028, § 1(4-1104), 5-12-2022)

4-1105. SAME; FEE.

Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee established administratively to the city clerk; plus any additional costs for the time for any city personnel involved in such moving, including, but not limited to, any public works or law enforcement personnel needed to accomplish the move safely. All said fees shall be paid to the city clerk.

(Code 2008, § 4-1105; Ord. No. 1028, § 1(4-1105), 5-12-2022)

4-1106. CONTRACTOR; LICENSE REQUIRED; FEE.

(a) The applicants shall provide to the City the name of the contractor who will move the house, building, derrick, or other structure, along with evidence of that contractor's liability insurance with an insurance company licensed to do business in Kansas. The amount of liability insurance will be not less than \$1,000,000 per occurrence and \$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 or wrongful acts or omissions of the applicant or the contractor. The contractor shall also have coverage for automobile liability in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The City shall be an additional insured on all policies of permittee, to the extent permitted by law, unless waived in writing by the City. If the contractor 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, and shall agree to indemnify and hold the City harmless for any losses associated with permittee's activities in the right-of-way. All contractors actually performing work for any permittee hereunder shall be subject to the same insurance requirements set forth herein.

(b) The contractor shall at all times during the term of the permit, and for two years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be \$50,000 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 contractor's faithful performance of the provisions, terms and conditions conferred by this Article. 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 the 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.

(Code 2008, § 4-1106; Ord. No. 1028, § 1(4-1106), 5-12-2022)

4-1107. ROUTE; DUTIES OF PUBLIC WORKS DIRECTOR. ⁶

(a) The city clerk shall, upon filing of the above application, refer the same to the public works director or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then the public works director may designate such other route as the one to be used and shall notify the applicant of the same. The public works director may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto, the cost of which shall be borne by the applicant.

(b) It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. The chief building official is also responsible for ensuring that removal of the house, building, derrick or other structure is performed in a safe manner.

(c) The public works director or the designee thereof has the authority to stop or halt the moving of any house or other structure if it is being moved in violation of the plan established therefore or in the interest of public health and safety.

(Code 2008, § 4-1107; Ord. No. 1028, § 1(4-1107), 5-12-2022)

4-1108. NOTICE TO OWNERS.

(a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation.

(Code 1993, 4-205; Code 2008, § 4-1108; Ord. No. 1028, § 1(4-1108), 5-12-2022)

(K.S.A. 17-1916)

4-1109. DUTY OF OWNERS.

(a) It shall be the duty of any public or municipally owned utility owning or operating such wires, cables, or other aerial equipment after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires

⁶ **Legal analysis: 4-1107. ROUTE; DUTIES OF PUBLIC WORKS DIRECTOR.** Divide this section into subsections so as to more easily differentiate the responsibilities of the public works director versus the chief building official.

as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the applicant to each public or municipally owned utility. The public or municipally owned utility may require the applicant to furnish it with appropriate bond or other surety agreement insuring the payment of all expenses incurred as a result of the applicant's moving operations.

(b) The owner of any wires, cables or other aerial equipment shall be liable to the permit holder for damages in an amount not to exceed \$100.00 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

(Code 2008, § 4-1109; Ord. No. 1028, § 1(4-1109), 5-12-2022)

(K.S.A. 17-1917)

4-1110. TREES.

If any trees or foliage must be trimmed, cut, or otherwise moved to facilitate the moving operations, the applicant must arrange for an ISA Certified Arborist, or some other licensed arborist service to perform such trimming at the applicant's expense. The applicant must provide notice to the property owner on which any such trees will be trimmed prior to any trimming activities. The public works director shall also be notified of any tree trimming and can require an alternative route if the trimming exceeds what the public works director finds to be reasonable.

(Ord. No. 1028, § 1(4-1110)(1), 5-12-2022)

4-1110. INTERFERING WITH POLES; WIRES.

It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment.

(Code 2008, § 4-1110; Ord. No. 1028, § 1(4-1110)(2), 5-12-2022)

(K.S.A. 17-1918)

4-1111. DISPLAY OF ~~LANTERNS~~ WARNING LIGHTS. ⁷

It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display warning lights thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise.

(Code 2008, § 4-1111; Ord. No. 1028, § 1(4-1111), 5-12-2022)

⁷ **Legal analysis: 4-1111. DISPLAY OF LANTERNS.** Revise heading for modern language usage.

CHAPTER 5.

BUSINESS REGULATIONS

- Article 1. General Regulations and Licenses
- Article 2. Solicitors, Canvassers, Peddlers and Transient Merchants
- Article 3. Drive-In Business
- Article 4. Bath Houses; Massage Establishments
- Article 5. Amusement Devices
- Article 6. Wrecker and Tow Services
- Article 7. Water Conditioning Contractors
- Article 8. Adult Entertainment Regulations.
- Article 9. Franchises

**ARTICLE 1. GENERAL REGULATIONS AND LICENSES****5-101 Definitions.**

Terms as used in this chapter shall be defined as follows:

- (a) Person - means any individual, partnership, corporation, firm, or gas station, association, joint stock company or syndicate who or which is engaged in any business, trade, occupation or profession, or rendering or furnishing any service for profit or livelihood and subject to the provisions of this article: Provided, That any individual in the direct employ of any person licensed under the provisions of this article is not a person unless such individual operates as a subcontractor; but if such individual performs any service or practices his or her skill for compensation for any person other than his or her licensed employer, he or she is a person and must pay the tax and obtain a license if such be required by the terms of this article.
- (b) Business - means and includes businesses, trades, occupations, professions, the renting or leasing (or the offering for rent or lease) of property for residential or business use, and also the rendering or furnishing of a service; provided, that the name of a business, trade, occupation or profession may be used, and when so used, shall refer to the particular business, trade, occupation or profession.
- (c) Business Property - Any property subject to licensure herein or upon which any commercial, business or professional activity is conducted, except as may be exempt by state law or other authority.
- (d) Home Business - Any business or activity operated out of the home, a material purpose for which is the conduct of commerce or some other business of commercial enterprise for profit or gain. Any declaration of income on any government tax form generated from a home-based enterprise is prima facie evidence of the establishment and

operation of a business on the premises,

(e) Fee - means an occupation or license fee for city revenue without regulations upon and for the privilege of engaging in business as herein defined.

(f) License - means the documents issued by the city acknowledging payment of the required amount of tax, and stating the name of the licensee, the kind of business and where located, the period which the tax covers, such other matter as may be required and signed by the proper officer or officers.

(Code 2008, § 5-101; Ord. 339, Sec. 2; Ord. 734, Sec. 2)

5-102. LICENSE REQUIRED.

It shall be unlawful for any person, firm, or corporation to conduct or pursue any occupation, business or profession, for which a license is required under this chapter, without having a valid license in possession or on the licensed premises.

(Code 1983; Code 1993, 5-103; Code 2008, § 5-102)

5-103. PURPOSE.

The licenses provided for herein are solely for the purpose of providing revenue to defray a part of the expenses of the city, and not for the purpose of regulation.

(Code 1993, 5-301; Code 2008, § 5-103; Ord. 339, Sec. 1)

5-104. EXEMPTIONS.

Nothing herein shall be construed as applying to or taxing:

- (a) The interstate portion of any business;
- (b) Any business the taxing of which by a city is prohibited by the statutes of the State of Kansas;
- (c) Instrumentalities of the government of the United States, unless authorized by laws of the United States;
- (d) Organizations of any kind or the employees thereof wholly for charitable, religious, benevolent, fraternal, civic, educational, military, municipal or similar purposes, and from which profit is not derived, either directly or indirectly by any individual.

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

(Code 1993, 5-302; Code 2008, § 5-104; Ord. 339, Sec. 3)

5-105. OCCUPATION FEES LEVIED.

There are hereby levied occupation fees in the amounts and for the periods stated upon the business as hereinafter stated:

(a) Any occupation of a service character conducted in a residence which occupation is clearly secondary to the main use of the premises as a dwelling place and does not change the character thereof, and does not change the appearance with signs, material, equipment, noise, odor or other nuisance or unusual pedestrian or vehicular traffic pertinent to such home occupation which shall be carried on by members of a family residing in the dwelling, and in connection with which there is kept no stock in trade or commodity for sale upon the premises shall pay an occupational fee of \$25.00 per year.

(b) All indoor/outdoor recreational facilities shall pay an occupational fee of \$350.00 per location.

(c) All callings, trades, professions, occupations, manufacturers, stores, industries, processors, wholesalers and similar activities, the occupation fee of which is not set forth in subsections (a) or (b) of this section, shall pay an occupation fee computed on the basis of five cents (\$.05) per square foot of the floor which it occupies which has the greatest area without regard to use; five cents (\$.05) per square foot of other floor areas when used for retail sales and five-tenths of one cent (\$.005) per square foot of outside display or drive-in service area occupied. When a business occupies multiple floors (except retail sales as provided herein above) the fee shall be calculated upon the floor which has the greatest area, the minimum occupation fee computed as herein provided shall not be less than \$50.00 per year.

(d) Cereal malt beverages; alcoholic liquor.

(1) Sales of cereal malt beverages in original containers for consumption off the premises shall pay an occupational fee of \$50.00 per year, which shall be in addition to any other occupation licenses required in connection with any other business of the applicant.

(2) Cereal malt beverages at retail for consumption on the premises shall pay an occupational fee of \$100.00 per year.

(3) Sale of alcoholic liquor by the package at retail or for consumption on the premises shall pay an occupational fee of \$300.00 per year.

(e) Rental/Leasing Businesses. - Persons engaged in the business of owning residential rental properties shall pay an annual occupational fee of \$30.00 per structure, if the rental property is offered for lease by a leasing agent of the owner, then the fee required shall be made and paid by the leasing agent, unless paid by the owner, if any rental property is offered for lease by the owner of a property who is not a resident of Johnson County, the owner must designate a resident agent who resides in Johnson County. The agent shall be responsible for the payment of all fees and penalties as provided herein.

If any person fails or refuses to pay any fee or penalties as provided by this section, the city may collect the amount due in the same manner as a personal debt of the property owner to the city by bringing an action in the District Court of Johnson County. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest to the same effect and extent as for the enforcement of any action for debt. All provisional remedies available in such actions shall be and are hereby made available to the city in the enforcement of the payment of such obligations. In such

actions, the city also shall be entitled to recover interest at the rate provided in K.S.A 79-2968, and amendments thereto from and after the date a delinquency occurs in the payment of the fee. The amount owing may be assessed against the property and the city clerk may at the time of certifying other taxes to the county clerk, certify the aforesaid fees and penalties owing by the proper owner; 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. The city may pursue collection both by levying a special assessment and in the manner of a civil action as described herein, but only until the full cost and any applicable interest has been paid in full.

(Code 2008, § 5-105; Ord. 777; Sec. 1; Ord. 770, Sec. 1)

5-106. TWO OR MORE BUSINESSES, SAME LOCATION.

A person engaged in two or more businesses at the same location shall not be required to obtain separate licenses for each business but shall be issued one license at the highest fee applicable.

(Code 1993, 5-304; Code 2008, § 5-106; Ord. 339, Sec. 5)

5-107. LEASED DEPARTMENTS.

Any person operating what is commonly known as a leased department in a business establishment shall pay the fee applicable to the business conducted by the department.

(Code 1993, 5-305; Code 2008, § 5-107; Ord. 339, Sec. 6)

5-108. LICENSE APPLICATION: PROCEDURE.

Any person shall before engaging in any business or before continuing such business after a license has expired, make application for a license and pay the proper fee. Application shall be made to the city clerk giving the name of the person, the kind of business, location and such other information as may be necessary, or directed by the city clerk, to determine the amount to be paid. All such information furnished the city clerk shall be true, to the knowledge of the person making such application and any such false information as to the kind of business, location, use of the property and such other information as is required by the city clerk, shall subject such license to be declared void and subject such person to the penalty as set out in section 5-316 hereof. The city clerk may, in his or her discretion, cause an investigation to be made to determine the accuracy of such statements furnished the city clerk.

(Code 1993, 5-306; Code 2008, § 5-108; Ord. 548, Sec.1)

5-109. SAME; RECEIPT AND LICENSE.

The city clerk shall, when satisfied of the accuracy of the information and the proper amount having been paid, issue a receipt stating the name of the person, kind of business, his, her or its location, the date of issuance, the amount paid, the duration and expiration.

In addition to the receipt, the city clerk shall issue a license stating the name of the licensee, the nature of the business, the exact location, if possible, the amount paid and date, and date of expiration. The license shall be signed by the city clerk.

(Code 1993, 5-307; Code 2008, § 5-109; Ord. 339, Sec. 8)

5-110. EXPIRATION OF LICENSE.

All annual licenses shall expire on January 15 of each year: Provided, That when a business begins operation on or after July 1 of any year, the amount charged shall be one-half of the annual amount.

(Code 1993, 5-308; Code 2008, § 5-110; Ord. 727, Sec. 1)

5-111. TRANSFERS.

(a) There shall be no transfer of license from one person to another, except that where a business, including stock, if any, is sold and the new owner continues the business at the same location and under the same name, the license shall continue to expiration. If the holder of a license moves a stock of goods from the location stated on the license to another location and begins business at the new location, he or she may return the license to the city clerk and secure a substitute license upon payment of a fee set by the governing body and any additional prorated amount for the unexpired term, should a greater amount be required at the new location.

(b) The annual fee is non-refundable. No reduction in the fee will be refunded if a business should become subject to a smaller fee during a given year.

(Code 2008, § 5-111; Ord. 339, Sec. 10)

5-112. LATE PAYMENT, PENALTY.

Any person who, under the provisions of this article, is required to pay a fee, and who does not pay the fee within 30 days after it becomes due, shall pay, in addition to the fee, a penalty of 10% of the amount of the fee; and 10% of the fee shall be added as a penalty for each additional 30 days' delinquency.

(Code 1993, 5-310; Code 2008, § 5-112; Ord. 339, Sec. 11)

5-113. DISPOSITION OF REVENUE.

The revenue received under the provisions of this article shall be credited to the city general fund.

(Code 1993, 5-311; Code 2008, § 5-113; Ord. 339, Sec. 12)

5-114. LICENSE TO BE DISPLAYED. ¹

All persons not having permanent location are required to carry their license with them. A licensee shall present his or her license for inspection when requested to do so by any officer of the city.

(Code 1993, 5-312; Code 2008, § 5-114; Ord. 339, Sec. 13)

¹ **Legal analysis: 5-114. LICENSE TO BE DISPLAYED.** If applicable, add provision also mandating display of license in a permanent location if one exists.

5-115. BUSINESS TRANSACTIONS NOT INVALID.

The pursuing, conducting or carrying on of any business without the payment of the fee required and without having secured a license as provided by this article shall not affect the validity of any business transaction; which would otherwise be lawful.

(Code 1993, 5-313; Code 2008, § 5-115; Ord. 339, Sec. 14)

5-116. PAYMENT OF FINE DOES NOT PAY FEE; CIVIL ACTION.

The payment of a fine or the serving of a jail sentence for failure to pay the fee and secure a license shall not constitute payment of the fee and does not excuse the person from making payment, and the city may proceed by civil action to collect the fee.

(Code 1983; Code 1993, 5-314; Code 2008, § 5-116)

5-117. PENALTY.

Any person, as defined by this article who shall conduct, pursue, carry on or operate within the corporate limits of the city any business as defined by this article, and any individual who shall assist directly or indirectly, in so doing in any manner or to any extent, either as owner, proprietor, manager, superintendent, partner, agent, servant, or employee of any person after a fee should have been paid and a license obtained to conduct, pursue, carry on or operate such business and the fee has not been paid and a license obtained, shall be deemed to do so unlawfully and upon conviction thereof in the municipal court shall be punished by a fine of not more than \$500.00, or by imprisonment in the city jail for a period not exceeding 180 days, or by both such fine and imprisonment.

A separate offense shall be deemed committed on each day during or at which a violation occurs or continues.

(Code 1970, 5-316; Code 1993, 5-315; Code 2008, § 5-117)

5-118. SALES ON PUBLIC PROPERTY.

No merchandise, goods, wares or edible products of any nature whatsoever may be displayed for sale or sold within and upon the city streets or public property, except upon proper application for a license for the use of public grounds as set forth in section 12-104 of this code.

(Code 1993, 5-102; Code 2008, § 5-118)

5-119. NEW GOODS PUBLIC AUCTION: LICENSE FEE.

The license fee for the conduct of a new goods public auction shall be \$25.00 per day as provided in K.S.A. 58-1019.

(Code 1983; Code 1993, 5-105; Code 2008, § 5-119)

5-120. RIGHT TO INSPECT BUSINESS PROPERTY.

The city shall have the right to enter upon any business property to the extent permitted by law, to determine:

- (a) The use of the property is in compliance with the applicable zoning laws.
- (b) The property meets the requirements of the city's building and safety codes.
- (c) No condition exists in the structure or on the property upon which it is located constituting a violation of any other code or ordinance of the city.
(Code 2008, § 5-120)

ARTICLE 2. SOLICITORS, CANVASSERS, PEDDLERS, TRANSIENT MERCHANTS

~~5-201. STATEMENT OF PURPOSE.~~²

~~It is the purpose of this article to protect the general public against:~~

- ~~(a) Crimes, frauds and misrepresentation committed by persons posing as solicitors;~~
- ~~(b) The continuing danger of fraud, robbery, and other crimes to the residents of the city; and~~
- ~~(c) Undue annoyances caused by solicitors.~~
(Code 1993; Code 2008, § 5-201)

5-202. DEFINITIONS.

For the purpose of this article, the following words shall be considered to have the following meanings:

- (a) Soliciting - shall mean and include any one or more of the following activities:
 - (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services, of any kind, character or description whatever, for any kind of consideration whatever; or
 - (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
 - (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication.
- (b) Residence - shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (c) Solicitor - shall mean any individual, whether resident of the city or not, whose business is mainly or principally carried on by traveling either by foot, automobile, motor truck, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and

² Legal analysis: 5-201. STATEMENT OF PURPOSE. Delete as not needed.

merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is collecting advance payments on such sales or not. Such definition shall include any person, who, for himself, herself or for another person, hires, leases, uses, or occupies any building, structure, tent, ~~railroad boxcar~~, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery. Solicitor includes charitable solicitors. ³

(d) Peddler - shall mean any person, whether a resident of the city or not, traveling by foot, automotive vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a ~~wagon~~, automotive vehicle, ~~railroad boxcar~~ or other vehicle or conveyance, and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this article shall be deemed a peddler. ⁴

(e) Transient merchant, itinerant merchant or itinerant vendor - are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, ~~railroad boxcar~~, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. ⁵

(f) Street salesman - shall mean any person engaged in any manner in selling merchandise of any kind from a vehicle or stand temporarily located on the public streets or sidewalks of this city.

(g) Charitable - means any activity represented as carried on for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for private gain.

³ **Legal analysis: 5-202. DEFINITIONS, (c) solicitor.** Delete "railroad boxcar" if obsolete.

⁴ **Legal analysis: 5-202. DEFINITIONS, (d) peddler.** Delete "wagon" and "railroad boxcar" if obsolete.

⁵ **Legal analysis: 5-202. DEFINITIONS, (e) transient merchant.** Delete "railroad boxcar" if obsolete.

~~(h) City means the City of Westwood, Kansas.~~⁶

(i) Commercial Handbill - is any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise, product, commodity or thing;
- (2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged. for the purpose of private gain or profit.
- (4) Exemption for mail and newspapers. For purposes of this ordinance the term commercial handbill shall not be construed to include mail delivered by the United States Postal Service or newspapers duly entered with the Post Office Department of the United States and newspapers filed and recorded with any recording officer as provided by general law or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
(Code 2008, § 5-202)

5-203. SOLICITATION PERMITS REQUIRED.

Every solicitor, peddler, transient merchant, itinerant merchant, itinerant vendor, or street salesman must obtain a permit from the city before soliciting within the city. In order to obtain a permit to solicit, the applicant must furnish the information required under this article to the city clerk.

(Code 1993; Code 2008, § 5-203)

5-204. INFORMATION REQUIRED ON APPLICATION FOR SOLICITATION PERMIT.

An applicant for a solicitation permit shall furnish to the city clerk an application containing the following information:

- (a) The name and address of the principal office of the person applying for the permit (including both local and non-local principal offices where such exist);
- (b) If the applicant is not an individual, the names and addresses of the applicants principal officers and executives;
- (c) The purpose for which the solicitation is to be made;
- (d) The name and address of the person or persons who will be making the

⁶ **Legal analysis: 5-202. DEFINITIONS, (h) city.** Delete as covered by General Provisions in Chapter 1.

solicitations;

(e) The time when the solicitations will be made, giving the expected dates for the commencement and termination of the solicitations, subject to the limitations on time for solicitations contained in this article;

(f) A statement to the effect that if a permit is granted:

(1) It will not be used or represented in any way as an endorsement by the city by any department or officer thereof;

(2) That during the period specified in the permit, if there is any change in fact, policy or method that would alter the information given in the application, the applicant will notify the city clerk in writing thereof within 48 hours after such change;

(3) At no time during the period of solicitation will the applicant or his or her agents solicit at any residence within the city where there is clearly and visibly posted any sign requesting No Solicitation, or No Trespassing or words of similar import;

(4) The applicant and all persons for whom application is made will carry on their person a copy of the solicitation permit issued by the city.

(g) A sample of the identification badge or card that each person participating in the solicitation shall wear or carry, indicating that person's name and the name of the organization for which he or she is soliciting. Such badge or card shall be furnished by the organization and be approved by the city clerk.

(Code 1993; Code 2008, § 5-204)

5-205. STANDARDS FOR ISSUANCE.

(a) The city clerk shall except as provided by this article, issue a solicitation permit provided for by this article upon receiving a completed application form from the applicant or their representative.

(b) The city clerk, or a person designated by the city clerk to review applications for solicitation permits, may defer issuance of any solicitation permit for such period of time as is reasonably necessary to verify the accuracy of information required to be provided in the application for solicitation permit.

(c) The city clerk shall not issue a solicitation permit to any person who within the five years preceding the date of filing of an application for solicitation permit has been convicted of a felony, or other violation of the laws of the United States or of any state or city of the United States where such conviction was for an offense involving force or threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude or where such conviction was for violation of this ordinance or the solicitation ordinance of any other city.

(d) Any person who is aggrieved by the refusal of the city clerk to issue a solicitation permit may appeal the refusal to the governing body. On refusal, the city clerk shall notify the applicant by registered mail of the refusal to issue a solicitation permit and that the

applicant may appeal the refusal to the governing body by requesting a hearing before the governing body not later than 30 days following receipt of the notice of refusal. The notice of refusal shall contain a statement of the facts upon which the city clerk acted in refusing to issue a permit. On receipt of a request for hearing before the governing body, the city clerk shall schedule the matter to be heard before the next regularly scheduled meeting of the governing body unless the applicant shall request that the hearing be scheduled at a later date. In no event shall such hearing be held more than 30 days following receipt of the applicant's request for hearing. At the hearing the applicant may offer evidence to supply any contention that a permit should be issued.
(Code 1993; Code 2008, § 5-205)

5-206. APPLICATION AND PERMIT AVAILABLE FOR PUBLIC INSPECTION.

All applications, permits and supporting documentation filed with the city clerk shall be a matter of public record, and shall be available for examination and inspection by any member of the public during regular business hours.
(Code 1993; Code 2008, § 5-206)

5-207. FEES.

There shall be no fees or charges paid to the city for a permit pursuant to this article.
(Code 1993; Code 2008, § 5-207) ⁷

5-208. CONTENTS OF PERMIT.

Permits issued under the provisions of this article should bear the name and address of the person to whom the permit is issued, the number of the permit, the dates within which the permit holder may solicit, the statement that the permit does not constitute an endorsement by the city or by any of its departments, officers or employees, of the purpose or the person conducting the solicitation, and the signature of the city clerk or his or her designee.
(Code 1993; Code 2008, § 5-208)

5-209. TERM OF PERMIT.

Permits issued pursuant to this article shall authorize the holder thereof to solicit for the number of days requested in the application, not to exceed 90 consecutive days. Applications for renewal of permits may be made and shall be granted if the requirements of this article are still being met and no violations of the permit or this article have been found to exist.
(Code 1993; Code 2008, § 5-209)

5-210. PERMITS NONTRANSFERABLE.

No permit issued under the provisions of this article shall be transferable or assignable.
(Code 1993; Code 2008, § 5-210)

⁷ **Legal analysis: 5-207. FEES.** Please verify that the city does not wish to revise these terms to include a fee.

5-211. SUSPENSION OR REVOCATION OF PERMITS.

Any determination by the city clerk that the holder of a city permit has violated any provisions of this article or if the permit issued pursuant thereof, or that the holder of the permit has made representations which are contrary to the facts stated in the application for the permit, shall cause the city clerk to give notice to the permit holder that the permit is immediately suspended. The notice of immediate suspension is to be mailed to the permit holder by registered or certified mail, and shall notify the holder that a hearing will be had before the governing body at its next regular or special meeting for the purposes of determining whether or not the permit should be revoked. The notice shall contain a statement of the facts upon which the city clerk acted in suspending the permit and at that hearing the permit holder may offer evidence to support any contention its permit should not be revoked. No solicitation shall be made during the period of suspension or revocation of a permit.

(Code 1993; Code 2008, § 5-211)

5-212. UNIFORMITY OF ADMINISTRATION OF ARTICLE.

The city clerk is directed to administer this article uniformly, and is to require all applicants to submit the application and supporting data required by this article before issuing a permit. All applicants are to be treated alike.

(Code 1993; Code 2008, § 5-212)

5-213. PROHIBITED ACTS.

(a) It shall be unlawful for any solicitor to ring the bell, or knock on the door or otherwise attempt to gain admittance for the purpose of soliciting at a residence, dwelling or apartment at which a sign bearing the words No Solicitors, No Trespassers, or words of similar import indicating that such persons are not wanted on the premise, is painted, affixed or otherwise exposed to public view; provided that this paragraph shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof.

(b) It shall be unlawful for any solicitor to solicit prior to 10:00 a.m. or after 9:00 p.m. local times, of any day.

(c) It shall be unlawful for any solicitor to engage in soliciting upon any premise or in any dwelling house, apartment or other residence after having been asked by the owner or occupant thereof to leave the premises or residence.

(d) It shall be unlawful for any solicitor to make more than one solicitation call at the same residential premises for identical goods, services, or contributions within any consecutive 60 days period, without receiving a prior invitation thereof from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.

(e) It shall be unlawful for any solicitor to fail to provide, at the request of the purchaser, a written receipt, for purchases exceeding \$5.00 in cash or tangible property which receipt shall be signed by the person making the sale and shall set forth a brief

description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any charitable solicitor or organization accepting any contribution exceeding \$5.00 in cash or tangible property to fail to provide at the request of the donor a written receipt acknowledging such contribution and personally signed by the person accepting such contribution.

- (f) It shall be unlawful for any solicitor to fail at the outset to disclose to the prospective buyer, prospective donor, or canvasee his or her name and the name of the company, product or organization he or she represents.
- (g) It shall be unlawful for any solicitor to make any assertion, representation or statement which misrepresents the purpose of his or her call, or use any plan, scheme, or use which misrepresents such purpose.
- (h) It shall be unlawful for any solicitor to conduct his or her business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.
- (i) It shall be unlawful for any person to solicit who has been convicted of a felony or the violation of any law involving force, violence, moral turpitude, deceit, fraud, or the violation of any law regulating the act of soliciting as defined in this article within the past five years in this state or any other state or subdivision thereof or of the United States.
- (j) It shall be unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence.
- (k) It shall be unlawful for any person to solicit or attempt to solicit without carrying upon their person a copy of the permit issued by the city authorizing solicitation and an identification badge or card as described in section 5-204(g) of this article.
(Code 1993; Code 2008, § 5-213)

5-214. PENALTIES.

Any person who violates or causes to be violated any provision of this article, or who gives false and incorrect information to the city clerk in filing statements or reports required by this article, whether such report or statement is verified or not, shall be guilty of a municipal offense and upon conviction thereof, shall be subject for the first offense to a fine of not less than \$100.00 or more than \$500.00 and for the second or any subsequent offense to a fine of not less than \$500.00 or more than \$1,000.00. Jail time not to exceed six months may be added as additional punishment or in lieu of a fine, at the discretion of the judge.

(Code 1993; Code 2008, § 5-214)

ARTICLE 3. DRIVE-IN BUSINESS ⁸

⁸ **Legal analysis: ARTICLE 3. DRIVE-IN BUSINESS.** Please advise whether the city would like to revise the definitions and/or regulations in this article to account for the growing popularity of eat-in dining establishments offering curbside pickup service.

5-301. DEFINITION.

The term "drive-in business" as used herein shall be construed to mean any and all businesses which furnish curbside or delivery service to patrons outside of the building occupied by the business. The term "drive-in business" does not include: pay phones, ATM machines, vending machines and similar automated devices.

(Code 2008, § 5-301; Ord. 397, Sec. 1)

5-302. RULES AND REGULATIONS.

All persons, firms, associations or corporations, either as principal or agent of any drive-in business, shall conform to the following rules and regulations:

(a) There shall be placed on the building or premise, notifying patrons desiring curbside or delivery service, signs visible to car occupants reading as follows Flash lights for car service.

(b) No curbside or delivery service shall be furnished patrons between the hours of 10:00 p.m. and 7:00 a.m.

(c) It shall be unlawful to use any device known as a loud-speaker, record player, radio, sound amplifier, bells, buzzers or signal calls the purpose of attracting attention or for advertising purposes outside of the building occupied by the business.

(d) No curbside or drive-in service shall be rendered to patrons, except on property owned or leased by the proprietor of the drive-in business.

(e) It shall be the duty of the owner, occupant or agent of the drive-in business to see that patrons shall not use the horn of their motor vehicle for a curbside or drive-in service.

(f) It shall be the duty of the owner, occupant or agent of the drive-in business building shall be kept free from all rubbish, waste paper, napkins, paper cups, sweepings or other loose combustible material.

(Code 1993, 5-402; Code 2008, § 5-302; Ord. 397, Sec. 2)

5-303. PENALTY.

Any person, firm or corporation or any agent, manager or employee, officer or employer thereof, who shall violate or shall cause, permit or direct the violation of any of the provisions of this article shall upon conviction thereof, be fined in any sum not less than \$150.00, nor more than \$500.00 for each offense. Each occasion upon which violation shall occur shall be deemed a separate offense.

(Code 1993, 5-403; Code 2008, § 5-303; Ord. 397, Sec. 3)

ARTICLE 4. BATH HOUSES; MESSAGE ESTABLISHMENTS**5-401. DEFINITIONS.**

For the purpose of this article, the following words shall mean:

- (a) Bath House. - The occupation of maintaining and operating for compensation any services of baths of all kinds, including all forms and methods of hydrotherapy.
- (b) Body Painting Studios. - The occupation of maintaining, operating and offering any services for compensation of applying paint or other substance, whether transparent or non-transparent, to or on the human body when such body is wholly or partially nude, by any means of application, technique, or process.
- (c) Employee. - Any person, other than masseurs or masseuses, who renders any service to a permittee under this article, who receives compensation from the permittee or patron.
- (d) Establishment. - Any establishment having a place of business where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentioned herein for compensation.
- (e) Massage. - Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in this practice.
- (f) Massage therapist. - Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined. Any reference herein to "masseuse" or "masseur" shall mean and apply to a "massage therapist."
- (g) Modeling studio. - The occupation of maintaining, operating and offering any services for compensation of modeling for the purpose of reproducing the human body, wholly or partially in the nude, by means of photograph, painting, sketching, drawing or otherwise. To be included within the definition of modeling studios is the occupation or practices for compensation of offering one's body, wholly or partially in the nude, for the purpose of having designs of whatever nature applied thereto by whatever process or technique with any kind of substance whether it be transparent or non-transparent.
- (h) Patron. - Any person over 18 years of age who utilizes or receives the services of any establishment subject to the provisions of this chapter and under such circumstances that it is reasonably expected that he or she will pay money to give any other consideration therefor.
- (i) Recognized school. - Any school or institution of learning which has for its purpose the teaching of the theory, method, profession or work of massage, which school requires a resident course of study not less than seventy hours to be given in not more than three calendar months before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such.
- (Ord. 598; Code 2008, § 5-401; Ord. 856, Sec. 1)

5-402. PERMIT REQUIRED.

No person, firm, partnership, association or corporation shall operate a bath house, massage establishment, body painting studio or modeling studio, as defined herein, without first having obtained a permit from the City Clerk. A separate permit shall be required for each and every separate place of business conducted by any one permittee. Such permit shall be valid only from January 15 to January 14 of a calendar year. However, the fee may be prorated to the nearest month if an application is made after July 1 of any year.
(Code 2008, § 5-402; Ord. 856, Sec. 2; Ord. No. 987, § 1, 12-14-2017)

5-403. PERMIT FEES.

Every applicant for a permit to maintain or operate any such an establishment or to perform massage therapy services in any such establishment shall file an application with the **Chief of Police** on a form approved by the **Chief of Police.** ⁹

Each establishment shall pay an annual fee of \$50.00. Each individual massage therapist shall pay an annual fee of \$25.00. Any individual who operates an establishment and who also personally provides massage therapy shall only pay the \$50.00 establishment's fee, and shall not have to pay an additional permit fee by virtue of also providing massage therapy services.
(Code 2008, § 5-403; Ord. 856, Sec. 3)

5-404. APPLICATION.

The application for a permit to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name, address and telephone number of each applicant, including any stockholder holding more than 10 percent of the stock of the corporation, any partner, when a partnership is involved, and any manager.
(Code 1993, 5-504; Code 2008, § 5-404; Ord. 598)

5-405. SAME; STOCKHOLDERS.

The applicant, employee, manager, partner and any stockholder holding more than ten percent of the stock of applicant corporation shall in addition furnish:

- (a) Name, address, telephone number and written proof applicant is at least eighteen years of age.
- (b) Two portrait photographs, at least two inches by two inches, and fingerprints.
- (c) Business, occupation or employment of the applicant for the three years immediately preceding the date of application.

⁹ **Legal analysis: 5-403. PERMIT FEES.** (1) Please clarify whether the permit application is to be provided by the city clerk (5-402), or the police chief (5-403), or whether these sections are referring to two different documents. Revise accordingly. (2) Please review the fees herein and advise as to any changes.

(d) History of person or applicant in such business or businesses, whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity of occupation subsequent to such action of suspension or revocation.

(e) All criminal citations, arrests, or charges (except for minor traffic offenses), whether resulting in a dismissal, conviction, diversion, suspended imposition of sentence, or other resolution; the jurisdiction in which cited, arrested, or charged; and the offense for which a citation, arrest, or charge was made, as well as the circumstances surrounding any such incident.

(f) Authorization for the city to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the permit.

(g) The position or function the applicant is to perform within such establishment.
(Code 2008, § 5-405; Ord. 598; Ord. 856, Sec. 4)

5-406. EDUCATION REQUIREMENTS.

(a) Any person, including an applicant for a massage establishment permit, who engages or intends to engage in the practice of massage shall, upon making application for a permit, supply the name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has successfully completed not less than 300 hours of instruction in the theory, method, or practice of massage.

(b) Applicants for a masseur or masseuse permit may substitute one years' continuous experience as a masseur or masseuse in lieu of the requirement of a diploma or certificate of graduation from a recognized school or other institution of learning wherein the method and work of massage is taught. Such masseur or masseuse must obtain an affidavit attesting to such experience from the owner of the establishment where the continuous year of experience occurred.
(Code 2008, § 5-406; Ord. 598; Ord. 856, Sec. 5)

5-407. IDENTIFICATION CARDS.

All or any employee issued a permit by the chief of police under the provisions of this article shall, at all times when working in an establishment subject to the provisions of this article, have in their possession a valid identification card issued by the city bearing the employee's permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration. All persons granted permits under this article shall at all times keep their permits available for inspection upon request of any person, who by law may inspect same.
(Code 1993, 5-507; Code 2008, § 5-407; Ord. 598)

5-408. ISSUANCE OF PERMIT.

After the filing of an application in the proper form, the City Clerk shall issue a permit for a massage establishment, bath house, modeling studio or body painting studio or

employee permit, unless:

- a) The correct permit fee has not been tendered to the city, and, in the case of a check or bank draft, honored with payment upon presentation;
- b) The operation fails to comply with state and local laws, including, but not limited to, the city's building, zoning and health regulations.
- c) Any of the following have been convicted of any crime, including, but not limited to, any felony, misdemeanor, code violation, ordinance violation, or other violation of the laws of the United State or of any state or city of the United States where such conviction was for an offense involving force or threat of force, violence, theft, dishonesty, fraud, sexual misconduct or moral turpitude or where such conviction was for a violation of this ordinance or a substantially similar ordinance or enactment of any other jurisdiction, unless such conviction occurred at least five years prior to the date of the application:
 - i) The applicant, if an individual;
 - ii) Any of the stockholders holding more than ten percent of the stock of the corporation;
 - iii) Any of the officers and directors, if the applicant is a corporation;
 - iv) Any of the partners, including limited partners, if the applicant is a partnership; and
 - v) The manager or other person principally in charge of the operation of the business.
- d) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the city in conjunction therewith.
- e) The applicant has had a massage establishment, bath house, body painting studio or modeling studio as defined herein, or other similar permit or license, denied, revoked or suspended for any of the above causes by the city or any other state or local agency within five years prior to the date of the application.
- f) The applicant, if an individual, or any of the officers and directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, is not over the age of eighteen years;
- g) The manager or other person principally in charge of the operation of the business would be ineligible to receive a permit under the provisions of this article; and
- h) In the case of a masseur or masseuse that the applicant has not successfully completed a resident course of study from a recognized school as required under the provisions of this article.
(Code 2008, § 5-408; Ord. 598; Ord. 856, Sec. 5; Ord. No. 987, § 2, 12-14-2017)

5-409. PERMIT DISPLAYED.

Any permit issued under the provisions of this article shall at all times be displayed by the permittee in an open and conspicuous place on the premises where the permitted business is conducted.

(Code 1993, 5-409; Code 2008, § 5-409; Ord. 598)

5-410. REVOCATION OR SUSPENSION OF PERMIT.

a) Any permit issued for an employee or for a massage establishment, bath house, modeling studio or body painting studio may be revoked or suspended by the City Clerk where it is found that any of the provisions of this article are violated.

b) The City Clerk, before revoking or suspending any permit, shall give the permittee at least ten days written notice of the charges against him or her and the opportunity for a public hearing before the Governing Body, at which time the permittee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

(Code 1993, 5-510; Code 2008, § 5-410; Ord. 598; Ord. No. 987, § 4, 12-1-2017)

5-411. FACILITIES.

No permit to conduct such establishment shall be issued unless an inspection by the city or its authorized representative reveals that the establishment complies with the following minimum requirements:

(a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given, floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth or any area within any permitted establishment which is fitted with a door capable of being locked.

(b) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the sex accommodated therein.

(c) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

(d) Massage therapy may also be offered as a home occupation provided that all facilities are clean and safe, and all other ordinances of the City are complied with including, but not limited to, all City ordinances and requirements pertaining to home occupations.

(Code 2008, § 5-411; Ord. 598; Ord. 856, Sec. 6)

5-412. CERTIFICATION.

The City or the City's authorized representative shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the chief of police. Nothing contained herein shall be construed to eliminate other requirements of any statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof.

(Code 2008, § 5-412; Ord. 598; Ord. 856, Sec. 7)

5-413. INSPECTIONS.

The City or the City's authorized representative shall from time to time make an inspection of each permitted establishment in this city for the purposes of determining compliance with the provisions of this article. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any permittee to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Any failure on the part of any permittee or employee to grant immediate access to such inspector shall be grounds for the revocation or suspension of any business or employee permit.

(Code 2008, § 5-413; Ord. 598; Ord. 856, Sec. 7)

5-414. OPERATION REGULATIONS.

The following regulations shall apply to any such establishment:

- (a) Such business shall be closed to the public and operations shall cease between the hours of 12:00 a.m. and 6:00 a.m. each day.
- (b) No service shall be given which is clearly dangerous or harmful in the opinion of the City or the City's authorized health or safety representative, and after such notice in writing to the licensee from such director.
- (c) All operators permitted under the provisions of this article shall at all times be responsible for the conduct of business on their permitted premises and for any act or conduct of his or any of his employees which constitutes a violation of the provisions of this chapter. Any violation of the city, state or federal laws committed on the permitted premises by any such permittee or employee affecting the eligibility or suitability of such person to hold a license or permit may be grounds for suspension or revocation of the same.

(Code 2008, § 5-414; Ord. 856, Sec. 8)

5-415. SAME; EQUIPMENT; ATTIRE.

- (a) Every portion of a permitted establishment, including appliances and personnel shall be kept clean and operated in a sanitary condition.
- (b) All employees, masseurs and masseuses must be modestly attired. Diaphanous, flimsy, transparent, form-fitting or tight clothing is prohibited. Clothing must cover the

employees', masseurs' or masseuses' chests at all times. Hemlines of skirts, dresses or other such attire may be no higher than the top of the knee.

(c) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee, masseur or masseuse. Any contact with a patron's genital area is strictly prohibited.

(d) All permitted establishments, when applicable, shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in approved, sanitary manner.

(e) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

(Code 2008, § 5-415; Ord. 596; Ord. 856, Sec. 9)

5-416. SUPERVISION.

A permittee shall have the premises supervised at all times when open for business. Any business rendering massage services shall have one person who qualifies as a masseur or masseuse on the premises at all times while the establishment is open. The permittee shall personally supervise the business and shall not violate or permit others to violate, any applicable provision of this article. The violation of any such provision by any agent or employee of the permittee shall constitute a violation by the permittee.

(Code 1993, 5-516; Code 2008, § 5-416; Ord. 598)

5-417. EMPLOYEE REGISTERS.

All operators permitted under the provisions of this article shall keep and maintain on their premises a current register of all their employees showing such employee's name, address and permit number. Such register shall be open to inspection at all reasonable times by any health inspector or members of the city police department.

(Code 2008, § 5-417; Ord. 596)

5-418. MINORS PROHIBITED.

No person shall permit any person under the age of 18 years to come or remain on the premises of any permitted business establishment, as masseur, employee or patron, unless such person is on the premises on lawful business.

(Code 1993, 5-518; Code 2008, § 5-418; Ord. 598)

5-419. ADVERTISING.

No establishment granted a permit under provisions of this article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in section 5-401 or that employees, masseurs or masseuses are dressed in any manner other than described in section 5-415 nor shall any establishment indicate in the text of such advertising that any service is available other than those services described in section 5-

401.

(Code 1993, 5-519; Code 2008, § 5-419; Ord. 598)

5-420. TRANSFER OF PERMITS.

(a) No massage business, bath house, modeling studio, body painting studio or employee permits are transferable, and such authority as a permit confers shall be conferred only on the permittee named therein.

(b) Any applications made, fees paid and permits obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any ordinances of this city, or under any state or federal laws. ¹⁰

(Code 1993, 5-520; Code 2008, § 5-420; Ord. 598)

5-421. EXCEPTIONS.

The provisions of this article shall not apply to hospitals; nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts under the laws of this state, or persons working under the direction of any such persons or in an such establishment. Nor shall this article apply to health care professionals, barbers, aestheticians, manicurists, cosmetologists, or other licensed professionals carrying out their particular profession or business and holding a valid, un-revoked license or certificate of registration issued by this state.

(Code 2008, § 5-421; Ord. 598; Ord. 856, Sec. 10)

5-422. CITY TO ESTABLISH AND ENFORCE RULES AND REGULATIONS

The City or the City's authorized representative may make and enforce reasonable rules and regulations not in conflict with but to carry out the intent of this article.

(Code 2008, § 5-422; Ord. 856, Sec. 11)

5-423. RESTRICTION TO PREMISES.

All business or activity provided for under this article shall be conducted and performed on the respective premises. However, bath house or massage shop permittees or employees at the direction of a duly licensed physician may perform their services in behalf of physically incapacitated patients in such patient's home, residence or other designated place, or such permittee or employee may render such treatment to persons who are bedfast or are so physically incapacitated that it is impractical to provide same to such persons at a permitted location. All such services so rendered shall have received the prior approval of the City or its authorized representative.

(Code 1993, 5-523; Code 2008, § 5-423; Ord. 598)

ARTICLE 5. AMUSEMENT DEVICES

¹⁰ **Legal analysis: 5-420. TRANSFER OF PERMITS.** Revise to be more complete.

5-501. DEFINITION. ¹¹

Amusement device shall mean any machine, device which is coin-operated or otherwise available for hire, which machine or device permits a person or operator to use the device as a game or contest of skill, whether or not registering a score. It shall include, but not be limited to such devices as electronic or mechanical game machines, pool tables, foosball tables, air hockey tables, pong games, single-passenger mechanical rides for children, electronic video games, shooting gallery type games, pinball machines, skee ball, bowling machines, or any other mechanical or electronic games or operations similar thereto. This definition does not include merchandise, amusement rides as defined in K.S.A. 44-1601, vending machines or coin-operated jukeboxes phonographs, televisions or other devices which are not designed for manipulation by the person operating the device.

(Code 1983; Code 1993, 5-601; Code 2008, § 5-501)

5-502. LICENSE REQUIRED.

No person shall within the city limits display for public patronage or keep for operation any coin-operated amusement device without first obtaining a license from the city. Not more than one machine or device shall be operated under one license, and a separate license shall be obtained for each and every machine or device displayed or operated. Not more than two devices shall be operated per establishment.

(Code 1983; Code 1993, 5-602; Code 2008, § 5-502; Ord. 598)

5-503. LICENSE APPLICATION.

Application for a license under this article shall be made to the governing body by written application and such application for such license shall contain, but not be limited to, the following information:

- (a) The name and address of the applicant, his or her age and date of birth and the name and address of the owner of the device.
- (b) The place where the machine or device is to be displayed or operated and the business conducted at that place.
- (c) A description of the machine or device to be covered by the license, including its mechanical features, the name of the manufacturer and the serial number.
- (d) Whether the applicant or owner has paid a current Federal Occupation Tax for the use or permit to use, on any place or premises within the city, a coin-operated amusement or game device under the Federal Internal Revenue Code. Each such application shall be made out in duplicate, one copy being referred to the chief of police and the other copy to be affixed to the license issued.

(Code 1993, 5-603; Code 2008, § 5-503; Ord. 598)

¹¹ **Legal analysis: 5-501. DEFINITION.** Revise to differentiate amusement devices from amusement rides, which are regulated under K.S.A. 44-1601 et seq.

5-504. LICENSE FEE.¹²

No license required of this article shall be issued to any applicant unless the application is approved by the governing body. The initial license fee for all new applications for coin-operated amusement devices shall be \$100.00, and for each annual renewal hereof the license fee shall be \$50.00 per year.

(Code 1993, 5-604; Code 2008, § 5-504; Ord. 598; Ord. 895)

5-505. LICENSE REVOCATION; NOTICE AND HEARING.

Every license issued for public patronage for operation of a coin-operated amusement device is subject to the right, which is hereby especially reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any coin-operated amusement or gaming device, contrary to the provisions of any ordinance of this city, any statute of the state of Kansas or any federal law. Such license may be revoked by the governing body after written notice to the licensee, which notice shall specify the ordinance or law violation with which the licensee is charged if, after a hearing the licensee is found to be guilty of such violations.

(Code 1993, 5-605; Code 2008, § 5-505; Ord. 598)

5-506. DISPLAY OF LICENSE.

Every license provided by this article shall be maintained permanently at the premises and at the location where the device is to be operated or maintained, and available for inspection by the chief of police upon request.

(Code 1993, 5-606; Code 2008, § 5-506; Ord. 598)

5-507. TRANSFER OF LICENSE.

A license issued under this article may be transferred from one machine or device to another similar machine or device upon application to the governing body to such effect and giving the description and serial number of the new machine or device.

(Code 1993, 5-607; Code 2008, § 5-507; Ord. 598)

5-508. TERM OF LICENSE.

Each license issued under this article shall expire one year from the date of issuance.

(Code 1993, 5-608; Code 2008, § 5-508; Ord. 598)

5-509. PENALTY.

Any persons violating the provisions of this article shall, upon conviction thereof, be fined in any sum not exceed \$500.00, or be imprisoned not to exceed six months or be both so fined and imprisoned.

(Code 1993, 5-609; Code 2008, § 5-509; Ord. 598)

¹² **Legal analysis: 5-504. LICENSE FEE.** Please review the fees herein and advise as to any changes.

ARTICLE 6. WRECKER AND TOW SERVICES**5-601. APPROVAL REQUIRED.**

Any person, firm, partnership or corporation desiring to perform wrecker or towing service for the Westwood police department shall first be approved by the **chief of police** before being added to the list of companies authorized to respond for wrecker or towing service requests by the Westwood police department on a rotation basis. Any such wrecker or towing service which meets the requirements of section 5-602 and all other provisions of this article shall be eligible to be placed on such list and be called on such rotation basis. (Code 1993, 5-701; Code 2008, § 5-601; Ord. 613, Sec. 1)

5-602. CRITERIA FOR APPROVAL.

The following requirements and criteria shall be met by any wrecker or towing service seeking approval to be authorized and listed as eligible to respond to requests for towing service seeking approval to be authorized and listed as eligible to respond to requests for towing service by the Westwood police department;

- (a) Exclusive of legal holidays, each wrecker or towing service shall be open and have a representative actually on the premises of the location or area where towed vehicles are stored or kept 10 hours per day, from 8 a.m. to 6p.m. Monday through Friday, and from 8a.m. to 12:00 noon on Saturdays.
- (b) Towing and wrecker services and drivers must be available on a 24- hour, seven days a week basis.
- (c) Each towing and wrecker service must have properly zoned adequate storage facilities. The outside storage areas should be fenced, with at least a six foot high chain link fence.
- (d) Each towing and wrecker service must have available storage area which is totally enclosed within a building for the protection and security of recovered stolen property to be processed and valuable property left in vehicles.
- (e) Each wrecker or towing service must have available at least one 16-ton capacity wrecker (a Holmes 600 or its equivalent) or wrecker vehicle with greater capacity.
- (f) Each towing and wrecker service must handle and tow abandoned vehicles in proportion to the number of tow requests received from said police department for damaged or disabled vehicles.
- (g) **Each towing and wrecker service must provide the city with proof of adequate insurance coverage under the following policies:**
 - (1) **Garage Keeper's Policy. - A garage keeper's legal liability policy covering fire, theft, windstorm, vandalism and explosion in the amount of \$1,000,000 with each vehicle suffering damage being deemed a separate claim.**

(2) **Garage Liability Policy.** - A garage liability policy covering the operation of the owner's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$1,000,000 for any one person injured or killed and a minimum of \$1,000,000 for more than one person injured or killed in any accident and an additional \$25,000 for property damage.

(3) Each policy required herein must contain an endorsement providing 30 days notice to the city and the insured in the event of any material change in coverage or cancellation of the policy.

(h) The criteria and requirements set forth in subsections (a) through (g) shall not apply when the person whose vehicle is to be towed shall indicate a preference as to which towing and wrecker service is to be utilized or when the person whose vehicle is to be towed shall request a specific towing or wrecker service.
(Code 2008, § 5-602; Ord. 613, Sec. 2)

5-603. TOWING AND STORAGE CHARGES.

All wrecker or towing services shall charge for towing services and storage fees such fees and charges as are adopted by the governing body of the city by resolution. (Such fees and charges shall apply only as to vehicles towed and stored in response to a request by said police department.) No wrecker or towing service shall charge the owner or person in charge of or possession of any towed and/or stored vehicle a second or subsequent additional towing charge to delivery vehicle from the wrecker or towing service's storage lot to a destination initially requested by the owner or operator or possessor or person in charge of such vehicle when the vehicle was originally towed.
(Code 1993, 5-703; Code 2008, § 5-603; Ord. 613, Sec. 3)

5-604. PERSONAL PROPERTY IN VEHICLE.

(a) No wrecker or towing service, or owner, employee or agent thereof, shall prohibit or refuse to allow the owner, operator, person in charge or possession of the towed and stored vehicle who has proof of title or registration, to retrieve any personal property from such towed and stored vehicle during the normal operating hours at the storage facility; however, this provision shall not apply to the following property or articles:

(1) Property or articles relating to the operation and repair of a vehicle or spare parts for a vehicle;

(2) Electric or personal electronic equipment, whether operating or not, including but not limited to; portable CD players, ipods, cell phones, laptops, but not to include built-in CD players, G.P.S. Devices, or the like. ¹³

(b) No wrecker or towing service shall require the payment of any fees or charges

¹³ **Legal analysis: 5-604. PERSONAL PROPERTY IN VEHICLE, subsection (a)(2).** Revise to clarify – as it reads, owners are allowed to retrieve built-in electronic devices, but not personal devices such as cell phones and laptops. Assuming the opposite meaning is intended, revise accordingly.

before permitting access to a person retrieving such personal property permitted to be retrieved under this section.

(Code 2008, § 5-604; Ord. 613, Sec. 4)

5-605. ENFORCEMENT.

The chief of police shall establish, distribute and cause the enforcement of reasonable rules and regulations for wrecker or towing services, subject to the provisions of this article, as from time to time he or she deems appropriate for the safety, well-being and protection of citizens and their property within the city.

(Code 1993; Code 2008, § 5-605; Ord. 613, Sec. 5)

5-606. SUSPENSION, REVOCATION OF APPROVAL.

(a) If a wrecker or towing service operating under this article shall fail to comply with the provisions of this article, ~~After at least seven days notice,~~ the chief of police may, ~~after at least seven days notice,~~ order that the approval and authority of a wrecker or towing service to respond to requests of said police department be suspended or revoked and order such wrecker or tow service be struck from the rotational call list. Any such suspension shall be for a maximum of 60 days. If such approval and authority is revoked, such wrecker or towing service shall not be eligible for reinstatement for at least one year from the date of revocation. ¹⁴

(b) Such suspension or revocation shall be preceded by written notice to the wrecker or towing service advising such service of its failure to comply with any of the requirements of this article or of the violation by such wrecker or towing service of any of the following provisions upon which a suspension or revocation may be based:

- (1) Obtaining the approval and authority by fraudulent conduct or false statements;
- (2) The wrecker or towing service violated the fee and charge schedule by overcharge;
- (3) Such wrecker or towing service consistently refuses to respond to requests for such service by the police department or consistently fails to answer telephone calls from the police department at the telephone number supplied by the business for towing services;
- (4) The wrecker or towing service responds to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicits wrecker or towing business;
- (5) The city is not satisfied with the general services of the owner and/or employees or with the cooperation it has received from such wrecker or towing service or other justifiable cause.

(c) As to the requirements or criteria for approval and authorization, only one such warning shall be required to be given and the wrecker or towing service shall be allowed a

¹⁴ **Legal analysis: 5-606. SUSPENSION, REVOCATION OF APPROVAL, (a).** Revise for clarity.

reasonable time to correct any deficiency found. Any wrecker or towing service which violates any of the provisions of section 5-604 or paragraphs (1) through (5) of section 5-606 more than once in total shall be subject to a suspension or revocation of the approval and authority.

(Code 1993, 5-706; Code 2008, § 5-606; Ord. 613, Sec. 6)

5-607. SAME; APPEAL.

Any wrecker or towing service's approval and authority to respond to police requests which are suspended or revoked by the chief of police may appeal such suspension or revocation to the governing body by filing a written notice of appeal, which shall stay the effect of such suspension or revocation until a hearing is held before the governing body at its next regular meeting. ¹⁵

The governing body shall have the power to reverse, alter, modify, uphold, or increase any suspension or revocation ordered by the chief of police.

(Code 1993, 5-707; Code 2008, § 5-607; Ord. 613, Sec. 7)

ARTICLE 7. WATER CONDITIONING CONTRACTORS

5-701. REGISTRATION REQUIRED.

Every water conditioning contractor as defined by K.S.A. 12-3601, shall be required to register with the city clerk before engaging in such business in the City of Westwood, Kansas.

(Code 1993, 5-801; Code 2008, § 5-701; Ord. 544, Sec. 1)

5-702. CERTIFICATE OF REGISTRATION.

The city clerk shall issue a certificate of registration on the contractors' satisfactory showing that he or she meets requirements as set forth in section 5-703, provided that should the contractor show proof of registration in another city of this state, the clerk shall issue a certificate forthwith. The registration information shall include the contractor's name, address, form of business, name of business and place of business. In the event the contractor is registered in any other city of this state, the registration information should include the name of such other city or cities. Such registration information furnished shall be on the certificate issued by the city clerk along with a statement that the city clerk is holding contractor's surety bond as required bylaw.

(Code 1993, 5-802; Code 2008, § 5-702; Ord. 544, Sec. 2)

5-703. SAME; CONDITIONS.

The conditions for issuance of a certificate by the city clerk shall be as follows:

(a) That the contractor has not been convicted of a felony or any crime involving moral turpitude or fraud, deception or misrepresentation.

¹⁵ **Legal analysis: 5-607. SAME; APPEAL.** Revise for clarity.

- (b) That the contractor has not been refused in other jurisdictions.
- (c) That the contractor has not knowingly given any false statement in his or her registration.
- (d) That the contractor maintain general liability and product liability insurance in the minimum amount of \$1,000,000. Such insurance requirement shall be shown by furnishing the clerk certificates of such insurance.
- (e) That the contractor furnish the clerk in the first city in which he or she registers an acceptable surety bond. The bond shall be held by the clerk and be executed by the contractor as principal and by a solvent corporation authorized to do business in the State of Kansas in the amount of \$2,500. The aggregate liability of the surety for all breaches of the conditions of the bond, shall, in no event, exceed the amount of the bond. The surety on the bond shall have the right to cancel such bond upon giving 30 days notice to the city clerk of the first city in which the insured and thereafter shall be relieved for any breach of condition occurring after the effective date of the cancellation. In lieu of the corporate surety bond, such contractor may file a bond signed by three or more good and sufficient sureties conditioned as hereinafter provided. The bond shall be to the State of Kansas for use and benefit of such persons as may suffer by breach thereof; and shall be conditioned that the contractor will honestly and properly conduct his or her business, that the contractor will not fall or refuse to render to a customer services as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties, and that the contractor will not violate the Laws of the State of Kansas, the City of Westwood, or any political subdivision of the State of Kansas. (Code 2008, § 5-703; Ord. 544, Sec. 3)

5-704. SAME; REVOCATION.

The certificate issued by the city clerk may be revoked by the clerk should the contractor have failed to maintain compliance with requirements set out above. (Code 1993, 5-804; Code 2008, § 5-704; Ord. 544, Sec. 4)

5-705. COMPLIANCE WITH LAWS.

The contractor shall comply with all building regulations, ordinances and requirements of the building codes of the city in connection with the service or repair of water conditioning equipment or in connection with the original installation or repair of the same. (Code 1993, 5-805; Code 2008, § 5-705; Ord. 544, Sec. 5)

ARTICLE 8. ADULT ENTERTAINMENT REGULATIONS

5-801. DEFINITIONS.

For the purpose of this section and unless the context plainly requires otherwise, the following definitions are adopted:

- (a) Adult Business - means any business enterprise that has as its primary business purpose (1) the sale or rental of goods that are designed for use in connection with "specified sexual activities", graphically depict "specified anatomical areas" or primarily

emphasize matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas"; or (2) the providing of entertainment where the primary emphasis is on performances, live or otherwise, that feature and emphasize material depicting, portraying, exhibiting or displaying "specified anatomical areas" or "specified sexual activities"; or (3) the providing of services that primarily emphasize activities that provide sexual stimulation or gratification and that are distinguished by or characterized by an emphasis on the depiction, observation, and participation in pursuits relating to specified sexual activities or specified anatomical areas.

The definition of "adult business" also includes but is not limited to any and all of the following, as defined herein:

(1) The following businesses that offer goods for sale or rent are included in the definition of "adult business."

(A) Adult retail establishment - means an establishment which as its primary business purpose, offers for sale or rent, any one or more of the following: instruments, devices, gifts or paraphernalia which are designed for use in connection with "specified sexual activities" or clothing that graphically depicts "specified anatomical areas" or any of the materials sold or rented in an adult bookstore as defined herein.

(B) Adult bookstore - means an establishment which as its primary business purpose, offers for sale or rent, books, magazines, periodicals or other printed matter, photographs, slides, films or videotapes, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(C) Adult media outlet - means an establishment that has as its primary business purpose the rental, sale or offering for viewing or other use any media that is sold or exhibited by adult bookstores, adult news racks, adult newsstands, adult entertainment businesses, adult theaters or adult motion picture theaters.

(D) Adult news rack - means any coin or card operated device that offers for sale by dispensing printed material, which is distinguished or characterized by its emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(E) Adult news stand - means a freestanding structure, vehicle or booth which as its primary business purpose, offers for sale books, magazines, periodicals or other printed matter, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

(2) The following businesses that provide entertainment are included in the definition of "adult business."

(A) Adult entertainment business - means any enterprise to which the public, patrons or members are invited or admitted, and where providing "adult entertainment" as defined herein, is a regular and substantial portion of its business.

(B) Adult motion picture theater - means an establishment containing a room with

seats facing a screen or projection areas, where a regular and substantial portion of its business is the exhibition to customers of films, videotapes, or motion pictures which are intended to provide sexual stimulation or sexual gratification to the customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," other than motion pictures designated by the Motion Picture Association as Restricted or R-Rated.

(C) Adult theater - means an establishment located in an enclosed building where a regular and substantial portion of its business is providing the live performance of activities relating to "specified sexual activities" or exhibition of "specified anatomical areas" of live performers, for observation by customers and patrons.

(D) Adult entertainment cabaret - means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, go-go dancers, or live performances or materials which are primarily characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

(E) Adult entertainment studio (includes the terms rap studio, exotic dance studio, sensitivity studio or encounter studio) - means an establishment whose premises is physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to "specified sexual activities" or the exhibition of "specified anatomical areas."

(F) Adult encounter parlor - means an establishment where a regular and substantial portion of its business is the provision of premises where customers congregate, associate, or consort with employees and/or performers or private contractors who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual gratification or stimulation to such customers.

(G) Body painting studio - means an establishment where a regular and substantial portion of its business is the maintaining, operating, or offering for compensation the applying of paint or other substance to or on the human body by any means of application, technique or process when "specified anatomical areas" of the subject's body are displayed for the customer's view, or where "specified anatomical areas" of the customer's body are displayed for the view of others.

(3) The following businesses that provide services are included in the definition of "adult business."

(A) Bath house - means an enterprise where a regular and substantial portion of its business is offering baths with other persons present who are nude or displaying "specified anatomical areas." Nothing herein, however, shall limit or void the authority of the City of Westwood to regulate bath houses or similar establishments by other lawful means.

(B) Adult motel - means an enterprise where a regular and substantial portion of its business is offering public accommodations for consideration for the purpose of viewing

closed circuit television transmissions, films, motion pictures, video cassettes, DVD's or other digital media, or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" and rent room accommodations for less than six hours at a time.

(b) Adult Entertainment - means any live exhibition, performance, display or dance of any type, including but not limited to talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if such entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernably erect state, even if completely and opaquely covered.

(c) Contagious and communicable diseases - means those diseases which are set out in Kansas Department of Health and Environment Regulations, KAR. 28-1-6 and as amended.

(d) Employee - means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult business.

(e) Entertainer - means any person who provides adult entertainment within an adult business as defined in this section, whether or not a fee is charged or accepted for entertainment.

(f) Manager - means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult business.

(g) Operator - means any person operating, conducting or maintaining an adult business.

~~(h) Person means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or other entity or group of persons however organized.~~ ¹⁶

(i) Primary business purpose - means (1) more than fifty percent (50%) of the gross floor space is devoted to that purpose; or (2) more than fifty percent (50%) of the retail floor space is devoted to that purpose; or (3) more than fifty percent (50%) of the sales of the business are derived from that purpose.

(j) Public place - means any area generally visible to public view and includes streets,

¹⁶ **Legal analysis: 5-801. DEFINITIONS, (h) person.** Delete as covered by general provisions in Chapter 1.

sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles whether moving or not.

(k) Server - means any person who serves food or drink at an adult entertainment business.

(I) Specified anatomical areas - mean (1) uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola or nipple; or any combination of the foregoing; or (2) human male genitals in a discernible erect state, even if completely and opaquely covered.

(m) Specified sexual activities - mean sexual conduct, whether actual or simulated; acts of human masturbation; sexual intercourse; physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification. (Code 2008, § 5-801; Ord. 782)

5-802. LICENSE REQUIRED FOR ADULT BUSINESS.

(a) It shall be unlawful for any person to operate or maintain an adult business in the City unless the owner, operator or lessee thereof has obtained an adult business license from the City, or to operate such business after such license has been revoked or suspended by the City.

(b) It is unlawful for any entertainer, server, employee, operator, owner or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.

(c) It shall be prima facie evidence that any adult business that fails to have posted, in the manner required by this section, an adult business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee, owner or manager who performs any business service or entertainment in an adult business in which an adult business license is not posted, in the manner required by this section, had knowledge that such business was not licensed. (Code 2008, § 5-802; Ord. 782)

5-803. LICENSE REQUIRED FOR MANAGERS, SERVERS AND ENTERTAINERS.

It is unlawful for any person to work as an entertainer, server or manager at an adult business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult business after such person's license to do so has been revoked or suspended. (Code 2008, § 5-803; Ord. 782)

5-804. LICENSE LIMITED TO REQUESTED PURPOSES.

All adult business licenses shall be issued only for the purposes requested by the applicant on the application. Any change in the type of adult use shall invalidate the adult business license.

(Code 2008, § 5-804; Ord. 782)

5-805. LICENSE APPLICATION.

(a) Adult Business License - All persons desiring to secure a license to operate an adult business under the provisions of this chapter shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

(1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.

(2) The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name and address of the owner of the premises where the adult business will be located.

(3) The names, residence addresses, social security numbers and dates of births of the applicant or all partners, if the applicant is a partnership; if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10% or greater interest in the applicant corporation; and if the applicant is any other type of entity, the same information for all who have an ownership interest in the applicant entity.

(4) The addresses of the applicant if he or she is an individual, of all partners if the applicant is a partnership, of all corporate officers and directors for the five years immediately prior to the date of application if the applicant is a corporation, or of all who have an ownership interest in the applicant if the applicant is any other type of entity.

(5) A statement from the applicant if an individual, or from all partners if the applicant is a partnership, or if the applicant is a corporation from all corporate officers and directors, or if the applicant is any other entity from all who have an ownership interest in the applicant, whether any such person, or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.

(6) A statement of the business, occupation or employment of the applicant, of all partners (if the applicant is a partnership), of all corporate officers and directors for the three years immediately preceding the date of the application (if the applicant is a corporation), or of all who have an ownership interest in the applicant (if it is any other type of entity).

(7) A statement from the applicant, and if the applicant is a partnership, a statement from all partners, and if the applicant is a corporation, a statement from each corporate officer and director, and if the applicant is any other form of entity, a statement from each person claiming an ownership interest in the entity, that each such person has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on any felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of or diverted from prosecution on a misdemeanor,

or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of another or pornography and related offenses, alcohol-related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Statutes or municipal ordinances.

The statement shall also indicate that the applicant, each partner (if a partnership) or each corporate officer and director (if a corporation) or each person having an ownership interest (if any other type of entity) has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, sexual abuse of another or pornography or related offenses, indecent exposure, prostitution, alcohol, or sale of controlled substances or illegal drugs or narcotics.

(8) On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each person working on the premises a health certificate from a duly licensed Kansas or Missouri physician stating that within ninety days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein.

(9) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.

(10) If the applicant is a corporation, a current certificate of registration issued by the Kansas Secretary of State.

(11) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this chapter regulating adult businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

(b) Manager, Server or Entertainer License - All persons desiring to secure a license under the provisions of this chapter to be a manager, server, or entertainer at an adult business shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information. **17**

(1) The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage name or nicknames used.

17 Legal analysis: 5-805. LICENSE APPLICATION. Revise for clarity.

(2) The name and address of each adult business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult business that is licensed, or that has applied for a license, under the provisions of this chapter, indicating the adult business intends to hire the applicant to manage, serve or entertain on the premises. Failure to provide an "intent to hire" statement shall not invalidate the application.

(3) A statement from the applicant, and if the applicant is a partnership, a statement from all partners or if the applicant is a corporation, a statement from each corporate officer and director or if the applicant is any other form of entity, a statement from all who have an ownership interest in the entity, that each such person has not been convicted of; or released from confinement for conviction of or diverted from prosecution on any felony, whichever event is later, within five years immediately preceding the application, or has not been convicted of or diverted from prosecution on a misdemeanor or municipal ordinance violation, or released from confinement for conviction of a misdemeanor or municipal ordinance violation, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or alcohol, controlled substances or illegal drugs or narcotics offenses as defined in the Kansas statutes or municipal ordinances.

(4) If the applicant is an individual, a full set of fingerprints and a photograph of the applicant, to be taken by the police department.

(5) The applicant shall present to the City Clerk who shall copy documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

(A) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;

(B) A state-issued identification card bearing the applicant's photograph and date of birth;

(C) An official and valid passport issued by the United States of America;

(D) An immigration card issued by the United States of America;

(E) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or

~~(F) Any other form of identification deemed reliable by the City Clerk.~~ **18**

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

18 Legal analysis: 5-805. LICENSE APPLICATION, (b)(5)(F). Delete as too arbitrary, or revise wording.

(c) Facilities necessary. - No adult business license to conduct a bath house or body painting studio shall be issued unless an inspection by the **Johnson County Health Inspector** or his authorized representative reveals that the premises the applicant intends to conduct business from complies with each of the following minimum requirements:

(1) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.

(2) Toilet facilities shall be provided in convenient locations. When five or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each 20 or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the gender accommodated therein.

(3) Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Johnson County Health Inspector shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate city official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

(d) Application processing. - Upon receipt of a complete application for an adult business for a manager, server or entertainer license: **19**

(1) The City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Codes Administrator;

(2) It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant meets the terms of this ordinance. The Chief of Police shall report the results of the investigation to the City Clerk not later than ten working days from the date the

19 Legal analysis: 5-805. LICENSE APPLICATION, (d) Application Processing. Divide contents of subsection (d) into separate subsections, for clarity and ease of following which duties belong to which city personnel.

application is received by the City Clerk;

(3) It shall be the duty of the Codes Administrator to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire, and property maintenance ordinances of the City. The Codes Administrator shall report the results of their investigation to the City Clerk not later than ten working days from the date the application is received by the City Clerk.

(4) Upon receipt of the reports from the Chief of Police and the Codes Administrator, the City Clerk shall schedule the application for consideration by the governing body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult business and for a manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the clerk's office. The applicant shall be notified in writing of the date when the governing body will consider the application.
(Code 2008, § 5-805; Ord. 782)

5-806. EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL.

(a) If the application for an adult business or for a business manager, server or entertainer is in proper form and accompanied by the appropriate license fee, the governing body shall examine the application, and after such examination, the governing body shall, if the applicant is qualified under the provisions of this ordinance, approve a license as provided for by law, provided a license shall not be approved to any person ineligible pursuant to Section ~~5-05-070~~ 5-807. **20**

(b) The record of the governing body shall show the action taken on the application, and if the license is granted, the governing body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

(c) If an application for a license is disapproved, the applicant shall immediately be notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Johnson County District Court in a manner provided by law.
(Code 2008, § 5-806; Ord. 782)

5-807. LICENSE; INELIGIBILITY AND DISQUALIFICATION.

No person is eligible nor shall a license be issued to:

(a) An applicant for an adult business license if one or more of the following conditions

20 Legal analysis: 5-806. EXAMINATION OF APPLICATION, ISSUANCE OF LICENSE, DISAPPROVAL, (a). Revise to reference Section 5-807: Ineligibility and Disqualification. Please advise if this was not the correct section to be referenced.

exist:

- (1) The applicant's premises is located within 250 feet of any other adult business for which there is a license issued. Measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest point on the property line or premises boundary, if such is located in a shopping center, of the applicant's business to the nearest point on the property line of such other adult businesses;
 - (2) The applicant failed to supply all of the information requested on the application;
 - (3) The applicant gave materially false, fraudulent or untruthful information on the application.
 - (4) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire, and property maintenance ordinances of the City; provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the governing body.
 - (5) The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in subsection ~~V(a)(7)~~ 5-805(a)(7) during the time period set forth in said subsection.
 - (6) The applicant has had an adult business or comparable license revoked or suspended in this or any other city during the past five years, if revocation or suspension was for any reason which would justify revocation or suspension of a license under this ordinance.
 - (7) If the applicant is applying for a license to operate a bath house or body painting studio and has not produced a health certificate as required herein for all persons working on the premises.
- (b) An applicant for a manager, server or entertainer license if one or more of the following conditions exist:
- (1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult business license for any of the reasons stated in subsection (a) above.
 - (2) The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in subsection ~~V(b)(3)~~ 5-805(b)(3) during the time period set forth in said subsection; **21**
 - (3) The applicant failed to supply all of the information requested on the application;
 - (4) The applicant gave materially false, fraudulent or untruthful information on the application;

²¹ **Legal analysis: 5-807. LICENSE; INELIGIBILITY AND DISQUALIFICATION, (a)(5) and (b)(2).** Revise internal citations for clarity and consistency.

(5) The applicant has had a manager, server or entertainer license revoked or suspended in this or any other city during the past five years, if revocation or suspension was for any reason which would justify revocation or suspension of a license under this article.

(Code 2008, § 5-807; Ord. 782)

5-808. STANDARDS OF CONDUCT.

The following standards of conduct shall be adhered to by all adult business licensees, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:

(a) Identification cards. - All or any manager, server or entertainer issued a license by the Governing Body under the provisions of this chapter shall, at all times when working in an establishment subject to the provisions of this chapter, have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevent alteration; provided that all persons granted licenses under this chapter shall at all times keep their licenses displayed to the public in a prominent place on the premises.

(b) Age restriction. - Only persons 18 years of age or older shall be permitted on the premises of any adult businesses.

(c) Exterior observation. - The premises of all adult businesses will be so constructed as to insure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent the viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

(d) Exterior display. - No adult business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

(e) No manager, employee, server or entertainer in an adult business other than a licensed bath house, shall appear in any fashion that exposes to view any "specified anatomical area" except when such manager, employee, server or entertainer is separated from the customers by a barrier and such manager, employee, server or entertainer is upon a stage at least two feet above the customer floor and such stage is at least six (6) feet from the customers, provided however, that in any business licensed to sell cereal malt beverages or alcoholic liquor, no such person shall appear in such a way as to expose to view any "specified anatomical area."

(f) Certain acts prohibited while on the premises of an adult business.

(1) While on the premises of an adult business, no manager, employee, server or

entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which stimulates any "specified anatomical area," use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

(2) While on the premises of an adult business, no employee, server, entertainer or patron of an adult business shall knowingly touch, fondle or caress any "specified anatomical area" of another person, or knowingly permit another person to touch, fondle or caress any "specified anatomical area" of such employee, server, entertainer or patron, whether such "specified anatomical areas" are clothed, unclothed, covered or exposed.

(3) While on the premises of an adult business, no employee, server or entertainer of an adult business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any "specified anatomical area."

(4) No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no entertainer shall receive any payment or gratuity from any customer for any entertainment except while such entertainer is on the stage, a customer or patron may place such payment into a box affixed to the stage.

(5) No owner, operator, manager or other person in charge of the premises of an adult business premises shall:

(A) knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises;

(B) knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

(C) knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;

(D) knowingly allow or permit any act of prostitution or patronizing prostitution on the premises;

(E) knowingly allow or permit a violation of this chapter or any other city ordinance provision or state law.

(g) Signs required. - All adult businesses that provide live entertainment shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

"THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED AND LICENSED BY THE CITY OF WESTWOOD, KANSAS

ENTERTAINERS ARE:

Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress, or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer, or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.

Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks or genitals, unless upon a stage at least two feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.

Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except while the entertainer is on stage, by placing such payment or gratuity into a box affixed to the stage.

CUSTOMERS ARE:

Not permitted on the stage at any time.

Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.”

(h) Lighting required. - The premises of all adult businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted to access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

(i) Closed booths or rooms prohibited. - The premises of all adult businesses shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls are visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever. However, this provision shall not apply to dressing rooms and restrooms as provided for in subsection (j). ²²

(j) Ventilation and sanitation requirements. - The premises of all adult businesses shall be kept in a sanitary condition and properly ventilated. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition and properly ventilated.

(k) Hours of operation. - No adult business may be open or in use between the hours of midnight and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of midnight and 12:00 noon.
(Code 2008, § 5-808; Ord. 782)

²² **Legal analysis: 5-808. STANDARDS OF CONDUCT, (i) Closed booths or rooms prohibited.**
Add exception for restrooms and dressing rooms.

5-809. LICENSE; POSTING OR DISPLAY.

(a) Every person, partnership, corporation or other entity licensed under this chapter as an adult business shall post license in a conspicuous place and manner on the adult business premises.

(b) Every person holding a server, manager or entertainment license shall post his or her license in his or her work area on the adult business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this Article. (Code 2008, § 5-809; Ord. 782)

5-810. MANAGER ON PREMISES.

(a) A manager shall be on duty at all adult businesses at all times the premises are open for business. The name of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult servers license and that such licenses are prominently posted.

(c) It shall also be the responsibility of the manager to insure persons under the age of eighteen (18) do not enter upon the premises. (Code 2008, § 5-810; Ord. 782)

5-811. INSPECTORS AND INSPECTIONS.

All adult businesses shall permit representatives of the police department or any other City official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws. (Code 2008, § 5-811; Ord. 782)

5-812. SUSPENSION, REVOCATION, OR NON-RENEWAL OF LICENSE.

Whenever the City Clerk has information that:

(a) The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this chapter; or

(b) There have been violations of provisions of this chapter that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or

(c) The adult business license or the manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof; or

(d) The adult business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or

renewal thereof or

(e) The owner or operator, or any partner, or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided in Section ~~5-805(a)(7)~~ 5-805(a)(7) or

(f) The holder of a manager, server or entertainer license has become disqualified from having a license by any violation of this ordinance or by a conviction as provided in Section ~~5-805(b)(3)~~ 5-805(b)(3). ²³

Then the City Clerk shall make this information known to the governing body, which upon five days' written notice to the person holding the license conduct a public hearing to determine whether the license should be suspended or revoked. The governing body may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the governing body may take any of the following actions:

- (1) Suspend the license for up to 90 days.
- (2) Revoke the license for the remainder of the license year.
- (3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the chapter occur during the period of probation. If a violation does occur and after the hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year. (Code 2008, § 5-812; Ord. 782)

~~5-813. SEVERABILITY.~~ ²⁴

~~If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not effect the validity or effectiveness of the remaining portions of this chapter or any part thereof. (Code 2008, § 5-813; Ord. 782)~~

ARTICLE 9 FRANCHISES

5-901. TITLE.

This Ordinance shall be referred to and cited as the "Master Franchise Code." (Throughout this Article the Master Franchise Code may be referred to as "this Code.") (Code 2008, § 5-901)

5-902. DEFINITIONS.

²³ **Legal analysis: 5-812. SUSPENSION, REVOCATION, OR NON-RENEWAL OF LICENSE, (e) and (f).** Revise internal citation for clarity and consistency.

²⁴ **Legal analysis: 5-813. SEVERABILITY.** Delete as covered by general provisions in Chapter 1.

For the purposes of this Code, the following words and phrases shall have the meanings given herein:

~~(a) City shall mean the City of Westwood, Kansas. Any reference to "within the City" shall mean within the corporate City limits of the City of Westwood, Kansas.~~ ²⁵

(b) Entity – shall mean any individual person(s), governmental entity, business, corporation, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture or trust and shall include all forms of business enterprise not specifically listed herein.

(c) Facilities – shall mean lines, pipes, mains, laterals, wires, cables, conduit, ducts, poles, towers, cabinets, vaults, pedestals, boxes, appliances, antennae, transmitters, gates, meters, Gas Distribution System and Gas Distribution Facilities, together with all necessary appurtenances or other equipment thereto, or any part thereof, for the purpose of providing or otherwise facilitating any Service.

(d) Franchise – shall mean the grant, right, privilege and franchise by the City to provide, distribute, transport or sell a Service within the City and/or to install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way. The grant, right, privilege and franchise shall be in accordance with the provisions of K.S.A. 12-2001, et seq., as amended, the City's Home Rule power, and applicable City ordinances.

(e) Franchisee or Grantee – shall mean any Entity that has a Franchise granted by the City pursuant to this Code, K.S.A. 12-2001, et seq., as amended, and/or the City's Home Rule power.

(f) Franchise Fee – shall mean consideration paid in the form of a charge upon a Franchisee as prescribed in the Ordinance granting the Franchise. Any such Franchisee Fee shall be subject to any applicable provisions of federal or state law.

(g) Gas Consumer – shall mean, without limitation, any Entity that receives natural gas or Other Energy on a retail basis within the City through a Gas Distribution System or Gas Distribution Facilities.

(h) Gas Distribution System or Gas Distribution Facilities – shall mean a pipeline or system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof, for the purpose of distribution or supplying natural gas or Other Energy for light, heat, power and all other purposes.

(i) MCF – shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet. It is assumed for purposes of this Code that one MCF equals one million (1,000,000) British Thermal Units (BTUs).

²⁵ **Legal analysis: 5-902. DEFINITIONS, (a) City.** Delete as covered by general provisions in Chapter 1.

(j) Other Energy – shall mean any energy provided in a gaseous, liquid, or slurry mixture form through pipelines for light, heat, power, and all other purposes as an alternative or replacement for natural gas, but specifically, it shall not include electrical energy.

(k) Right-of-Way – shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for streets and alleys. The “Right-of-Way” shall not include property owned by the City outside of said streets, alleys, rights-of-way, and easements, or public easements limited in their dedication of purpose or otherwise not intended for placement of Facilities (for example, a public easement dedicated only for stormwater purposes).

(l) Reseller – shall mean a provider of Service within the City whereby the provider purchases and resells the Service of a duly authorized Franchisee, but only where the duly authorized Franchisee is already paying fees for the resold Service under its Franchise with the City. (For example, the resale of local exchange service as contemplated by K.S.A. 12-2001(n).)

(m) Service – shall mean any utility or similar service to be provided, distributed, transported or sold to an Entity by means of a delivery or distribution system that is comprised of Facilities within the City, including without limitation, telecommunication, cable, broadband, Internet, Open Video Systems, steam, electric, water, telegraph, data transmission, natural gas, Other Energy, or any other similar service.
(Code 2008, § 5-902)

5-903. FRANCHISE REQUIREMENT.

No Entity shall provide, distribute, transport or sell a Service within the City or shall install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way without a Franchise authorizing the same, unless applicable federal or State law prohibits City enforcement of such requirement. This franchise requirement includes:

- (1) Entities with Facilities within the City in order to provide, distribute, transport or sell Service within the City;
- (2) Entities with Facilities within the City in order to provide, distribute, transport or sell Service outside, but not within the City; and
- (3) Entities without their own Facilities within the City that lease or otherwise use the Facilities of other Entities in order to provide, distribute, transport or sell Service within the City.

Provided, this franchise requirement shall not include a Reseller, or include a governmental entity that has entered into an agreement with the City pursuant to K.S.A. 12-2901 et seq. regarding the use and occupancy of the Right-of-Way.
(Code 2008, § 5-903)

5-904. GAS DISTRIBUTION SYSTEMS AND GAS DISTRIBUTION FACILITIES.

It shall be unlawful for any Entity to install, construct, maintain, extend or operate or a Gas Distribution System or Gas Distribution Facilities or to provide, distribute, transport or sell natural gas or Other Energy within the City on a retail basis without first obtaining a Franchise authorizing the same and requiring a Franchise Fee. This franchise requirement applies to any provision, distribution, transportation or sale to a Gas Consumer within the City whether or not the portion of the Entity's Gas Distribution System is in the Right-of-Way. Provided, in the event the Gas Distribution System or Gas Distribution Facilities of a Franchisee are used by an Entity without its own Gas Distribution System or Gas Distribution Facilities within the City for the transportation or sale of said Entity's natural gas or Other Energy to a Gas Consumer, said Entity shall be exempt from the requirement of obtaining a Franchise if it reports, calculates and pays (either directly or through the Franchisee) a sum to be submitted to the City for such services that is equivalent to the calculation of the Franchisee's Franchise Fee. In such event, if gross receipts are not or cannot be reported, a sufficient volumetric rate multiplied by the number of MCF of the transported natural gas or Other Energy may be used in making such calculation. (Code 2008, § 5-904)

5-905. PRESERVATION OF POLICE POWER AUTHORITY AND APPLICABILITY OF REGULATIONS.

Any rights granted pursuant to this Code and pursuant to any Franchise are subject to the authority of the City to adopt and enforce ordinances and regulations necessary to the health safety and welfare of the public. All Entities subject to this Code shall also be subject to and comply with all applicable federal and state laws, statutes and regulations, and all applicable rules, regulations, policies and ordinances enacted by the City, including without limitation, the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 1 of Chapter XIII 13 of the Code of the City of Westwood, Kansas, and amendments thereto). Provided, nothing in this Code shall be deemed to waive a right, if any, that an Entity might have to seek judicial or regulatory review as provided by law. (Code 2008, § 5-905)

5-906. NATURE OF RIGHTS GRANTED BY ANY FRANCHISE.

Franchises shall not convey title, equitable or legal, in the Right-of-Way or any other public property, but shall give only the right to occupy the Right-of-Way for the purposes and period stated within the Franchise. No Franchise shall grant the right to use Facilities owned or controlled by the City or a third-party, without the consent of such party, nor shall a Franchise excuse a Franchisee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party. Any Franchise granted by the City shall be nonexclusive. (Code 2008, § 5-906)

5-907. INDEMNIFICATION OF THE CITY.

Any Entity installing, constructing, maintaining, extending or operating Facilities within the City or otherwise providing, distributing, transporting or selling a Service within the City shall hold the City harmless from any and all damages or claims arising or accruing from: the exercise of any right or privilege granted under this Code or a Franchise; the

installation, construction, maintenance, extension, operation of its Facilities within the City; and the negligence or intentional acts or omissions of its employees, agents, or servants in the exercise of said installation, construction, maintenance, extension, operation, provision, distribution, transportation or sale. Failure of said Entity to obtain or maintain a Franchise shall in no manner waive this requirement and obligation.
(Code 2008, § 5-907)

5-908. LIABILITY INSURANCE AND BOND REQUIREMENT.

(a) Each Franchisee 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 \$1,000,000 per occurrence and \$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 or wrongful acts or omissions of the Franchisee. The Franchisee shall also have coverage for automobile liability in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The City shall be an additional insured on all policies of Franchisee, to the extent permitted by law, unless waived in writing by the City. If the 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, and shall agree to indemnify and hold the City harmless for any losses associated with Franchisee's activities in the Right-of-Way. All contractors actually performing work for any Franchisee shall be subject to the same insurance requirements set forth herein.

(b) To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities in the Right-of-Way, it shall maintain a performance and maintenance bond as set forth in the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 1 of Chapter ~~XIII~~ 13 of the Code of the City of Westwood, Kansas, and amendments thereto) or as set forth in the Franchise Ordinance of Franchisee. To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities anywhere else within the City, the City may require a bond in the Franchise when reasonably deemed necessary.

(c) A copy of the Liability Insurance Certificate and any required Performance and Maintenance Bond must be on file with the City Clerk.
(Code 2008, § 5-908)

5-909. FRANCHISE APPLICATIONS.

(a) Applications. All applications for a Franchise shall be on forms provided or approved by the City. Any application fee shall be paid prior to processing by the City, unless otherwise agreed to by the City. Upon receipt of a completed application and any applicable fee, the designated city official shall prepare a report and make a recommendation respecting such application to the Governing Body. Each Service subject to a Franchise shall require a separate application.

(b) Application Fee. Subject to Kansas Statute, an application fee shall be paid at the time of the application in the amount established by the City; provided, the City may agree to defer submission of part or all of the application fee until all costs have been

determined. As part of said application fee the City may include reimbursement for all reasonable costs incurred by the City in drafting, negotiating, adopting, and publishing the Franchise. Provided, nothing herein shall prevent the City from having any publication or other reasonable costs billed directly to the applicant. Said application fee shall not be considered or credited against the collection of applicable Franchise Fees.
(Code 2008, § 5-909)

5-910. FRANCHISE RENEWAL.

Franchise renewals shall be in accordance with applicable law. The City and any Franchisee, by mutual consent or as otherwise provided in such Franchisee's Franchise, may enter into renewal negotiations. The City may require such Franchisee to update any application information and, subject to Kansas Statute or any provisions in such Franchisee's Franchise, submit an application fee.
(Code 2008, § 5-910)

5-911. APPLICABILITY.

The provisions of this Code shall apply from and after its effective date, and shall apply to the full extent of the terms herein. Said provisions shall be deemed incorporated into each Franchise.
(Code 2008, § 5-911)

5-912. FEDERAL AND STATE LAW.

The requirements set forth in this Code shall be subject to the provisions of K.S.A. 12-2001 et seq., as may be amended, and any other applicable federal or State law.
(Code 2008, § 5-912)

5-913. FAILURE TO ENFORCE.

The failure of the City to insist upon the strict adherence to the requirements of this Code or of any Franchise shall not be construed as a waiver or relinquishment for the future of the rights of the City to enforce this Code or any Franchise or any term or provision thereof.
(Code 2008, § 5-913)

5-914. VIOLATIONS.

Any Entity violating this Code shall be subject to a fine of \$500 per day. The payment of such fine notwithstanding, all such violators shall be subject to all other applicable provisions of this Code to fullest extent allowed by law, including, but not limited to, the payment of a Franchise Fee or the equivalent thereof, and indemnification of the City.
(Code 2008, § 5-914)

~~**5-915. SAVINGS CLAUSE.**~~²⁶

²⁶ **Legal analysis: 5-915.SAVINGS CLAUSE.** Delete as covered by general provisions in Chapter 1.

~~The provision of this Code shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience. If any clause, sentence or section of this Code shall be held to be invalid, it shall not affect the remaining provisions of this Code. (Code 2008, § 5-915; Ord. 889)~~²⁷

ARTICLE 10. PROHIBITED DISCRIMINATION IN EMPLOYMENT, HOUSING, OR PUBLIC ACCOMMODATIONS AS TO SEXUAL ORIENTATION OR GENDER IDENTITY.

5-1001. DECLARATION OF POLICY.

(a) The right of an otherwise qualified individual to be free from discrimination because of that individual's sexual orientation or gender identity is hereby recognized. This right shall include, but not be limited to, any of the following:

- (1) The right to pursue and hold employment and the benefits associated therewith without unlawful discrimination.
- (2) The right to the full enjoyment of any of the services, advantages or privileges of any place of public accommodation without unlawful discrimination.
- (3) The right to engage in property transactions, including obtaining housing for rent or purchase and credit therefor, without unlawful discrimination.
- (4) The right to exercise any right granted under this article without unlawful retaliation.²⁸

(b) To protect these rights, it is hereby declared to be the purpose of this article to extend the law to prohibit discrimination and retaliation based upon sexual orientation and gender identity and to provide a local process for the acceptance, investigation and resolution of complaints of discrimination and retaliation relating to sexual orientation and/or gender identity arising hereunder.

(c) Such prohibition is in furtherance of providing equal protection to all residents of the City and, for purposes of the Kansas Preservation of Religious Freedom Act (K.S.A. 60-5301 et seq.) and other applicable law, the provisions set forth herein are determined to be the least restrictive means of furthering a compelling governmental interest.

(d) Nothing in this article shall be construed to make it lawful to discriminate or retaliate against individuals on the basis of race, color, religion, national origin, sex, age, disability, marital status, familial status, or military status. Such discrimination and

²⁷ **Legal analysis: 5-915. SAVINGS CLAUSE.** Ord. 889 is only cited as a history note following Sec. 5-915 – Savings Clause. I assume the entire article was derived from Ord. 889, but need to confirm for purposes of history noting. Please verify that Ord. 889 includes the content for all of Article 9.

²⁸ **Legal analysis: 5-1001. DECLARATION OF POLICY (a)(4).** There appears to be some missing language in this provision. Please advise accordingly.

retaliation is not addressed in this article because federal and state law consistently address unlawful discriminatory and retaliatory practices related to those characteristics and provide a complaint, investigation and enforcement process for such discrimination and retaliation.

(Ord. No. 1004, § 1(5-1001), 10-10-2019)

5-1002. DEFINITIONS. ²⁹

Except to the extent they are in conflict with the definitions below, the definitions contained within the Kansas Acts Against Discrimination (K.S.A. 44-1001 et seq.), and amendments thereto, shall apply to this article. For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise.

- (a) Aggrieved individual - means any individual who has a good faith belief that such individual has been injured by an unlawful discriminatory practice under this article.
- ~~(b) City - means the City of Westwood, Kansas.~~
- ~~(c) Code - means the Code of the City of Westwood, Kansas.~~
- (d) Days - means calendar days. If a deadline falls on a day city hall is not open (e.g. a weekend, a holiday recognized by the City, emergency closure) the deadline will be extended to the next day city hall is open.
- (e) Employee - means any individual authorized to perform services within the City for an employer, and includes an officer of the employer, but does not include any individual employed by such individual's parents, spouse or child or in the domestic service of any individual. Employee also does not include an independent contractor.
- (f) Employer - means any individual or entity, including but not limited to corporations, partnerships, limited liability companies, associations, labor organizations, mutual companies, joint-stock companies, trusts, or unincorporated organizations, employing four (4) or more employees in the City (including all departments, boards, and agencies thereof), and any City contractor (with respect to contracts between the City and the contractor). For purposes of this article, employer shall not include any non-profit fraternal or social association/corporation or any religious organization.
- (g) Gender identity - means an individual's actual or perceived (by the individual or another) gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics regardless of the individual's designated sex at birth.
- (h) Hearing officer - means the City of Westwood Municipal Judge.
- (i) Investigator - means the City of Westwood Prosecutor.
- (j) Nonprofit fraternal or social association/corporation - means an association or

²⁹ **Legal analysis: 5-1002. DEFINITIONS: (b) city; (c) code.** Delete as covered by general provisions in Chapter 1.

corporation that meets all of the following requirements: (1) it is organized in good faith for social or fraternal purposes; (2) membership entails the payment of bona fide initiation fees or regular dues; (3) there exists a regularly established means of self-government by the members thereof clearly set forth in a constitution or by-laws adopted by the membership; (4) there is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates; and (5) it is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.

(k) Place of public accommodation – means and shall include every establishment within the City that is open to the public and offers any product, service or facility. The term place of public accommodation shall include, but not be limited to, all taverns, hotels, motels, apartment hotels, apartment houses with one (1) or more tenant units, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof. The term place of public accommodation shall not, however, include: (1) a religious organization; (2) any hotel, motel, restaurant or theater operated by a nonprofit fraternal or social association/corporation which restricts its facilities and services to the members of such association/corporation and their guests; or (3) any nonprofit fraternal or social association/corporation, or bona fide civic, political or religious organization, when the profits of such association/corporation or organization, above reasonable and necessary expenses, are solely for its benefit or mission.

(l) Religious organization - means an entity, association, or group such as a church, mosque, temple, synagogue, or other entity, association, or group principally devoted to religious practice or religious teaching.

(m) Rent - means to lease, to sublease, to let or otherwise to grant the right to occupy premises not owned by the occupant in exchange for payment or other consideration.

(n) Rental housing - means any real property, consisting of ~~more~~ one (1) or more dwelling units, which is required to obtain a license or permit pursuant to the provisions of Chapter 5 of the Code.

(o) Respondent - means the individual or entity against whom a complaint alleging discrimination or retaliation has been filed with the City.

(p) Sexual orientation - means an individual's actual or perceived (by the individual or another) emotional, romantic, or sexual attraction to other people, such as heterosexual, homosexual, bisexual, pansexual or asexual.

(Ord. No. 1004, § 1(5-1002), 10-10-2019)

5-1003. UNLAWFUL PRACTICES.

(a) Employment. It shall be an unlawful discriminatory practice for an employer, because of the sexual orientation or gender identity of an otherwise qualified individual:

i. to refuse to hire or employ such individual, to bar or discharge such individual from

employment, or to otherwise discriminate against such individual in compensation or in terms, conditions or privileges of employment without a valid business necessity;

ii. to limit, segregate, classify or make any distinction in regard to employees, or to follow any employment procedure or practice that, in fact, results in discrimination, segregation or separation, without a valid business necessity;

iii. to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this Article or because such person has filed a complaint, testified or assisted in any proceeding under this Article.

(b) Housing. It shall be an unlawful discriminatory practice:

i. for an individual or entity to discriminate against any individual in the terms, conditions or privileges of the sale or lease of real property or the lease of rental housing, or in the provision of services or facilities in connection therewith, including but not limited to those as set forth in Chapter 8, Article 9 of the City code, because of sexual orientation or gender identity;

ii. for any individual or entity to discriminate against any individual in such individual's use or occupancy of rental housing because of the sexual orientation or gender identity of individuals with whom such individual associates.

(c) Public Accommodation. It shall be an unlawful discriminatory practice for the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, privileges, advantages and accommodations to any individual because of sexual orientation or gender identity.

(Ord. No. 1004, § 1(5-1003), 10-10-2019)

5-1004. EXCEPTIONS.

Nothing in this article shall:

(a) prohibit a fraternal or social association/corporation in fact not open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members;

(b) prohibit a religious organization or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, from limiting the sale, rental or occupancy of real property or rental housing which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals, unless membership in such religion is restricted on account of sexual orientation or gender identity;

(c) prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law;

- (d) be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel, be forced to discharge qualified or competent personnel, or be forced to retain personnel when there is a legitimate non-discriminatory or non-retaliatory reason to terminate employment;
- (e) be construed to prohibit an employer from requiring all of its employees, as a condition of employment, to utilize the employer's applicable established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace. The enforcement by an employer of any such requirement shall not, in itself, be deemed a violation of this article;
- (f) be construed to require any person or entity subject to this article to make changes requiring a building permit to any existing facility, except as otherwise required by law;
- (g) be construed to prohibit an employer or place of public accommodation to post signs for restrooms and dressing rooms based on gender, or to approve, permit, authorize, or serve as a defense to conduct that would constitute the crimes of lewd and lascivious conduct or voyeurism as defined and prohibited by state law or the City code;
- (h) apply to the extent the application or enforcement hereof is found, by a court of competent jurisdiction, to violate a person's rights protected under the Kansas Preservation of Religious Freedom Act, K.S.A. 60-5301 et seq., as amended.
- (i) be construed to preclude any person from filing a complaint under this Article from seeking any other relieve under local, state or federal law.
(Ord. No. 1004, § 1(5-1004), 10-10-2019)

5-1005. DEFENSES.

It shall be a defense to any allegation of an unlawful discriminatory practice:

- (a) that the individual or entity did not know the Aggrieved Individual's sexual orientation or gender identity.
- (b) that the individual or entity acted in good faith and had reasonable grounds for believing that an act or omission was not a violation of this Article.
- (c) that any adverse action taken against the Aggrieved Individual would have been taken regardless of the individual's sexual orientation or gender identity (i.e. the Aggrieved Individual violated the law, a workplace rule, a lease provision or policy applicable to all similarly situated individuals, such as employees, lessees, customers, etc.).
(Ord. No. 1004, § 1(5-1005), 10-10-2019)

5-1006. ENFORCEMENT.

- (a) Any person aggrieved by an alleged violation of this article may file a written, verified complaint with the city clerk. The complaint may be filed personally or through an attorney (or if a minor, through the minor's parent, legal guardian or attorney). Any such complaint shall state sufficient information to identify the factual information supporting

the alleged unlawful discriminatory practice, and shall state the names and contact information of the Aggrieved Individual, the individual(s) and/or entity/entities alleged to have committed the unlawful discriminatory practice(s), and a description of the alleged unlawful conduct.

(b) The complaint form must be filed within sixty (60) days after the alleged unlawful discriminatory practice, unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it must be filed within sixty (60) days after the last act of discrimination. If the complaint contains allegations of alleged unlawful employment discrimination and the Aggrieved Individual's Employer has an internal human resources procedure to address allegations of discrimination in the workplace (an "Internal Process") and the Employer also has a policy prohibiting discrimination in the workplace on the basis of an individual's sexual orientation or gender identity, then the Aggrieved Individual must first exhaust this Internal Process before the City will process a complaint, in which case the time to file such complaint is extended to thirty (30) days after the date of the final decision in the Internal Process. The Investigator may waive this prior exhaustion requirement upon demonstration to the Investigator's satisfaction that prior exhaustion of the Internal Process would be futile. Futility shall be conclusively established if the Employer fails to render a final decision on the Aggrieved Individual's complaint within forty- five (45) days from the date of the filing of the complaint.

(c) The complaint form shall be submitted to the Investigator. Upon receipt of a complete complaint, the Investigator shall notify the Respondent(s) of the complaint, providing sufficient details related to the complaint so the Respondent(s) may respond. The Investigator shall give the Respondent(s) thirty (30) days to file a written answer to the complaint, and to provide any documentation or evidence related to the complaint. The Investigator may, at the request of Respondent(s), extend the answer period an additional thirty (30) days. If the Respondent(s) charged with violating the provisions of this article is the City, the City will engage an independent investigator who shall not otherwise be an employee, agent, or contractor of the City and shall not have any association with the complainant or the Respondent(s).

(d) Following the conclusion of the answer period, the Investigator may initiate an investigation period for further investigation, requesting that the complainant and/or Respondent(s) provide additional information, documentation or testimony as needed to facilitate the investigation of the complaint. This investigation period shall be concluded within sixty (60) days after the Investigator's last request for information, unless the Investigator notifies the complainant and the Respondent(s) in writing of the need for additional time and reason(s) therefore.

(e) Within thirty (30) days after the conclusion of the investigation period, the Investigator will review all evidence received during the investigation and make a determination, within the Investigator's sound discretion, whether probable cause exists that the Respondent(s) committed an unlawful discriminatory practice.

(f) If the Investigator finds that probable cause does not exist, then the Investigator shall notify the complainant and the Respondent(s), and no further action shall be taken by the City. Any individual making false, malicious, or unfounded accusations against a person or entity subject to this article is guilty of a violation and upon conviction thereof

shall be punished by a fine of \$100.00 for each such violation.

(g) If the Investigator finds that probable cause exists that an unlawful discriminatory practice was committed by Respondent(s), the Investigator shall notify the complainant and Respondent(s) and the Investigator may attempt to engage the parties in conciliation and encourage them to settle the complaint between the parties. Alternatively, the parties may, by mutual agreement, select and pay for, at their own cost, a mediator or arbitrator to mediate or arbitrate the discrimination complaint. The parties may elect to mediate the complaint at any point following the initial filing of the complaint. In the event that a Respondent agrees to mediate a complaint prior to filing the Respondent(s)' answer, the Investigator may stay the requirement of filing an answer. Any such stay shall be lifted in the event that mediation is unsuccessful or in the event that Respondent withdraws its consent to mediate in which case the Respondent shall be required to file its answer within fifteen (15) days following either the conclusion of the mediation, or the date of the Respondent's withdrawal of consent. The Investigator may extend the time for signing a settlement agreement for good cause and with written notice to the parties.

(h) If the complaint could not be conciliated and settled within sixty (60) days of the date of the Investigator's determination that probable cause exists (or by the last day of any extension, whichever is later), the complaint shall be set for a hearing before the hearing officer. The parties will be given at least ten (10) days' written notice of the date, time and place of the hearing. At such hearing, the parties shall be entitled to call witnesses and to present such other evidence as appropriate. The hearing shall be conducted in accordance with such procedures as may be established by the hearing officer which procedures shall generally be consistent with K.S.A. 77- 523 and K.S.A. 77- 524 of the Kansas administrative procedure act, as amended. The Hearing Officer shall also establish his or her own rules of evidence, which are not required to be the same rules of evidence used in courts of law. At such hearing the Aggrieved Individual and the Respondent(s) shall each be entitled to call witnesses and to present such other evidence as appropriate. The Investigator is not required to participate, but may also call witnesses and present such other evidence as he/she deems appropriate. The hearing officer shall issue a written determination within thirty (30) days of the date of the hearing. The determination shall indicate whether the preponderance of the evidence proves that Respondent committed the unlawful discriminatory practice against the complainant, and shall set forth the essential elements of the determination.

(i) If the hearing officer finds that a violation of this article has occurred, the hearing officer may award to the complainant a civil penalty in the amount of up to \$1,000.00 for each violation. In addition, the hearing officer shall have the authority to revoke or suspend any license or licenses issued by the City to a party found to be in violation of this article. The Hearing Officer's determination to revoke or suspend any license or licenses issued by the City shall not become effective until after the exhaustion of all appeal rights as provided for herein. The hearing officer may condition the reinstatement of any revoked or suspended license upon such terms and conditions as the hearing officer finds are fair and appropriate and reasonably calculated to effect compliance with the requirements of this article.

(j) Each party is to bear its own attorneys' fees, if any.

(k) Any party aggrieved by a determination of the hearing officer under this section

may appeal that determination to the District Court of Johnson County, Kansas, in accordance with K.S.A. 60- 2101(d), and amendments thereto. Within thirty (30) days of service of the notice of appeal pursuant to K.S.A. 60-2101(d), as amended, or within further time allowed by the court or by other provision of law, the City shall transmit to the court a certified copy of the written determination of the hearing officer and a certified copy all evidence presented at the hearing. On appeal, the district court may enter such order or judgment as justice shall require, and may award the prevailing party its court costs in accordance with State law.

(l) The Investigator shall maintain all evidence received during the investigation for a period of two (2) years after the deadline for appeal or completion of appeal, whichever is later. The hearing officer will maintain all evidence presented at the hearing for a period of two (2) years after the deadline for appeal or completion of appeal, whichever is later. In no event shall the Investigator or hearing officer permit or cause the loss or destruction of any evidence related to a complaint until all appeal rights have been fully and finally adjudicated.

(m) The filing of a complaint for the alleged violation of this article or a response thereto shall in no way preclude any party from seeking other relief under state or federal law. (Ord. No. 1004, § 1(5-1004), 10-10-2019)

5-1005. CITY CONTRACTS.

The City may condition any contract into which it may enter upon adherence to the requirements of this article, and a violation of this article may be a basis for the termination of any such contract. The hearing officer shall also communicate the finding of a violation to the mayor and city clerk so that the City may determine if the Respondent has any contracts with the City and if the violation found by the hearing officer may result in termination of such contracts or otherwise affect such contracts. (Ord. No. 1004, § 1(5-1005), 10-10-2019)

~~5-1006. SEVERABILITY.~~³⁰

~~Should any section, subsection, sentence, clause or phrase of this article, or the application thereof to any person or circumstance, be declared to be unconstitutional or invalid or unenforceable, such determination shall not affect the validity of the remaining portions of this article.~~
(Ord. No. 1004, § 1(5-1006), 10-10-2019)

³⁰ **Legal analysis: 5-1006. SEVERABILITY.** Delete as covered by general provisions in Chapter 1.

CHAPTER 6.

ELECTIONS**ARTICLE 1. CITY ELECTIONS****6-101. CONDUCT OF ELECTION.**

The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections.

(Code 2008, § 6-101)

(K.S.A. 25-2101 et seq.)¹

6-102. HOURS OF VOTING.

At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer.

(Code 2008, § 6-102)

(K.S.A. 25-2111)

6-103. TERMS OF OFFICE.²

~~On the first Tuesday in April of 2016, there shall be elected a mayor and two council members for a term of 45 months. On the Tuesday succeeding the first Monday in November of 2017 and every four years thereafter, there shall be elected three council members for a term of four years. The terms of council members elected in the April, 2014 election shall expire in January 2018 when the three council members elected in the November, 2017 election take office.~~

On the Tuesday succeeding the first Monday in November of 2019 and every four years thereafter, there shall be elected a mayor and two council members for terms of four years.

The mayor and council members, ~~with the exception of those elected in April 2016 who shall hold their office for a term of 45 months,~~ shall hold their offices for four years or until their successors are elected, qualify and are sworn in.

(Code 2008, § 6-103; C.O. No. 17; Ord. No. 966, § 1, 11-12-2015)

6-104. ELECTION TIES.

¹ **Legal analysis: 6-101. CONDUCT OF ELECTION.** Revise this and other statutory history notes by placing them in standard state law reference format.

² **Legal analysis: 6-103. TERMS OF OFFICE.** Remove outdated language.

Whenever a tie shall occur in the vote on any of the aforesaid officers, the result shall be decided by lot by the judges of election.
(Code 2008, § 6-104; C.O. No. 6; Sec. 2)

6-105. COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.

(a) The term of office for newly elected city officials shall commence with and include the first regular meeting of the governing body following certification of the election by the county election officer.

(b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk.

(Code 2008, § 6-105)
(K.S.A. 25-2120)

6-106. DECLARATION OF CANDIDACY, NOMINATION PETITION.

Any person desiring to become a candidate for city office elected at large shall file with the county election officer, before the filing deadline, established in K.S.A. 25-205, and amendments thereto, a declaration of candidacy on a form furnished by the county election officer as specified by the secretary of state. The nomination petition must be signed by 25 of the qualified electors of the City of Westwood or by a number of such qualified electors of the city equal to not less than 10% of the ballots cast at the last general election, whichever is less.

(Code 2008, § 6-106; C.O. No. 17; Ord. No. 966, § 2, 11-12-2015)

Sec. 6-107. Nonpartisan elections.

The election of all city officials appointed by election, including the office of the Mayor and all Council offices, shall be conducted in a nonpartisan manner.
(Ord. No. 978, § 2(6-107), 1-12-2017)

CHAPTER 7.

FIRE

- Article 1. Fire Limits
- Article 2. Fire Prevention
- Article 3. Storage of Volatile Flammables

ARTICLE 1. FIRE LIMITS**7-101. FIRE LIMITS ESTABLISHED.**

The fire limits of the city are hereby established as the corporate limits of the city.
(Code 1993; Code 2008, § 7-101)

ARTICLE 2. FIRE PREVENTION**7-201. FIRE PREVENTION CODE INCORPORATED.**

There is hereby adopted by the governing body of the city, for the purpose of prescribing regulations, governing conditions hazardous to life and property from fire or explosion, that certain code and standards known as the International Fire Code, edition of 2003, including all the Appendix chapters and amendments as set forth in Chapter 4, Article 5 of this code. ¹
(Code 2008, § 7-201)

7-202. SAME; AMENDMENTS.

Wherever the word municipality is used in the code hereby adopted, it shall be held to mean the City of Westwood.
(Code 2008, § 7-202)

7-203. PENALTY.

Any person, firm or corporation violating any provision of this article or failing or refusing to perform any duty imposed by this article shall be fined in a sum not to exceed \$500.00 or imprisoned for not more than 180 days or be both fined and imprisoned. A separate offense shall be deemed committed each and every day during which a violation occurs or

¹ **Legal analysis: 7-201. FIRE PREVENTION CODE INCORPORATED.** It appears that the 2021 Int'l Fire Code is the most current edition. Please advise whether the city would like to update the adopted edition.

continues.

(Code 1993, 7-202; Code 2008, § 7-203; Ord. 720, Sec 2)

7-204. BURNING OF GARBAGE, TRASH, GRASS, LEAVES PROHIBITED.

It shall be unlawful to burn within the city any garbage, trash, refuse, grass or leaves or any other material or substance. However, this prohibition shall not apply to the use of residential barbecues or outdoor grills for the cooking of food, or to outdoor residential fireplaces or chimineas.

(Code 1993, 8-503; Code 2008, § 7-204)

7-205. ACCUMULATION OF RUBBISH AND TRASH.

It shall be unlawful for any person to allow to accumulate or to keep in any part of any building or outside of and adjacent to any building or in any alley, sidewalk, street or premises within 30 feet of any building any rubbish, trash, waste paper, excelsior, empty boxes, barrels or other combustibles which shall constitute a fire hazard.

(Code 2008, § 7-205)

7-206. STACKING OF HAY OR STRAW; EXCEPTIONS.

(a) It shall be unlawful for any person to deposit, stack or store any hay or straw within 500 feet of any building located inside the fire limits of the city.

(b) This provision shall not apply to hay bales or the like, which are part of any approved storm water pollution prevention plan or other approved device to control silt or storm water runoff, and shall also not apply to hay bales or the like which are part of a temporary decorative display for a period not to exceed 60 days, including, but not limited to, decorative hay bales for Thanksgiving or Halloween displays.

(Code 2008, § 7-206)

7-207. KEEPING OF PACKING MATERIALS.

It shall be unlawful to keep excelsior or other packing material in any other than metal or wood metal lined boxes or bins having selfclosing or automatic covers. All refuse and trash from rooms where packing or unpacking is done shall be removed daily.

(Code 2008, § 7-207)

7-208. STORAGE OF ASHES.

It shall be unlawful to store ashes inside of any nonfireproof building unless they are stored in a noncombustible container or receptacle, and a clearance of at least five feet shall be maintained between such container or receptacle and any combustible materials not placed therein. Ashes shall not be stored outside of any building in wooden, plastic, or paper product receptacles or dumped in contact with or in close proximity to any combustible materials.

(Code 2008, § 7-208)

7-209. FILLING GASOLINE TANKS OF MOTOR VEHICLES.

The engines of motor vehicles shall be stopped when the gasoline tanks of such vehicles are being filled with gasoline at service stations or other places where gasoline is supplied to motor vehicles. The driver or person in control of such vehicle when the gasoline tank of same is being filled who refuses, neglects or fails to stop the engine of such vehicle shall likewise be guilty of a violation of this code.
(Code 2008, § 7-209)

7-210. FIRE HAZARDS GENERALLY.

It is unlawful for any person to cause or create anywhere within the city, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of fire or the spreading of fire. Any situation or condition conducive to the outbreak of or spreading of fire, is declared to be a fire hazard. The violation of or failure to comply with any law pertaining to the storage, handling or use of inflammable oils, explosives, liquefied petroleum gases, or fertilizers and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs or any other obstruction in the aisles, hallways, doorway, or exit of any theater, public hall, auditorium, church or other place of indoor public assemblage, or the failure to provide any such place of public assemblage with sufficient, accessible and unobstructed fire exits and escapes is also declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful.
(Code 2008, § 7-210)

7-211. SAME; INSPECTIONS TO DISCOVER.

It shall be the duty of the fire chief to inspect or cause to be inspected by fire department officers or members, as often as may be necessary all buildings, particularly all mercantile buildings, manufacturing plants, warehouses, garages, hotels, boarding houses, rooming houses, theaters, auditoriums and all places of public assemblage, for the purpose of discovering the violation of any fire preventive law or any fire hazard and ascertaining and causing to be corrected any conditions liable to cause fires and to see that all places of public assemblage, hotels and rooming houses have sufficient and unobstructed facilities for escape therefrom in case of fire.
(Code 2008, § 7-211)

7-212. ABATEMENT OF FIRE HAZARDS; ISSUING ORDER.

Whenever any city official or officer or member of the fire department shall find or discover any fire hazard or shall find in any building or upon any premises combustible or explosive material or dangerous accumulation of rubbish or unnecessary accumulation of paper, boxes, shavings or any other inflammable material, so situated as to endanger property by the probability of fire, or shall find or discover any violation of this chapter or any other law hazardous to public safety from fires, the fire chief shall order the fire hazard or danger from the fire forthwith abated and remedied and such order shall be complied with immediately by the owner or occupant of such buildings or premises. If the hazard or condition ordered abated and remedied is a violation of, or a failure to comply with any law, the fire chief shall report the matter to the city attorney and he or she shall, if he or she deems it advisable, prosecute the offender.
(Code 2008, § 7-212)

7-213. SAME; SERVICE OF ORDER; RECORDS.

Any order made under section 7-212 shall be in writing and may be served personally upon the owner or occupant of the premises or by leaving it with any person in charge of the premises or if the premises are unoccupied and the owner is a nonresident of the city, then by mailing a copy to the owner's last known post-office address, or by posting on the premises if the owner's address is unknown. One notice to either the occupant or owner shall be sufficient. The fire chief shall keep a record of and copies of all such orders and notices and shall follow up such notices at the expiration of the time for compliance therewith and when complied with make proper entry, and if not complied with, file a complaint with the municipal court against the property owner and/or occupant.
(Code 2008, § 7-213)

ARTICLE 3. STORAGE OF VOLATILE FLAMMABLES**7-301. DEFINITION.**

Volatile Flammables - shall mean any gasoline, kerosene, fuel oil or any other easily ignited liquid or fuel that readily becomes a vapor at a relatively low temperature.
(Code 1993; Code 2008, § 7-301; Ord. 622, Sec. 1)

7-302. UNLAWFUL STORAGE.

No gasoline, kerosene, fuel oil, inflammable or dangerous liquid or volatile flammables shall be stored within the city, except:

- (a) In underground tanks as provided for in the city, Uniform Building Code incorporated at section 3-101, and also as provided in section 7-303.
- (b) In storage containers necessary for public purpose fuel supplies and operated and controlled by the City.
(Code 2008, § 7-302; Ord. 622, Sec. 2)

7-303. SAME.

No more than two approved sealed containers holding an aggregate of not more than ten (10) gallons of volatile flammables for residential use can be stored within any structure within the city limits.
(Code 2008, § 7-303)

7-304. SERVICE STATIONS.

- (a) No gasoline service station hereafter erected shall have as part thereof more than three storage tanks and not more than two pump islands, each of the islands containing not more than three pumps.
- (b) No gasoline service station shall be erected hereafter unless said gasoline service station shall have not to exceed a total of two street or alley entrances, neither of which said entrances shall be wider than 30 feet.

(Code 1970, 6-303:304; Code 2008, § 7-304; Ord. 121, Secs. 3:4)

7-305. PENALTY.

Any person violating any provision of this article shall upon a conviction thereof be fined a sum of money not exceeding \$500.00, or be imprisoned for not more than 180 days or be both so fined and imprisoned. A separate offense shall be deemed and committed each and every day during which a violation occurs or continues.

(Code 1993; Code 2008, § 7-305; Ord. 622, Sec. 4)

CHAPTER 9.

MUNICIPAL COURT**ARTICLE 1. GENERAL PROVISIONS****9-101. MUNICIPAL COURT ESTABLISHED.**

There is hereby established a municipal court for the City of Westwood, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city.

(Code 1983; Code 2008, § 9-101)

9-102. SAME; PRACTICE AND PROCEDURE.

The Kansas code of procedure for municipal courts, as set forth in K.S.A. 12-4101 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court.

(Code 1983; Code 2008, § 9-101)

9-103. TIME AND PLACE OF SESSIONS. ¹

Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates.

(Code 2008, § 9-103)

9-104. MUNICIPAL JUDGE; APPOINTMENT.

The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court.

(Code 1993, 9-103; Code 2008, § 9-104; C.O. No. 9, Sec. 3)

9-105. SAME; ABSENCE; VACANCY; PRO TEM.

In the event the municipal judge is temporarily unable to preside due to absence, illness or disqualification, the municipal judge shall designate an attorney or other qualified person to act as judge pro tempore. In the event the municipal judge fails to appoint a judge pro tempore, the judge pro tempore shall be appointed in the same manner as the municipal judge is selected. The judge pro tempore shall receive compensation in the same manner as the compensation of the regular municipal judge.

¹ **Legal analysis: 9-103. TIME AND PLACE OF SESSIONS.** Please advise whether the city would like to add a provision allowing for remote court appearances under certain circumstances.

In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed.

(Code 2008, § 9-105)

(K.S.A. 12-4107) ²

9-106. SAME; POWERS AND DUTIES.

The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto.

(Code 1983, 9-104; Code 2008, § 9-106)

9-107. SAME; SALARY.

The municipal judge shall receive a salary as shall be fixed by ordinance.

(Code 1983, 9-105; Code 2008, § 9-107)

9-108. COURT CLERK.

There is hereby established the office of the clerk of the municipal court of the City of Westwood, Kansas. The duties of the office shall be those prescribed by the Code for Municipal Courts set forth in K.S.A. 12-4101 et seq., and shall include those duties as set for in section 1- 320 of this code.

The monthly salary of the clerk shall be fixed by ordinance.

(Code 2008, § 9-108)

(K.S.A. Supp. 12-4108)

9-109. PAYMENT OF FINE.

Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine.

(Code 2008, § 9-109)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION.

It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time.

(Code 2008, § 9-110)

² **Legal analysis: 9-105. SAME; ABSENCE; VACANCY; PRO TEM.** Revise this and other statutory history notes by placing them in standard state law reference format.

9-111. FAILURE TO APPEAR.

(a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250.00.
(Code 2008, § 9-111)

9-112. COURT COSTS. ³

In addition to witness fees, mileage and assessments as provided by state statute, the imposition of which the Court is authorized to impose as costs, in each case filed in the Municipal Court of Westwood, Kansas, where there is a finding of guilty or a plea of guilty, a plea of no contest, forfeiture of bond or diversion, the Court shall assess court costs in the amount of \$25.00 for each complaint or charge filed unless waived or suspended by the court.

Court costs shall not be assessed for parking violations.
(Code 1993, 9-107; Code 2008, § 9-112; C.O. No. 12, Sec. 2; Ord. 865, Sec. 1)

³ **Legal analysis: 9-112. COURT COSTS.** Please review court costs (\$25.00), and advise as to any changes.

CITY OF WESTWOOD, KANSAS

PROCLAMATION

WHEREAS, the City of Westwood, Kansas, takes pride in its sense of community, responsibility, and citizen involvement; and

WHEREAS, the Boy Scouts of America was founded to promote citizenship, training, personal development, and physical fitness of individuals; and

WHEREAS, Adam Minto is a member of Troop 98, St. Ann Parish, of the Boy Scouts of America, a senior at Shawnee Mission East High School, and a resident of the City of Westwood; and

WHEREAS, on January 11, 2024, Adam Minto attained the rank of Eagle Scout, the highest honor granted by the Boy Scouts of America; and

WHEREAS, to achieve this high honor, Adam Minto demonstrated leadership, perseverance, and commitment to himself, his Troop, and to the Westwood and surrounding communities; and

WHEREAS, for his Eagle Scout Project, Adam Minto designed a series of signs for a local community garden, coordinated the collection of needed materials, and orchestrated their construction and installation; the signs function as wayfinding devices, offer operational information for the garden users/volunteers, and provide interchangeable banners for announcing seasonal activities and functions as community bulletin boards; and such garden provides food for the community; and

WHEREAS, Adam Minto has demonstrated his commitment to live by the Scout Oath and Law; and

WHEREAS, the City of Westwood, Kansas, fully supports the programs of the Boy Scouts of America and recognizes the important services they provide to the youth of our City and the community;

NOW, THEREFORE, I, David E. Waters, Mayor of the City of Westwood, Kansas, do hereby recognize Adam Minto for his achievement in earning the rank of Eagle Scout and, together with the Governing Body, extend congratulations to Adam Minto on his accomplishments and acknowledge the good fortune of the City of Westwood to have such an outstanding young man as one of its citizens.

**PROCLAIMED BY THE MAYOR OF WESTWOOD, KANSAS
THIS 14TH DAY OF MARCH, 2024.**

David E. Waters
Mayor

ATTEST:

Abby Schneweis
City Clerk

Johnson County Government

Becky Fast

District 1 Commissioner

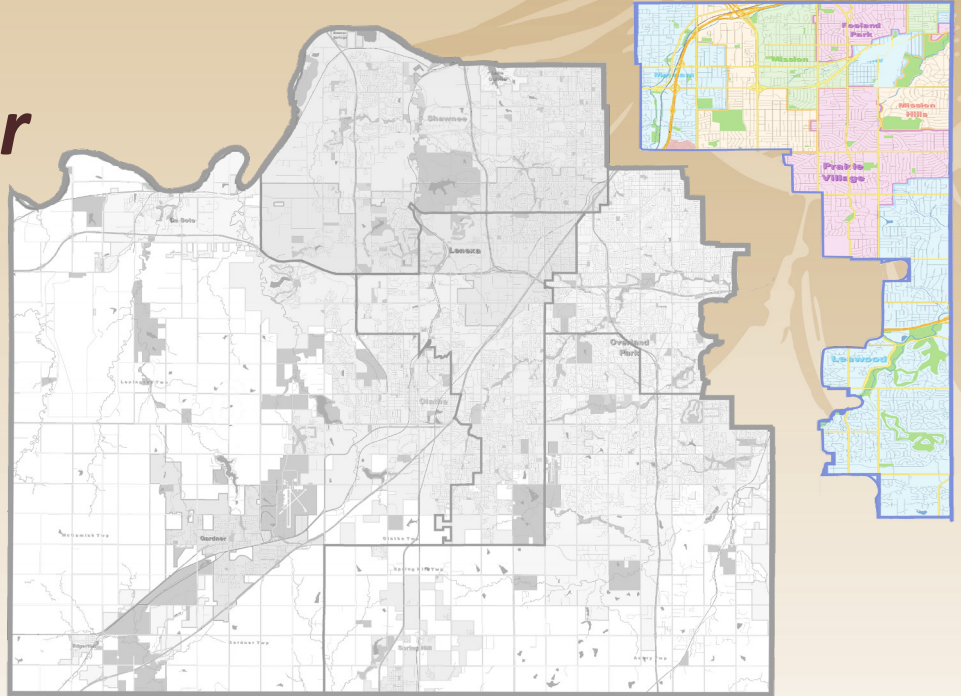
Item B, Section IV, Item

Contact Me

jocogov.org/beckyfast

913-715-0725

Becky.Fast@jocogov.org



COUNTY'S LARGEST-EVER CAPITAL PROJECTS

AGING INFRASTRUCTURE - CONSTRUCTION AND REBUILD



**NELSON WASTEWATER TREATMENT FACILITY –
IN MISSION – OLDEST IN THE COUNTY**

**TOMAHAWK CREEK WASTE FACILITY –
LEAWOOD**

- Tomahawk Creek completed in 2022 with over \$200 million in savings.
- Nelson wastewater construction will take place 2024-2029. An estimated \$133 million in savings due to federal funding.
- Improved water quality through using the latest cost-effective technologies.

JoCo Wastewater Backup Prevention Program

Protect your home from heavy rain!

This program is voluntary and provides funding to eligible homeowners so they may install a backup prevention device or make plumbing modifications.

The program prevents basement flooding caused by sanitary sewer backups during extremely heavy rains.

JOHNSON COUNTY LIBRARY PROJECT



New Merriam Plaza Library

- Anticipated to open Spring 2024
- Oldest branch in operation for 60 years

Planning for a new Corinth Library Branch

- Library Board prioritized Corinth as the next replacement project after Merriam
- Evaluating alternatives to replace or relocate the Corinth Branch.
- Project timeframe estimated for 2026-2028

County Assistance Road System (CARS) Program

Item B, Section IV, Item

2024 Funding Sources

Funding Source	Amount
“Gas Tax” (SCCHF)	\$13,114,000
County Support (0.343 mills)	\$5,032,000
CARS Reserve	\$1,862,000
Total	\$20,008,000

	Westwood
2018	\$0
2019	\$0
2020	\$70,000
2021	\$55,000
2022	\$259,000
2023	\$0
Total	\$384,000

County pays 50% of the project’s construction.

Each city is guaranteed project funding

for its top priority.



Stormwater Management

Funded with a 1/10 of 1% sales tax

2024 Program expenditure: \$20,125,000

- Watershed Organizations established 2020
- Change from emphasis on city needs to watershed needs
- Cities can submit projects related to:
 - Flood risk reduction and water quality improvement

Westwood:

\$34,189.00 – Inspection Funds – in 2019



SUSTAINABILITY MEASURES

Solid Waste Management Plan 2020-2025

- **Organics Management**
 - Exploring new compost facilities
- **Outreach & education**
 - Recycle Right Program - finished in Edgerton, Mission, and Westwood and currently working with PV.
 - Have seen large reductions in contamination in recycling.

Waste and Diversion Trends: In 2022 – was 33.67%

As Landfill Nears Capacity “Alarm Bells are Ringing”

Item B. Section IV, Item

19 to 37 years of landfill capacity

Currently 7 active landfills (3 Kansas and 4 MO)



NEW HOUSEHOLD HAZARDOUS WASTE FACILITY – OPENED

Item B, Section IV, Item

Relocated and remodeled in Overland Park off of College Boulevard

Recycled Paint Store and household chemicals for purchase

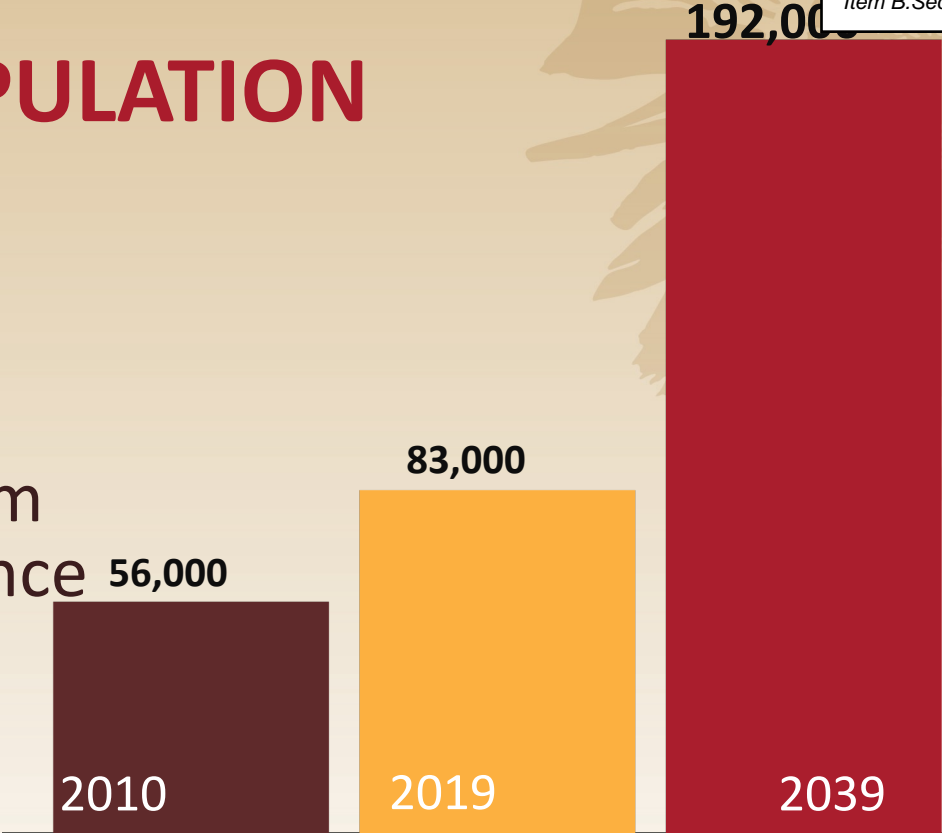
Appointment for drop off at jocogov.org/hhw or 913-715-6907



65+ AGING POPULATION

Key County Programs:

- Meals on Wheels
- Senior Dining Program
- Senior Health Insurance Counseling
- In-Home Services



Source: Wichita State University

INNOVATIONS AT JOCO MENTAL HEALTH CENTER

Item B, Section IV, Item

- Youth Crisis Residential Program (12 beds)
- New crisis stabilization center through converting a current mental health building
- Integration of 988 mental health within the 911 dispatch center.
988 team - 41,000 calls in 2022



WHAT IS HAPPENING WITH PUBLIC TRAN

Item B. Section IV, Item



- New 87 Street bus route connecting Lenexa City Center, Overland Park, Prairie Village, and Mission.
- Demand for Micro Transit continues to increase each year.
- In 2024 - strategic plan will occur working with cities.

ADDRESSING HOUSING INSTABILITY

Item B, Section IV, Item



- Preserve existing housing through expanding home repair/weatherization program.
- A new eviction mediation pilot program to prevent homelessness.
- Increase need for utility assistance
- Allocated federal funds toward a workforce townhomes project in Gardner

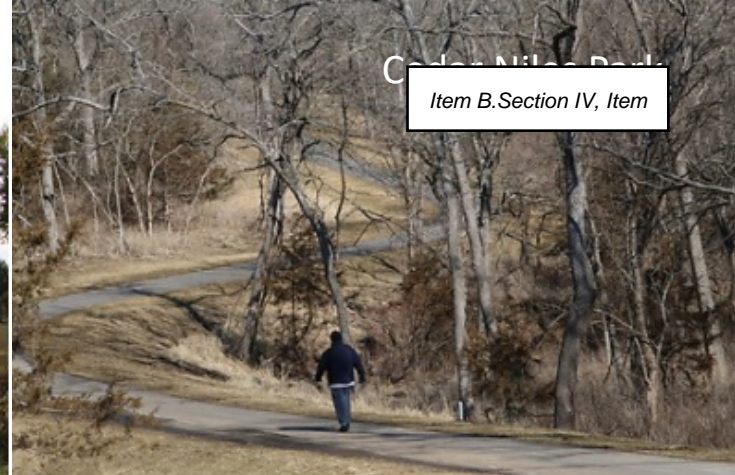
Kill Creek park (Means Observation Tower)



Meadowbrook Park



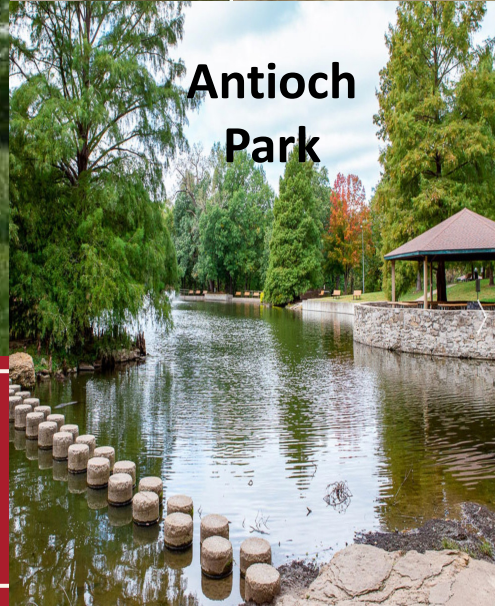
Golden Miles Park
Item B, Section IV, Item



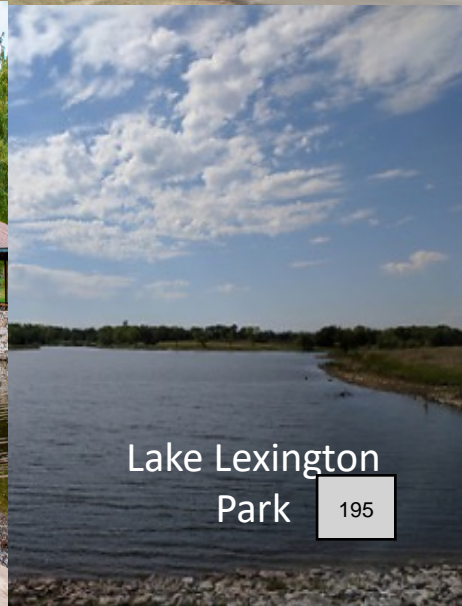
Camp Branch



Antioch Park



Lake Lexington Park



Explore Johnson County Parks in 2024

***We want to work
together with you to
make our community
a great place to live!!***



**City of Westwood, Kansas
City Council Work Session
4700 Rainbow Boulevard
February 8, 2024 – 5:30 PM**

Council Present: David E. Waters, Mayor
Andrew Buckman, Councilmember
Jeff Harris, Council President
Jason Hannaman, Councilmember
Laura Steele, Councilmember
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator
Curtis Mansell, Police Chief
John Sullivan, Public Works Director
Ryan Denk, City Attorney
Abby Schneweis, City Clerk

Call to Order

Mayor Waters called the meeting to order at 5:30 p.m. on February 8, 2024. Mayor Waters noted all members of the Governing Body were present along with Ms. Herring, Ms. Schneweis, Chief Mansell, Mr. Sullivan, and Mr. Denk. The meeting was held in a hybrid manner with attendees being able to join in person and virtually via Zoom.

Community Survey Preparation

Kate Bender, PorchLight Insights, provided an overview of services provided by PorchLight Insights. Ms. Bender then facilitated an exercise to develop content for the community survey to be conducted in 2024.

Adjournment to Regular Meeting

The Work session adjourned at 6:56 p.m. to prepare for the regular City Council meeting.

**City of Westwood, Kansas
City Council Meeting
February 8, 2024 – 7:00 p.m.**

Council Present: David E. Waters, Mayor
Andrew Buckman, Councilmember
Jeff Harris, Council President
Jason Hannaman, Councilmember
Laura Steele, Councilmember
Holly Wimer, Councilmember

Council Absent: None

Staff Present: Leslie Herring, City Administrator
Curtis Mansell, Police Chief
John Sullivan, Public Works Director
Ryan Denk, City Attorney
Abby Schneweis, City Clerk

Call to Order

Mayor Waters called the meeting to order at 7:00 p.m. on February 8, 2024. Ms. Schneweis called the roll. A quorum was present. The evening's meeting was held in a hybrid manner, with attendees joining both in person and via Zoom.

Approval of Agenda

Motion by Councilmember Harris to approve the February 8, 2024 City Council meeting agenda as submitted. Second by Councilmember Wimer. Motion carried by a 5-0 voice vote.

Public Comment

Stephen Platt, 4910 Glendale, Westwood Hills, expressed his disagreement with the City Council's vote to invalidate a protest petition to sell the land at 5000 Rainbow Blvd. during the January 17, 2024 Special City Council meeting.

Presentations and Proclamations

Consolidate Fire District No. 2 (CFD2)

Steve Chick, Fire Chief of CFD2, provided an overview of operations and activities and offered to answer any questions.

Consent Agenda

All items listed below are considered to be routine by the Governing Body and will be enacted in one motion. There will be no separate discussion of these items unless a member of the Governing Body so requests, in which event the item will be removed from the consent agenda and considered separately following approval of the consent agenda.

- A. Consider January 11, 2024, City Council Work Session & Meeting Minutes
- B. Consider January 17, 2024, Special City Council Meeting Minutes
- C. Consider Appropriations Ordinance 759

Motion by Councilmember Hannaman to approve the Consent Agenda as submitted. Second by Councilmember Buckman. Ms. Schneweis conducted a roll call vote. Motion carried by a 5-0 vote.

Mayor's Report

Mayor Waters said the 75th Anniversary of Westwood's incorporation will occur in 2024, and Councilmember Wimer is working with members of the community to plan a celebration. Additionally, resident and former Mayor Karen Johnson is working to compile a history book about Westwood.

Mayor Waters provided an update of recent events he attended as Mayor.

Mayor Waters announced the members of the Feature Park Planning Steering Committee. They are:

- Westwood City Council – Laura Steele (Committee Chair)
- Westwood City Council – Jeff Harris
- Westwood Planning Commission – Sarah Page
- Westwood Communities for All Ages Task Force – Chris Burns
- Westwood Communities for All Ages Task Force – Karen Johnson
- Westwood Communities for All Ages Task Force – Spencer Day
- Westwood Communities for All Ages Task Force – Jenn Wetzell
- Karbank – Steve Karbank, or designee
- Westwood View Elementary School (nearby neighbor) – Emma Hobick
- Shawnee Mission East High School – Chris Minto
- Westwood community at-large – Brandon Joiner
- Westwood community at-large – Greyson Rubin
- Westwood community at-large – Kris Boyle
- Mission Woods resident (nearby neighbor) – Erica Hartley
- Johnson County Development Supports – Courtney Fitzgerald

Councilmember Reports

Councilmember Steele thanked Mr. Sullivan and Public Works staff for assisting her with installing the bike maintenance station in front of the Public Works building.

Councilmember Wimer said a group of residents will be meeting on February 27th at 4:00 p.m. to begin planning the 75th Anniversary celebration and encouraged anyone interested in helping with this event to attend.

Staff Reports

Administrative Report

Ms. Herring provided an overview of the February 2024 Administrative Report included in the agenda packet and offered to answer questions.

Public Works Report

Mr. Sullivan provided an overview of the January and February 2024 Public Works Report included in the agenda packet and offered to answer questions.

Public Safety Report

Chief Mansell provided an overview of the January 2024 Public Safety Report included in the agenda packet and offered to answer questions.

Treasurer's Report

The January 2024 Treasurer's Report was included in the agenda packet, no questions or comments were made about the report.

City Attorney's Report

Mr. Denk did not have any items to report.

Old Business

No Old Business items were considered.

New Business**Consider Ordinance 1040 approving a Franchise Agreement with Google Fiber**

In 2012, Google Fiber was granted authorization by the State of Kansas to provide video service in Westwood and that same year entered into a Development Agreement with the City. In 2015, the City of Westwood entered into a Video Service Provider Agreement with Google Fiber Kansas, LLC to construct, operate, and maintain facilities within city rights-of-way, to provide video services to customers within the city, and to pay to the City a video service provider fee in the amount of 5% of gross revenues.

There is only one change to the agreement - the franchise fee percentage has decreased. The 2015 agreement gave the City a 5% franchise fee for television and cable services. Since that agreement, Google has moved out of the business of providing television and cable services, which leaves that agreement collecting very little franchise fees. The new agreement has a lower percentage – 2% – but applies to a broader range of services, including Google's broadband service. This agreement was negotiated by the City Attorney and is the same framework that Google Fiber has worked out with surrounding municipalities in Johnson County, bringing Westwood in line with other neighboring cities.

The City currently receives less than 3% of our total franchise fee revenue from Google Fiber, so the budget impact of this change is expected to be nominal if not possibly providing increased revenue by way of now assessing franchise fees on additional services provided by Google Fiber in Westwood, including broadband service.

Motion by Councilmember Hannaman to adopt Ordinance 1040 granting to Google Fiber Kansas, LLC a contract franchise to construct, operate, and maintain communications service facilities in the public right-of-way of the City of Westwood, Kansas. Second by Councilmember Harris. Ms. Schneeweis conducted a roll call vote. Motion carried 5-0.

Consider Appointments to the Westwood Planning Commission

The members of the Westwood Planning Commission are appointed by the Mayor, with the consent of the Governing Body, and serve for a term of three (3) years each (16.1.4.2). Planning Commissioners whose terms are expiring effective February 29, 2024 are Kevin Breer, Mark Neibling, and M. Scott Weaver. Commissioners Breer and Neibling are both seeking renewal of their terms. Commissioner Weaver is not seeking reappointment; he has shared that he feels since he has served two terms, that another Westwood resident be given the opportunity to serve the community in this way.

Following Commissioner Weaver's notice to vacate his seat, the Mayor issued an open call for candidates. Statements of interest from two (2) residents were received. Following review of those statements of interest, Mayor Waters and Planning Commission Chair Sarah Page conferred, and the Mayor is recommending the Governing Body consent to the appointment of Emily Keyser for a three-year term.

Ms. Keyser is an 8-year resident of Westwood. She holds a degree in urban planning from the University of Missouri – Kansas City and has worked for both the City of Lee's Summit, Missouri and the Unified Government of Wyandotte County-Kansas City, Kansas.

The following candidates, who all reside in Westwood are qualified appointees and are hereby recommended by the Mayor to serve on the Westwood Planning Commission for terms or three (3) years each, starting March 1, 2024 and ending February 28, 2027:

- Kevin Breer 2916 W. 47th Ter.
- Emily Keyser 2915 W. 51st St.
- Mark Neibling 2708 W. 48th St.

Motion by Councilmember Wimer confirm the appointment of Kevin Breer, Emily Keyser, and Mark Neibling to the Westwood Planning Commission, each for a three-year term to expire February 28, 2027, and for Leslie Herring in her capacity as notary public to administer the oath of office at the next regular meeting of the Planning Commission. Second by Councilmember Steele. Motion carried by a 5-0 voice vote.

Announcements/Governing Body Comments

No announcements were made.

Executive Session

Consultation with the City Attorney on matters relating to that property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney client relationship under K.S.A. 75-1319(b)2

Motion by Councilmember Hannaman to recess into Executive Session for 20 minutes for consultation with the City Attorney on matters relating to real property located at and around 5000 Rainbow Blvd. which would be deemed privileged in the attorney-client relationship under K.S.A. 75-4319(b)2 present will be the members of the Governing Body, the City Administrator, and the City Attorney for, the regular meeting will resume at 8:08 p.m. Second by Councilmember Harris. Motion carried by a unanimous voice vote.

At 8:08 p.m. the Governing Body returned to the dais. Mayor Waters announced no actions were taken during Executive Session.

Adjournment

Motion by Councilmember Buckman to adjourn the meeting. Second by Councilmember Hannaman. Motion carried by a 5-0 voice vote. The meeting adjourned at 8:10 p.m.

APPROVED: _____
David E. Waters, Mayor

ATTEST: _____
Abby Schneweis, City Clerk

DRAFT

**City of Westwood, Kansas
Appropriation Ordinance No. 760**

AN ORDINANCE APPROPRIATING CITY EXPENDITURES FOR THE PERIOD OF FEBRUARY 1, 2024 - FEBRUARY 29, 2024 AND SUMMARIZING SAID EXPENDITURE HEREIN.

	General Month Ending 2/29/2024	Capital Improvements Month Ending 2/29/2024	Equipment Reserve Month Ending 2/29/2024	Stormwater Month Ending 2/29/2024	Special Highway Month Ending 2/29/2024	Woodside TIF/CID Month Ending 2/29/2024	Debt Service Month Ending 2/29/2024	Total All Funds Month Ending 2/29/2024
Expenditures								
Salary & Benefits	193,295.70	0.00	0.00	0.00	0.00	0.00	0.00	193,295.70
Employee Expenses	4,390.64	0.00	0.00	0.00	0.00	0.00	0.00	4,390.64
Professional Fees	10,158.15	0.00	0.00	0.00	0.00	0.00	0.00	10,158.15
General Operating Expenses	9,270.91	0.00	0.00	0.00	0.00	0.00	0.00	9,270.91
Utilities	9,336.35	0.00	0.00	0.00	0.00	0.00	0.00	9,336.35
Equipment and Maintenance	8,909.99	3,260.00	288,232.73	0.00	126.88	0.00	0.00	300,529.60
Street and Stormwater	0.00	0.00	0.00	1,832.26	0.00	0.00	0.00	1,832.26
Park and Events	2,000.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00
Miscellaneous	50,346.24	0.00	0.00	0.00	0.00	471,825.67	0.00	522,171.91
Intergovernmental	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Expenditures	287,707.98	3,260.00	288,232.73	1,832.26	126.88	471,825.67	0.00	1,052,985.52

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

SECTION 1. The Claims included herein are hereby approved and allowed.

SECTION 2. That the payment of all claims and charges against the respective accounts and funds provided in the budget for the year 2024 are consistent with that budget and are hereby authorized, ratified and approved.

SECTION 3. This Ordinance shall take effect from and after its passage.

ADOPTED this 14th day of March, 2024.

MAYOR

ATTEST: CITY CLERK



City Administrator's Report

March 2024

To: Mayor and City Council
From: Leslie Herring, City Administrator
Date: March 14, 2024
RE: Update on some of the key areas of focus of the Administration Department

Current Priorities

3rd Quarter (October) 2023 through 1st Quarter (March) 2024

- *Rainbow Blvd. Complete Streets Traffic Management Plan*
 - ✓ The MARC Board approved the scope of work negotiated with the firm selected by the project steering/advisory committee of stakeholders in April and the Notice to Proceed was issued on May 31, 2023.
 - ✓ A project kick-off with WSP Consulting, MARC, and the local project stakeholders took place on June 27th.
 - ✓ Public engagement is currently taking place with an opinion survey and additional public engagement activities and opportunities will take place through November. Survey and information available here: <https://publicinput.com/rainbowboulevard>
 - ✓ Full data analysis has been completed and Steering Committee Meeting 3 of 4 was held last week.
 - ✓ A public open house to release the recommended options and to gather wider feedback from the community was held Saturday, January 27, 2024 from 2 – 4 PM. I anticipate about 50 people attended.
 - One final Steering Committee meeting will be held the final week of March and reporting of final recommendations and findings to take place in April 2024 (this timeline has been extended about two months from the original contract timeline).
 - Mid-America Regional Counsel has opened its call for projects for suballocated federal funding and pre-applications are due by April 5th. City staff, the project consultant team, and the corridor stakeholder organizations are anticipated to work together to submit an application for funding to begin implementing certain improvements agreed upon. That scope of work will be refined based on direction and coordination between the members of those groups in the coming weeks and months.

- *Mission Rd. Improvements (2024 JoCo CARS-funded project in partnership with Roeland Park)*
 - ✓ The City was awarded County cost-share funding through Johnson County's CARS program for improvements to Mission Rd. between 47th and 53rd Streets. The cost of improvements to this stretch of Mission Rd. are also paid 50% by the City of Roeland Park, since the cities split the roadway as it's a City boundary line.

- ✓ The results from a 2022 community survey jointly administered by the City of Roeland Park and Westwood have set City staff in both cities to pursue the following elements when the cities do street maintenance in 2025:
 - adding bicycle facilities,
 - enhanced and additional pedestrian crossings,
 - new pedestrian-scale streetlighting, and
 - removal of on-street parking on the Roeland Park side of the street to accommodate bicycle lanes.
- ✓ A public open house was held on February 28th and since that time, an ad hoc committee of staff, consultants, and elected officials – Laura Steele and Andrew Buckman from Westwood – worked on an FAQ to respond to questions received. [That FAQ is available on the project page, housed on the City of Roeland Park’s website.](#)
- ✓ Staff involved in the project met regularly to refine the scope of work and associated costs before submitting to Johnson County for programming. The project cost estimate was submitted on March 8th; Westwood’s share of the construction cost at this point is calculated at just under \$500,000. Westwood’s budgeted total cost is \$716,473, which includes design, survey, and bidding services.
 - Design will continue through 2024 before project bidding in early 2025.

➤ *Community Survey and Strategic Priorities Setting*

- ✓ City staff recommends that the Governing Body create a strategic plan to provide direction to staff for work activities and for budgeting and for the development of performance metrics to ensure a framework for accountability, responsiveness, and efficient use of tax-payer resources. Performance metrics, communications objectives, and strategic priority identification are all anticipated outcomes of this process.
- ✓ Staff recommends that this strategic plan be based on the results of a city-wide survey, to be developed and deployed with the assistance of professional partners ETC Institute and PorchLight Insights. The survey will be sent by mail to all Westwood addresses – both residential and commercial – and responses will be accepted by pre-paid return mail or online. Only one response per address will be accepted.
- ✓ A work session was held at the regular February City Council meeting where the Governing Body developed topics on which it would like to hear from Westwood residents and businesses. This input was used by City staff and the consultant team to create survey questions, which survey results will then be analyzed and discussed with the Governing Body moving into strategic priority and resource planning in the second quarter of 2024. A draft of the survey is included in tonight’s meeting packet for consideration and conversation before finalizing for use by ETC.
 - The timeline from here is anticipated as such:

March 14 – 15	Survey questions finalized
Early April	ETC mails survey
Early June	ETC closes survey and delivers results to City
Late June	Governing Body retreat to review results and develop strategic plan

August 8 th	Final report of survey findings and analysis; Governing Body Strategic Plan presented for adoption; operational performance metrics presented for consideration
------------------------	---

➤ *New Feature Park Plan Creation*

- ✓ Following the October approval by the City Council of the development plan submitted by Karbank in 2023, the City commenced planning activities for the new feature City park included in the plan for 50th & Rainbow Blvd.
- ✓ The process for creating a plan for the park is expected to take a full year and is anticipated to involve:
 - 2023 Q4: Create park steering committee process, draft RFQ for review by committee, determine and invite committee members
 - 2024 Q1: Park steering committee and RFQ issuance for park planning professional services
 - 2024 Q2: Park design consultant selection process
 - 2024 Q3 – Q4: Public engagement and park design activities
 - End of Year: Park design recommendation finalized and submitted to Planning Commission and City Council for acceptance
- ✓ The Park Planning Steering Committee, chaired by Councilmember Steele and attended by Mayor Waters and Councilmember Harris, met for the first time on Monday, March 4th to review and comment on the draft RFQ.
- The next meeting of the Steering Committee is scheduled for Tuesday, March 26th to finalize the RFQ and approve it for advertisement on April 1, 2024. A 30-day response period is planned.

➤ *City Website Relaunch*

- The updated City website went live in March 2023 and, after living with it for a bit, I have rejected the website for issues of functionality, lack of professionalism and lack of modern feel in appearance, and hasty and incomplete migration of data by the website provider.
- City staff – along with support from a professional communications partner, Katie Garcia at Gather Media – have re-engaged the City’s website provider and have identified an acceptable alternate website template to migrate to through a relaunch.
- The mock-up of the new website was developed by CivicPlus, the website developer, and was shared with City staff and City Council for input. It was approved February 22nd.

➤ *Westwood’s 75th Anniversary – June 7, 2024*

- Councilmember Wimer convened a group of residents to put together a plan for celebrating the City of Westwood’s 75th anniversary of incorporation. This group convened on February 27th and discussed the following:
 - A reprint and expansion of the City’s 50th anniversary book publication;
 - An event in June 2024 to celebrate the anniversary; and
 - Official City of Westwood merch that residents can proudly wear to show their pride in Westwood.

Councilmember Wimer will share additional details and be available for questions and input at the Council meeting.

Building Permits

The following is a snapshot of select building permits of note issued last month:

Residential

New Construction: None

Additions:

- 2601 W. 50th Ter. – Add kitchen and dining room and primary bedroom above

Alterations:

- 2707 W. 50th Ter. – Kitchen remodel

Demolition: None

Misc: None of note

Commercial

New Construction: None

Additions: None

Alterations: None

Demolition: None

Misc: None of note

Westwood Public Works Monthly Report

TO: GOVERNING BODY
FROM: JOHN SULLIVAN, DIRECTOR OF PUBLIC WORKS
RE: MONTHLY REPORT, FEBRUARY 2024
DATE: MARCH 12, 2024

Some of the activities for Public Works in February include:

1. Daily collection of trash from City Hall and City Parks.
2. Perform a weekly inspection of the playground equipment and park facilities.
3. Perform a weekly inspection of the traffic control signs throughout the city; replace poles and signs as required.
4. I prepared the Purchase Orders and documentation for those purchases.
5. Performed routine maintenance at the City Hall to include the servicing of the air handling equipment, re-lamping fixtures and repairing or installing appurtenances including plumbing fixtures.
6. I represented the city at various meetings to include:
 - ULCC Meeting – Virtual – 1 hr.
 - CARS 80% Rule Sub-committee – In person - 1.5 hrs.
 - City of Roeland Park Council Committee of the Whole – In person – 1.5 hrs.
 - SMAC Meeting – Virtual – 1.5 hrs.
 - Emergency Managers Meeting - Virtual – 1 hr.
 - UPROW Committee Meeting - Virtual – 1 hr.
 - STP Committee Meeting – Virtual – 1.5 hrs.
7. Received, via email, Kansas One-Call Locate Requests, advised callers of their status with the City of Westwood regarding utilities and advised, when appropriate, the need to either get an excavation permit, building permit or fence permit. I provided the building official with a copy of the locate requests for follow-up for any building permits that may be required and answered any questions when asked.
8. We performed routine maintenance on the Public Works vehicles and equipment to include fluid services, cleaning, and general repairs.
9. Routine maintenance of the Public Works Facility to include the air handling equipment, plumbing, electrical, and cleaning.
10. Performed various clerical duties for the Public Works Department's daily functions.
11. I attended Public Works, City Council and Staff and Committee meetings as required.
12. Observed activities associated with ROW Permits.
13. We marked streetlight utilities when requested by the One-Call System.
14. We performed monthly safety checks at all City properties as well as monthly fire extinguisher inspections.
15. Mitch attends monthly Safety Committee Meetings.
16. We patched potholes.
17. We swept streets.
18. We cleaned the catch basin fronts.

19. Performed routine maintenance on equipment.
20. Troubleshoot and repair streetlights as needed at various locations.
21. Performed various repairs to roadway signs.
22. We replaced the walkway lights at the park on Belinder Ave.
23. We replaced the walkway lights at the park on W. 47th Terrace.
24. We trimmed the ornamental grasses at various municipal properties.
25. We replaced a damaged sign post in Westwood Hills.
26. We swept streets in Mission Woods.
27. We performed temporary repairs to the sidewalk in front of KU.
28. The garage door openers were replaced at Public Works.

This concludes my activities report for some of the activities for Public Works in February.

**Westwood Public
Works**

To: Governing Body
From: John Sullivan, Director of Public Works Date:
February 6, 2024
Re: Monthly Status Report

- W. 47th Street Project: We have received 22 of the 26 clamshells. I expect the remaining 4 to be delivered at anytime. I have asked for an update and have not heard back. I will arrange the install once we have them all in our possession. We have two streetlight fixtures that is not working. We have received the parts for this repair for one of the fixtures. We also have two pedestrian fixtures that have failed. The parts are ordered. Something struck another one of the “47” signs at 47th and Fisher. We have had another 47 sign damaged by a truck at W. 47th Street and Rainbow Blvd. We will make the repairs as soon as our bucket truck is repaired. The remaining parts of the project are complete. KDOT is working on the final accounting for the project.
- 2023 F-550 and Equipment: The truck is complete with exception of door decals. I will be ordering them.
- CCLIP funding: Our project has been funded. This includes work on the replacement of the concrete intersection at W. 47th Street and Rainbow. We will not have any City funds in this project. Project will be in 2026.
- Storm Debris Removal: This project is complete. We are waiting for the reimbursement.
- Stone wall damage: We had a vehicle accident at W. 51st Terrace and Belinder Avenue that resulted in damage to the stone wall on the corner. We have been reimbursed for the expense by the insurance company. This project will begin in April. I have asked the Women’s Club to move the plantings from in front of the damaged wall.
- Stone wall damage and light pole damage: I have the replacement Medalion, and we will be installing it when we get the bucket truck back.
- Garage Door Openers at PW Bldg.: This project is complete.
- Bucket Truck Repairs: The main seal on the center boom has developed a hydraulic due to a fault seal. We are having it repaired and should get it back soon.
- Brush Chipper: The rear engine seal has failed causing the unit to lose oil. We are having it repaired and expect it back soon.

Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

2/1/2024



2/29/2024



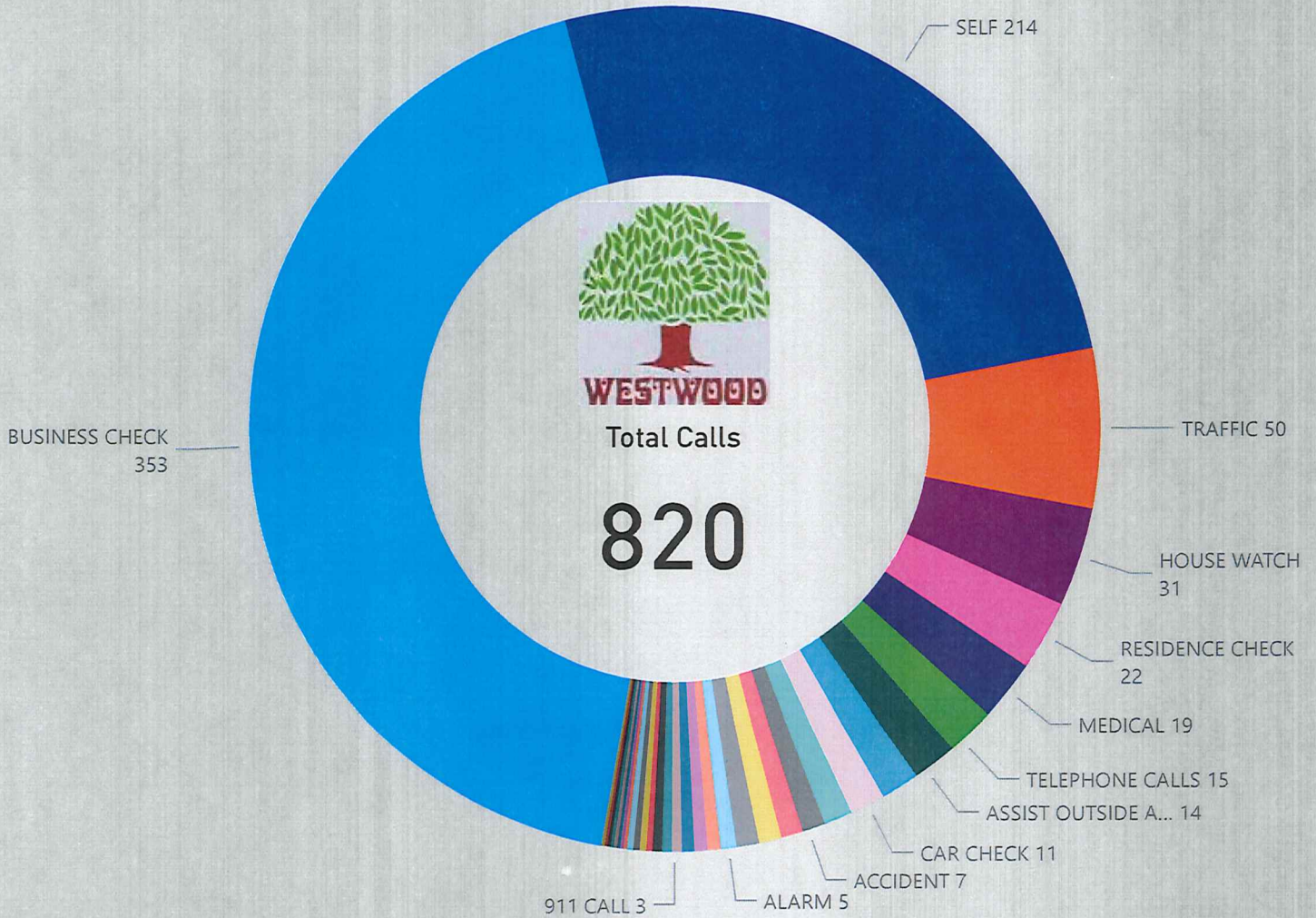
Westwood Police Department City Council Report

Item C. Section VIII, Item

2/1/2024



2/29/2024



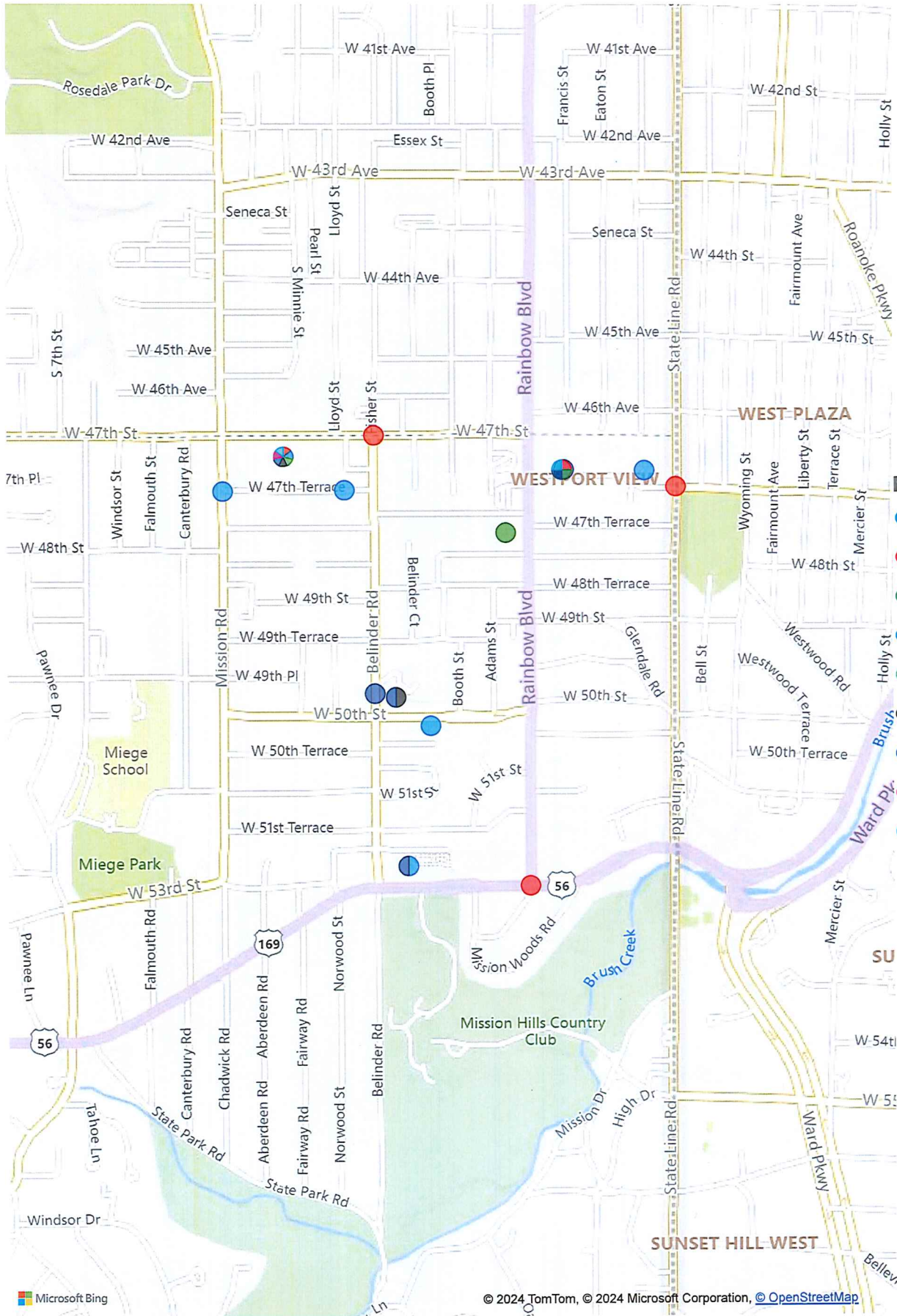
Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

2/1/2024



2/29/2024



- Nature of Call**
- 911 CALL
 - ACCIDENT
 - AUTO THEFT REPORT
 - CHECK THE WELFARE
 - CRIMINAL THREAT
 - DISTURBANCE
 - SUSPICIOUS
 - THEFT REPORT
 - TRESPASSING

Westwood Police Department Westwood City Council Report

Item C. Section VIII, Item

2/1/2024



2/29/2024



Case Number	Nature of Call	Summary
20240039	PROPERTY	Reporting officer responded in reference to a hit and run accident report. Reporting party stated her vehicle was hit while parked in the parking garage. No suspect information at this time.
20240040	TRESPASSING	A subject was identified and issued a trespass warning at the request of the business.
20240041	THEFT REPORT	Report of potential shoplifters, which was thwarted by officer presence to deter them in the store.
20240044	TRESPASSING	Reporting officer issued a trespass warning to an individual who entered the Woodside Village Apartments without permission.
20240049	SUSPICIOUS	Reporting officer responded to a suspicious person call. The subject made staff and patrons uncomfortable and was formally trespassed from the business.
20240054	AUTO THEFT REPORT	Reporting officer responded to a reported vehicle theft. No suspect information was available at the time.
20240055	STATION REPORT	Reporting officer took a walk in report for a possible domestic battery incident. The reporting party left the station prior to the conclusion of the interview. Not enough information was given to determine if a crime had actually occurred.
20240071	THEFT REPORT	Reporting officer was dispatched to an attempted theft where the suspect had battered an employee who stopped the theft. The suspect was no longer on scene and the investigation is on going.

WESTWOOD
COURT SUMMARY
FEBRUARY, 2024

COURT DATE	ARRAIGNMENTS	TRIALS	FINES	LETTERS	WARRANTS
February 02, 2024	25	00	\$2,242.00	06	19
February 23, 2024	36	08	\$3,541.00	05	26
TOTALS					
February 2024	61	08	\$ 5,783.00	11	45
February 2023	36	17	\$ 5,596.00	18	19
			TOTAL (\$5,783.00) less		
			* Kansas DL fees:		\$203.00
			* Judges Training Fund:		\$ 17.00
			* LET Training Fund:		\$315.00
			* Seat Belt Fund:		\$20.00
February 2024 TOTAL:					\$ 5,228.00

Y.T.D. TOTALS 2024		Y.T.D. TOTALS 2023	
ARRAIGNMENTS:	140	ARRAIGNMENTS:	100
TRIALS	20	TRIALS:	30
LETTERS:	54	LETTERS:	32
WARRANTS:	72	WARRANTS:	48
FINES:	\$12,338.00	FINES:	\$11,459.00
KS DL FEES:	\$203.00	KS DL FEES:	\$284.00
JUDGES FUND:	\$35.50	JUDGES FUND:	\$27.00
L.E.T.FUND:	\$762.50	L.E.T FUND:	\$625.00
COMM CORRECT FUND:	\$0.00	COMM CORRECT FUND:	\$0.00
SEAT BELT FUND:	\$80.00	SEAT BELT FUND:	\$20.00

**City of Westwood
Treasurer's Report
2/29/24**

1. Balance Sheet by Fund – shows overall ending cash balances for the City by Fund.
 - a. Ending unencumbered cash through 2/29/2024 was \$3,581,654. February 2023 the balance was \$2,894,560.
2. Cash Flow – shows beginning cash by fund and associated revenues and expenditures for each fund in a more summarized format.
3. Statement of Operations – General Fund
 - a. Revenue received for the month was \$75,992. Revenue compared to the prior year was \$184,925.
 - i. Taxes – Sales tax was not received for February until March.
 - ii. Fees and Licenses – were down by \$8,519 in 2024.
 - iii. Building permits were up by \$5,567.
 - iv. The Grants and donations refunded \$2,000 from the grant given in January. This is being reviewed.
 - v. The city received interest income for \$4,814 in miscellaneous income.
 - b. February Expenditures totaled \$287,708. This is an increase of \$33,490 from the prior year. Also, the March 1 payroll was generated on February 29th.
 - i. General overhead expenditures were \$20,984 for the month. Overall expenditures decreased by \$27,586 due to \$15,133 less in professional fees and \$11,340 in utilities.
 - ii. Public Works total expenditures were \$54,698 for the month which is an increase for the year of \$3,600.
 - iii. Police expenditures are \$111,590 for the month which is an increase over prior year by \$24,978. This is due to the payroll increase of \$14,915, increase in computer expenses of \$4,082 and equipment of \$4,734.
 - iv. Made the TIF sales tax payment of \$50,346 in February.
 - c. Net Receipts Over (Under) Expenditures in the General Fund were (\$211,716) for the month. This is an increase over February 2023 of \$106,255.
4. Other Funds – Current Month and Year to Date
 - a. CIP –Sales tax was not collected until March 2024. Stone wall repairs were made of \$3,260.
 - b. Equipment reserve received a donation of \$10,222 in January but this was refunded in February. Purchased the Armor equipment for the truck mounted debris collector for \$288,233.
 - c. Stormwater expended \$1,832.
 - d. Woodside TIF and CID fund made the UMB TIF payment of \$454,134 and the UMB CID payment of 17,691 this month.

I am happy to answer any questions upon request.

Michelle Ryan
City of Westwood Treasurer

ACCOUNTANTS' COMPILATION REPORT

To the City Council
City of Westwood, Kansas
Westwood, Kansas

Management is responsible for the accompanying financial statements of **City of Westwood, Kansas** (a municipal entity), which comprises the statement of assets, liabilities and fund balance by fund – regulatory basis and the statement of cash flow – regulatory basis as of and for the one month ended February 29, 2024, in accordance with the regulatory basis of accounting, and for determining that the regulatory basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. We do not express an opinion, a conclusion, nor provide any assurance on these financial statements.

The financial statements are prepared in accordance with the regulatory basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America.

Management has elected to omit substantially all the disclosures ordinarily included in financial statements prepared in accordance with the regulatory basis of accounting. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the City's assets, liabilities, fund balance, receipts, and expenditures. Accordingly, the financial statements are not designed for those who are not informed about such matters.

The supplementary information is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management. The supplementary information was subject to our compilation engagement. We have not audited or reviewed the supplementary information and do not express an opinion, a conclusion, nor provide any assurance on such information.

We are not independent with respect to **City of Westwood, Kansas**.

Adams Brown, LLC

ADAMSBROWN, LLC
Certified Public Accountants
Overland Park, Kansas

March 7, 2024



City of Westwood, Kansas
Statement of Assets, Liabilities and Fund Balance by Fund - Regulatory Basis
 As of February 29, 2024

	General Fund 02/29/2024	Capital Improvements Fund 02/29/2024	Equipment Reserve Fund 02/29/2024	Stormwater Fund 02/29/2024	Special Highway Fund 02/29/2024	Woodside TIF/CID Fund 02/29/2024	Debt Service Fund 02/29/2024	All Funds 02/29/2024
Assets								
Current Assets								
Cash In Bank	1,804,677.73	333,945.76	115,695.11	331,377.24	184,280.00	629,600.55	145,445.57	3,545,021.96
Cash In Bank - Bond Fund	36,283.68	0.00	0.00	0.00	0.00	0.00	0.00	36,283.68
Cash In Bank - Woodside Village Acct	9.52	0.00	0.00	0.00	0.00	0.00	0.00	9.52
Petty Cash	339.00	0.00	0.00	0.00	0.00	0.00	0.00	339.00
Total Current Assets	1,841,309.93	333,945.76	115,695.11	331,377.24	184,280.00	629,600.55	145,445.57	3,581,654.16
Total Assets	\$ 1,841,309.93	\$ 333,945.76	\$ 115,695.11	\$ 331,377.24	\$ 184,280.00	\$ 629,600.55	\$ 145,445.57	\$ 3,581,654.16
Liabilities and Fund Balance								
Current Liabilities								
Encumbrances	0.00	1,873.79	0.00	0.00	0.00	0.00	0.00	1,873.79
Woodside Village Deposits	9.19	0.00	0.00	0.00	0.00	0.00	0.00	9.19
Refundable Bond Deposits	35,739.99	0.00	0.00	0.00	0.00	0.00	0.00	35,739.99
Accounts Payable	0.00	0.00	47,439.00	0.00	0.00	0.00	0.00	47,439.00
KPERS/KPF Payable	3,425.98	0.00	0.00	0.00	0.00	0.00	0.00	3,425.98
Great West 457 Payable	2,260.00	0.00	0.00	0.00	0.00	0.00	0.00	2,260.00
Total Current Liabilities	41,435.16	1,873.79	47,439.00	0.00	0.00	0.00	0.00	90,747.95
Total Liabilities	41,435.16	1,873.79	47,439.00	0.00	0.00	0.00	0.00	90,747.95
Fund Balance								
Fund Balance	1,506,662.62	306,229.94	356,488.84	189,217.42	169,092.79	602,665.66	144,556.17	3,274,913.44
Fund Balance - Current Year	293,212.15	25,842.03	(288,232.73)	142,159.82	15,187.21	26,934.89	889.40	215,992.77
Total Fund Balance	1,799,874.77	332,071.97	68,256.11	331,377.24	184,280.00	629,600.55	145,445.57	3,490,906.21
Total Liabilities and Fund Balance	\$ 1,841,309.93	\$ 333,945.76	\$ 115,695.11	\$ 331,377.24	\$ 184,280.00	\$ 629,600.55	\$ 145,445.57	\$ 3,581,654.16

See accountants' compilation report.



City of Westwood, Kansas
Statement of Cash Flow - Regulatory Basis
 For the One Month Ended February 29, 2024

	General Fund Month Ending 02/29/2024	Capital Improvements Fund Month Ending 02/29/2024	Equipment Reserve Fund Month Ending 02/29/2024	Stormwater Fund Month Ending 02/29/2024	Special Highway Fund Month Ending 02/29/2024	Woodside TIF/CID Fund Month Ending 02/29/2024	Debt Service Fund Month Ending 02/29/2024	All Funds Month Ending 02/29/2024
Unencumbered Cash, Beginning Period	2,046,265.52	337,205.76	414,150.53	333,209.50	184,406.88	1,101,426.22	145,445.57	4,562,109.98
Receipts								
Fees and Licenses	30,404.85	0.00	0.00	0.00	0.00	0.00	0.00	30,404.85
Building Permits	4,149.00	0.00	0.00	0.00	0.00	0.00	0.00	4,149.00
Intergovernmental	30,822.52	0.00	0.00	0.00	0.00	0.00	0.00	30,822.52
Fines	5,986.00	0.00	0.00	0.00	0.00	0.00	0.00	5,986.00
Grants and Donations	(2,000.00)	0.00	(10,222.69)	0.00	0.00	0.00	0.00	(12,222.69)
Reimbursements	1,500.03	0.00	0.00	0.00	0.00	0.00	0.00	1,500.03
Miscellaneous	5,129.74	0.00	0.00	0.00	0.00	0.00	0.00	5,129.74
Total Receipts	75,992.14	0.00	(10,222.69)	0.00	0.00	0.00	0.00	65,769.45
Expenditures								
Salary & Benefits	193,295.70	0.00	0.00	0.00	0.00	0.00	0.00	193,295.70
Employee Expenses	4,390.64	0.00	0.00	0.00	0.00	0.00	0.00	4,390.64
Professional Fees	10,158.15	0.00	0.00	0.00	0.00	0.00	0.00	10,158.15
General Operating Expenses	9,270.91	0.00	0.00	0.00	0.00	0.00	0.00	9,270.91
Utilities	9,336.35	0.00	0.00	0.00	0.00	0.00	0.00	9,336.35
Equipment and Maintenance	8,909.99	3,260.00	288,232.73	0.00	126.88	0.00	0.00	300,529.60
Street and Stormwater	0.00	0.00	0.00	1,832.26	0.00	0.00	0.00	1,832.26
Park and Events	2,000.00	0.00	0.00	0.00	0.00	0.00	0.00	2,000.00
Miscellaneous	50,346.24	0.00	0.00	0.00	0.00	471,825.67	0.00	522,171.91
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Expenditures	287,707.98	3,260.00	288,232.73	1,832.26	126.88	471,825.67	0.00	1,052,985.52
Adjustments								
Increase / (Decrease) in Payables	5,660.25	0.00	0.00	0.00	0.00	0.00	0.00	5,660.25
Increase / (Decrease) in Refundable Bond Deposits	1,100.00	0.00	0.00	0.00	0.00	0.00	0.00	1,100.00
Total Adjustments	6,760.25	0.00	0.00	0.00	0.00	0.00	0.00	6,760.25
Ending Cash	\$ 1,841,309.93	\$ 333,945.76	\$ 115,695.11	\$ 331,377.24	\$ 184,280.00	\$ 629,600.55	\$ 145,445.57	\$ 3,581,654.16

CITY OF WESTWOOD, KANSAS

Supplementary Information



City of Westwood, Kansas
Statement of Receipts and Expenditures - Regulatory Basis
 General Fund
 For The Two Months Ended February 29, 2024 and 2023

	Month Ending 02/29/2024 <small>Actual</small>	Year To Date 02/29/2024 <small>Actual</small>	Year To Date 02/28/2023 <small>Prior Year</small>	Year Ending 12/31/2024 <small>Current Budget</small>	<small>Over/(Under) Budget</small>
Receipts					
Taxes	\$ 0.00	\$ 620,615.59	\$ 705,772.75	\$ 2,110,854.00	(1,490,238.41)
Fees and Licenses	30,404.85	68,790.14	77,309.22	472,200.00	(403,409.86)
Building Permits	4,149.00	9,732.33	4,165.00	160,000.00	(150,267.67)
Intergovernmental	30,822.52	56,938.04	53,038.98	325,100.00	(268,161.96)
Fines	5,986.00	13,587.00	11,133.00	80,000.00	(66,413.00)
Grants and Donations	(2,000.00)	0.00	0.00	0.00	0.00
Reimbursements	1,500.03	11,286.03	0.00	0.00	11,286.03
Miscellaneous	5,129.74	10,017.53	12,313.07	55,250.00	(45,232.47)
Total Receipts	<u>75,992.14</u>	<u>790,966.66</u>	<u>863,732.02</u>	<u>3,203,404.00</u>	<u>(2,412,437.34)</u>
Expenditures					
General Overhead					
Salary & Benefits	3,222.54	6,261.25	6,585.50	45,940.68	(39,679.43)
Employee Expenses	501.18	2,498.05	1,972.67	9,000.00	(6,501.95)
Professional Fees	5,487.24	36,199.59	51,332.89	260,250.00	(224,050.41)
General Operating Expenses	1,633.78	4,186.16	5,682.73	30,000.00	(25,813.84)
Utilities	8,139.75	20,618.45	31,957.69	287,295.60	(266,677.15)
Park and Events	2,000.00	4,275.00	4,093.22	14,750.00	(10,475.00)
Miscellaneous	0.00	0.00	0.00	30,000.00	(30,000.00)
Intergovernmental	0.00	0.00	0.00	20,000.00	(20,000.00)
Interfund Transfers	0.00	0.00	0.00	268,830.00	(268,830.00)
Total General Overhead	<u>20,984.49</u>	<u>74,038.50</u>	<u>101,624.70</u>	<u>966,066.28</u>	<u>(892,027.78)</u>
Administrative					
Salary & Benefits	44,950.94	74,134.49	75,426.84	480,100.00	(405,965.51)
Employee Expenses	1,340.82	1,805.61	395.00	14,500.00	(12,694.39)
Professional Fees	3,532.10	6,375.10	7,932.54	48,000.00	(41,624.90)
General Operating Expenses	0.00	102.07	453.08	2,500.00	(2,397.93)
Interfund Transfers	0.00	0.00	0.00	5,000.00	(5,000.00)
Total Administrative	<u>49,823.86</u>	<u>82,417.27</u>	<u>84,207.46</u>	<u>550,100.00</u>	<u>(467,682.73)</u>
Public Works					
Salary & Benefits	43,071.33	76,403.20	67,842.95	432,000.00	(355,596.80)
Employee Expenses	848.92	848.92	2,240.39	7,900.00	(7,051.08)
Professional Fees	0.00	0.00	0.00	17,000.00	(17,000.00)
General Operating Expenses	1,085.90	1,283.50	4,084.89	27,550.00	(26,266.50)
Utilities	930.72	990.72	2,409.82	19,580.00	(18,589.28)
Equipment and Maintenance	8,760.84	9,414.34	4,623.35	60,500.00	(51,085.66)
Interfund Transfers	0.00	0.00	0.00	200,000.00	(200,000.00)
Total Public Works	<u>54,697.71</u>	<u>88,940.68</u>	<u>81,201.40</u>	<u>764,530.00</u>	<u>(675,589.32)</u>
Police					
Salary & Benefits	102,050.89	178,535.43	163,618.42	999,500.00	(820,964.57)
Employee Expenses	1,699.72	5,728.90	4,841.82	27,000.00	(21,271.10)
Professional Fees	1,138.81	1,272.45	169.36	34,000.00	(32,727.55)
General Operating Expenses	6,551.23	7,491.28	2,827.00	67,100.00	(59,608.72)

See accountants' compilation report.



City of Westwood, Kansas
Statement of Receipts and Expenditures - Regulatory Basis
 General Fund
 For The Two Months Ended February 29, 2024 and 2023

	Month Ending 02/29/2024	Year To Date 02/29/2024	Year To Date 02/28/2023	Year Ending 12/31/2024	
	Actual	Actual	Prior Year	Current Budget	Over/(Under) Budget
Utilities	0.00	0.00	228.72	4,500.00	(4,500.00)
Equipment and Maintenance	149.15	6,846.49	2,111.70	10,500.00	(3,653.51)
Park and Events	0.00	0.00	1,100.00	1,200.00	(1,200.00)
Interfund Transfers	0.00	0.00	0.00	70,000.00	(70,000.00)
Total Police	111,589.80	199,874.55	174,897.02	1,213,800.00	(1,013,925.45)
Parks & Rec					
General Operating Expenses	0.00	0.00	0.00	3,000.00	(3,000.00)
Utilities	265.88	265.88	516.57	30,000.00	(29,734.12)
Equipment and Maintenance	0.00	1,619.20	52.39	10,000.00	(8,380.80)
Park and Events	0.00	252.19	0.00	28,250.00	(27,997.81)
Total Parks & Rec	265.88	2,137.27	568.96	71,250.00	(69,112.73)
Non-Departmental					
Salary & Benefits	0.00	0.00	(4,273.68)	0.00	0.00
Miscellaneous	50,346.24	50,346.24	26,038.73	0.00	50,346.24
Total Non-Departmental	50,346.24	50,346.24	21,765.05	0.00	50,346.24
Total Expenditures	287,707.98	497,754.51	464,264.59	3,565,746.28	(3,067,991.77)
Receipts Over (Under) Expenditures	\$ (211,715.84)	\$ 293,212.15	\$ 399,467.43	\$ (362,342.28)	655,554.43



City of Westwood, Kansas
Statement of Receipts and Expenditures - Regulatory Basis
 Other Funds
 For The One Month Ended February 29, 2024

	Other Funds					
	Capital Improvements Fund	Equipment Reserve Fund	Stormwater Fund	Special Highway Fund	Woodside TIF/CID Fund	Debt Service Fund
	Month To Date 02/29/2024 Actual	Month To Date 02/29/2024 Actual	Month To Date 02/29/2024 Actual	Month To Date 02/29/2024 Actual	Month To Date 02/29/2024 Actual	Month To Date 02/29/2024 Actual
Receipts						
Grants and Donations	0.00	(10,222.69)	0.00	0.00	0.00	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
Total Receipts	0.00	(10,222.69)	0.00	0.00	0.00	0.00
Expenditures						
Equipment and Maintenance						
Stone Wall Repairs	3,260.00	0.00	0.00	0.00	0.00	0.00
Machinery & Equipment Purchase	0.00	288,232.73	0.00	0.00	0.00	0.00
Special Highway Maintenance	0.00	0.00	0.00	126.88	0.00	0.00
Total Equipment and Maintenance	3,260.00	288,232.73	0.00	126.88	0.00	0.00
Street and Stormwater						
Stormwater Expense	0.00	0.00	1,832.26	0.00	0.00	0.00
Total Street and Stormwater	0.00	0.00	1,832.26	0.00	0.00	0.00
Miscellaneous						
UMB TIF Payment	0.00	0.00	0.00	0.00	454,134.33	0.00
UMB CID Payment	0.00	0.00	0.00	0.00	17,691.34	0.00
Total Miscellaneous	0.00	0.00	0.00	0.00	471,825.67	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
Total Expenditures	3,260.00	288,232.73	1,832.26	126.88	471,825.67	0.00
Receipts Over (Under) Expenditures	\$ (3,260.00)	\$ (298,455.42)	\$ (1,832.26)	\$ (126.88)	\$ (471,825.67)	\$ 0.00

See accountants' compilation report.



City of Westwood, Kansas
Statement of Receipts and Expenditures - Regulatory Basis
 Other Funds
 For The Two Months Ended February 29, 2024

Other Funds

	Capital Improvements Fund Year To Date 02/29/2024 Actual	Equipment Reserve Fund Year To Date 02/29/2024 Actual	Stormwater Fund Year To Date 02/29/2024 Actual	Special Highway Fund Year To Date 02/29/2024 Actual	Woodside TIF/CID Fund Year To Date 02/29/2024 Actual	Debt Service Fund Year To Date 02/29/2024 Actual
Receipts						
Taxes						
Ad Valorem Tax	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 10,519.61
City Sales & Use Tax - Special	29,102.03	0.00	0.00	0.00	0.00	0.00
Motor Vehicle Tax	0.00	0.00	0.00	0.00	0.00	269.79
Total Taxes	29,102.03	0.00	0.00	0.00	0.00	10,789.40
Restricted Use						
Stormwater Utility Fee	0.00	0.00	144,517.08	0.00	0.00	0.00
State Hwy Maintenance	0.00	0.00	0.00	3,735.45	0.00	0.00
Special Highway Fund Revenue	0.00	0.00	0.00	11,578.64	0.00	0.00
WV Ad Valorem Tax	0.00	0.00	0.00	0.00	488,381.00	0.00
WV CID-1	0.00	0.00	0.00	0.00	17,691.34	0.00
WV CID-2	0.00	0.00	0.00	0.00	9,826.47	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
Total Receipts	29,102.03	0.00	144,517.08	15,314.09	515,898.81	10,789.40
Expenditures						
Equipment and Maintenance						
Stone Wall Repairs	3,260.00	0.00	0.00	0.00	0.00	0.00
Machinery & Equipment Purchase	0.00	288,232.73	0.00	0.00	0.00	0.00
Special Highway Maintenance	0.00	0.00	0.00	126.88	0.00	0.00
Total Equipment and Maintenance	3,260.00	288,232.73	0.00	126.88	0.00	0.00
Street and Stormwater						
Capital Improvement Expense	0.00	0.00	0.00	0.00	0.00	9,900.00
Stormwater Expense	0.00	0.00	2,357.26	0.00	0.00	0.00
Total Street and Stormwater	0.00	0.00	2,357.26	0.00	0.00	9,900.00
Miscellaneous						
UMB TIF Payment	0.00	0.00	0.00	0.00	454,134.33	0.00
UMB CID Payment	0.00	0.00	0.00	0.00	34,829.59	0.00
Total Miscellaneous	0.00	0.00	0.00	0.00	488,963.92	0.00
Interfund Transfers	0.00	0.00	0.00	0.00	0.00	0.00
Total Expenditures	3,260.00	288,232.73	2,357.26	126.88	488,963.92	9,900.00
Receipts Over (Under) Expenditures	\$ 25,842.03	\$ (288,232.73)	\$ 142,159.82	\$ 15,187.21	\$ 26,934.89	\$ 889.40

See accountants' compilation report.



City of Westwood, Kansas
Summary of Expenditures - Actual and Budget
Regulatory Basis
For The Year Ended February 29, 2024

	Certified Budget	Expenditures Chargeable to Current Year	Difference Over/(Under)
Expenditures			
General Fund	3,565,746.28	497,754.51	(3,067,991.77)
Capital Improvements Fund	361,976.00	3,260.00	(358,716.00)
Equipment Reserve Fund	741,414.00	288,232.73	(453,181.27)
Stormwater Fund	194,516.00	2,357.26	(192,158.74)
Special Highway Fund	10,000.00	126.88	(9,873.12)
Woodside TIF/CID Fund	623,562.00	488,963.92	(134,598.08)
Debt Service Fund	231,837.50	9,900.00	(221,937.50)
Total Expenditures	5,729,051.78	1,290,595.30	(4,438,456.48)

See accountants' compilation report.

COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: Leslie Herring

Agenda Item: Review draft of community-wide survey

Background/Description of Item

The Governing Body will create a strategic plan this year which will be used to provide direction to staff for work activities and for budgeting, and for the development of performance metrics to ensure a framework for accountability, responsiveness, and efficient use of tax-payer resources. Performance metrics, communications objectives, and strategic priority identification are all anticipated outcomes of this process. The process is expected to conclude late in the second quarter or early in the third quarter of 2024.

Upon staff recommendation, this strategic plan will be based upon the results of a city-wide survey, to be developed and deployed with the assistance of professional partners ETC Institute and PorchLight Insights. The survey will be sent by mail to all Westwood addresses – both residential and commercial – and responses will be accepted by pre-paid return mail or online. Only one response per address will be accepted.

At its February 8th work session, the Governing Body was asked to share with PorchLight Insights what it would like to know and hear from Westwood residents and businesses. This input was used by City staff and the consultant team to create survey questions, which survey results will then be analyzed and discussed with the Governing Body moving into strategic priority and resource planning in the second quarter of 2024.

Staff Comments/Recommendation

Included in the meeting packet is a draft of the survey for discussion. Staff is looking for consensus direction on edits to this draft prior to finalizing the survey questions and sending to ETC to administer the survey.

The timeline from here is anticipated as such:

March 14 – 15	Survey questions finalized
Early April	ETC mails survey
Early June	ETC closes survey and delivers results to City
Late June	Governing Body retreat to review results and develop strategic plan
August 8 th	Final report of survey findings and analysis; Governing Body Strategic Plan presented for adoption; operational performance metrics presented for consideration

Budget Impact N/A

Suggested Motion

None formal action needed; general discussion and direction is sought of the Governing Body by staff.

Westwood Community Survey - DRAFT

- 1. Quality of Life: How would you rate the following items related to quality of life in Westwood? Please rate each item on a scale of 1 to 5, where 5 means "Excellent" and 1 means "Poor."**

#	Question	Excellent	Good	Neutral	Below Average	Poor	Don't know
1	Housing options (i.e. ability to upsize/downsize)	5	4	3	2	1	9
2	Feelings of safety	5	4	3	2	1	9
3	Connections to your neighbors and community	5	4	3	2	1	9
4	Ease of using alternative modes of transportation (i.e. biking, walking)	5	4	3	2	1	9
5	Signage, comfort, and accessibility of bus stops	5	4	3	2	1	9
6	Gathering spaces for the community	5	4	3	2	1	9
7	Shopping/restaurants	5	4	3	2	1	9
8	Tree canopy	5	4	3	2	1	9
9	Public art	5	4	3	2	1	9
10	Communications from the City	5	4	3	2	1	9
11	Size, features, and availability of community room	5	4	3	2	1	9

- 2. Investment Priorities: Using a scale from 1 to 4, where 4 is "Very Important" and 1 is "Not Important," please rate how important it is for the City of Westwood to invest in the following areas over the next 5 years:**

#	Question	Very important	Somewhat important	Not Sure	Not Important
1	Street maintenance	4	3	2	1
2	City building improvements	4	3	2	1
3	Bicycle/pedestrian facilities	4	3	2	1
4	Tree care and planting	4	3	2	1
5	Streetlights	4	3	2	1
6	Community room	4	3	2	1
7	Rebate program for City property taxes based on income and/or age qualification	4	3	2	1
8	Recreation programming and community events	4	3	2	1
9	Grants for residents to support housing improvements	4	3	2	1
10	Organized volunteer program	4	3	2	1
11	Bike share program	4	3	2	1
12	Environmentally sustainable practices	4	3	2	1
13	Public art	4	3	2	1

- 3. Which THREE of the items listed in Question 2 do you think are most important for the City of Westwood to invest in? [Write in your answers below using the numbers from the list in Question 2.]** 1st: ____ 2nd: ____ 3rd: ____

4. Capital Improvement Plan Funding: The City's Capital Improvement Plan (CIP), which includes maintenance and improvements to residential streets and City facilities and buildings, is underfunded at the current level of revenues generated by property and sales taxes. The City has created a ten-year plan to address the needs identified in the CIP and is now in a position to identify funding sources to address deferred maintenance and improvements desired by taxpayers. **This question lists potential types and levels of tax increases. For each, please rate how willing you would be to pay that amount to accelerate priorities in Question No. 2 above to accomplish them within the next 10 years.**

#	Question	Very willing	Somewhat willing	Not too willing	Not at all willing	Don't know
1	.5 mill in property taxes, equal to \$25/year on a \$400,000 house	4	3	2	1	9
2	1 mill in property taxes, equal to \$50/year on a \$400,000 house	4	3	2	1	9
3	1.5 mill in property taxes, equal to \$75/year on a \$400,000 house	4	3	2	1	9
4	2 mill in property taxes, equal to \$100/year on a \$400,000 house	4	3	2	1	9
5	.5% in sales tax, equal to \$0.50 on a \$100 grocery bill	4	3	2	1	9
6	.75% in sales tax, equal to \$0.75 on a \$100 grocery bill	4	3	2	1	9
7	1% in sales tax, equal to \$1 on a \$100 grocery bill	4	3	2	1	9
8	1.25% in sales tax, equal to \$1.25 on a \$100 grocery bill	4	3	2	1	9
9	1.5% in sales tax, equal to \$1.50 on a \$100 grocery bill	4	3	2	1	9

5. New Program/Infrastructure Usage: Using a scale of 1 to 5, where 5 means "Very Likely" and 1 means "Very Unlikely," please rate how likely you would be to participate in or use the following services or infrastructure if provided by the City of Westwood:

#	Question	Very Likely	Likely	Neutral	Unlikely	Very Unlikely	Don't know
1	Rebate program for City property taxes based on income and/or age qualification	5	4	3	2	1	9
2	Additional recreation programming and community events	5	4	3	2	1	9
3	Grants for residents to support housing improvements	5	4	3	2	1	9
4	Organized volunteer program	5	4	3	2	1	9
5	Bicycle/pedestrian facilities	5	4	3	2	1	9
6	Bike share program	5	4	3	2	1	9

- 6. City Services and Livability: Using a scale of 1 to 5, where 5 means "Strongly Agree" and 1 means "Strongly Disagree," please indicate your level of agreement with each of the following statements.**

#	Question	Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree	Don't know
1	The City of Westwood has excellent customer service	5	4	3	2	1	9
2	I can reach a City staff member if I need to	5	4	3	2	1	9
3	I can reach a City Councilmember and/or Planning Commissioner if I need to	5	4	3	2	1	9
4	I feel safe on City streets when not in a vehicle	5	4	3	2	1	9
5	Westwood is a desirable place to live	5	4	3	2	1	9
6	I would recommend Westwood as a place to live	5	4	3	2	1	9
7	We should seek to make improvements in Westwood for future generations	5	4	3	2	1	9

- 7. Experiences in Westwood: In the past year, have you or a member of your household done the following in Westwood?**

#	Question	Yes	No	Don't Know
1	Contacted City Hall	1	2	9
2	Attended a Planning Commission or Council meeting	1	2	9
3	Called the police	1	2	9
4	Applied for a license or permit	1	2	9
5	Visited the City website	1	2	9
6	Read the quarterly city newsletter (mailed)	1	2	9
7	Read the weekly Buzz (emailed)	1	2	9
8	Visited City social media	1	2	9
9	Attended a community event (i.e. The 47 Foodie Fest, Oktoberfest, Movies or Music in the Park, etc.)	1	2	9
10	Helped a neighbor	1	2	9
11	Had a meal at a Westwood restaurant	1	2	9
12	Intentionally chose a job, shop, or service provider based upon the close proximity to your Westwood home	1	2	9

- 8. Communication Preferences: What is your top preferred method of communication from the City of Westwood?**

___(1) Email newsletter ___(2) Print newsletter ___(3) City social media
 ___(4) Text

Demographics

9. Approximately how many years have you lived in the City of Westwood?

- (1) Less than 5 years (2) 5-10 years (3) 11-20 years
 (4) More than 20 years

10. What type of housing do you live in? (1) Single-family home you own

- (2) Single-family home you rent (3) Apartment you rent

11. What is your age group?

- (1) 18-24 (2) 25-34 (3) 35-44 (4) 45-54 (5) 55-64
 (6) 65 and over

12. Do you have children living in your household in the following age groups? (check all that apply)

- (1) No children in household (2) 0-5 (3) 6-12 (4) 13-18

13. Would you say your total household income is...

- (1) Under \$60,000 (2) \$60,000 to \$120,000 (3) \$120,001 to \$200,000
 (4) Over \$200,000

14. Are you of Hispanic or Latino ancestry?

- (1) Yes (2) No

15. Which of the following best describes your race?

- (01) Asian/Pacific Islander (02) Black/African American
 (03) Native American (04) White/Caucasian
 (05) More than one race/multi-racial
 (99) Other: _____

16. What is your gender? (1) Male (2) Female (3) Other

17. If you have any additional comments, please list them below.

COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: Leslie Herring, City Administrator; Nick Finck, Building Official

Agenda Item: Consider Fence Variance Request – 4815 Booth St.; variance requested for placement

Background / Description of Item

On March 7, 2024, City staff received an application for a fence variance for 4815 Booth St. Homeowner Jeff Hirleman is proposing to replace a 4' chain link fence with a new 4' black chain link fence in his side yard and a 4' cedar fence across the back. This application requires a variance for:

Westwood Zoning Ordinance 4.3.9.C.3. On a corner lot, no fence or wall shall be closer than ten (10) feet to the street-side property line.

The City Council may approve fence variances pursuant to Westwood Zoning Ord. Section 4.3.9.F, and as set forth below.

4.3.9 Fence and Wall Standards

- F. Fences or walls which would fail to comply with any other requirement of this Ordinance may be constructed and maintained, contingent upon the following:*
- 1. Application shall be made to the Governing Body, which shall study said application to determine the following:*
 - a. the fence or wall will not adversely affect the general welfare of the immediate neighborhood in which the fence or wall is to be erected, taking into consideration factors including, but not limited to, the value of the property and the safety of residences in said neighborhood;*
 - b. the appearance, location, and purpose of the proposed fence or wall;*
 - c. the effect on adjoining properties;*
 - d. the size of the area to be enclosed; and*
 - e. the desirability of open views with regard to beauty, value and safety of the neighborhood; and*
 - f. with respect to any fence on a lot adjacent to a street, a variance shall not be granted if the proposed fence would interfere with a safe view of the street for vehicular traffic, or would impair the view from any nearby driveway, or would extend closer to the street than the adjacent front yard setbacks.*
 - 2. Said application must be approved by at least four of the five members of the Governing Body.*

Staff Comments/Recommendation

Pursuant to previous City Council direction, City staff has evaluated the following factors:

- a. Neighbor acknowledgement/consent – Applicant confirmed coordination with impacted neighbor;
- b. ROW impediment – No;
- c. Established tree impact/removal – No; and
- d. Resulting sight lines issues - No.

Staff does not have any objections to the requested variance.

Suggested Motion

I move to approve the requested fence variance at 4815 Booth St. to allow a 4' tall chain link fence in the side yard of the primary structure on a corner lot as described in the application.

Application for a Fence Variance

Item A. Section X, Item



City of Westwood
4700 Rainbow Blvd
Westwood, Kansas 66205
Phone: (913) 362-1550
www.westwoodks.org

TO THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

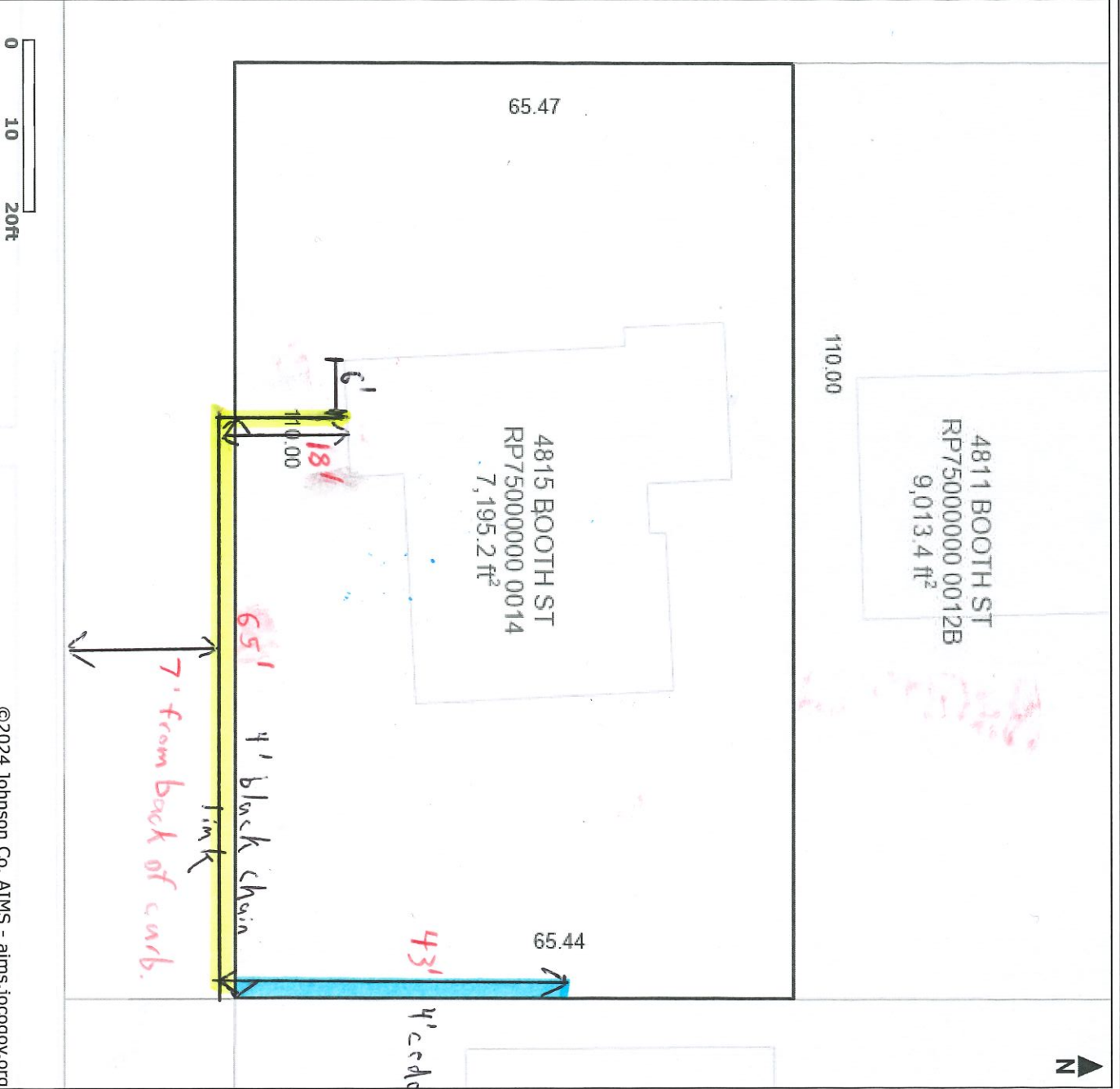
The undersigned hereby affirms:

- That he/she is the owner/duly authorized agent of the owner of the following described real property located at 4815 Booth St in the City of Westwood, with the Legal Description Yates subdivision LT 14 WWC 814
That said premises are now located in a Residential District, and zoned accordingly under the Zoning Ordinances of the City of Westwood.
That said premises are now being used as follows: single family
That the petitioner desires to erect a fence on said premises, as follows (also give reasons which, in the opinion of the petitioner, justify issuance of a fence variance): Inside the setback of a corner lot 4.3.9.c.3

Wherefore, petitioner hereby applies for a variance to allow erection of a fence as follows: adding fence on the side yard of a corner lot.

Form with fields: Date Filed, Accepted by, Date of Hearing, Decision, CITY OF WESTWOOD USE

Jeff Hiveman
Owner-Agent Printed Name
Owner-Agent Signature
913-961-5665
Phone Number

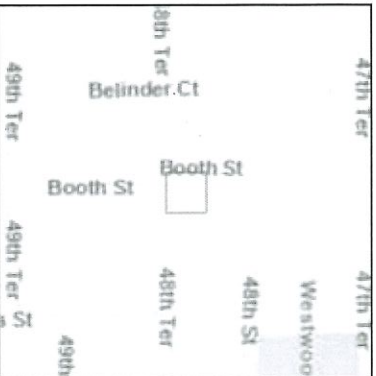


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RP75000000 0014

LEGEND

- + Address Point
- Building/Structure
- Property
 - Untaxed
 - Vertical
 - Unplatted
 - Mineral Rights
 - Common Interest
 - Platted
 - Right-of-way
 - Leased Land



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COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: Leslie Herring, City Administrator

Agenda Item: Consider Resolution No. 126-2024 authorizing binding property and liability insurance coverage with Midwest Public Risk

Background / Description of Item

The City's commercial insurance policy runs through March 31, 2024. Geoff Gobble of Boulevard Insurance LLC, the City's insurance broker, has received quotes from two options this year: EMC Insurance (the City's historical carrier) and Midwest Public Risk (MPR).

Staff Comments

EMC is a traditional carrier. MPR is a risk pool, meaning member entities – Kansas and Missouri cities, counties, school districts, and housing authorities in the case of MPR – self-insure its pool of members. There are benefits and drawbacks to risk pools (e.g. if the pool members have a year without a lot of claims, premiums would reflect the good health of the pool, but the alternative is also true). A traditional option like EMC has a much larger total insured value (TIV) than MPR's risk pool and so the variations between claim years (and resulting premium impacts) are often felt less.

As the City moved to MPR for its employee benefits program in 2022, staff requested a quote be requested from them to compare the coverage and premiums against EMC, which has been without a competitor in the City's consideration of commercial insurance policies for years.

Comparison	EMC	MPR
Renewal Period Premium	\$90,880 (premium for period ending 3/31/25)	\$73,447 (premium locked through 6/30/25)
Deductibles	Mostly Slightly Lower	Mostly Slightly Higher
Organizational Structure	Casualty Company	Member-owned Risk Pool
Access to Leadership; Ability to Influence Outcomes	None	Easy Access to Board of Directors and Ability to Engage in Committee Meetings
Loss Control Services	Mainly Online Resources & Trainings	Online Trainings + Local, Specialized, & Group Services
Premium Variation Year to Year	Dependent on Health of Larger Insurance Market	Pool Retains Portion of Risk, Typically Resulting in Lower Premiums (Contributions)
Dividends Payout	Yes	Yes
Policy Year	April to March	July to June
Stop Loss Coverage	Yes	Yes

Gobble created a coverage deductible comparison, which is included in the meeting packet. The coverage comparison provided by Boulevard Insurance also covers policies outside the scope of the EMC renewal but which Boulevard monitors on behalf of the City; these include:

- Independence Day fireworks event coverage
 - Secured by a separate policy (this amount is an estimate until coverage is sought closer to the event date)
- Worker's compensation insurance
 - Provided through KMIT
 - 2024 policy paid in January in the amount of \$27,605 (\$29,344 in 2022, \$34,090 in 2023)
- Fidelity bonds for City staff and officials
 - Renewed on a rolling basis dependent on coverage start date for each individual
 - Fidelity bonds issued only for employees and officers who are responsible for money
- Cyber Liability/Data Breach coverage
 - Renewed December 2023 for term of 1/1/2024 – 12/31/2024
 - 2024 policy paid in January in the amount of \$11,072 (\$6,158 in 2022, 10,865 in 2023)

Staff Recommendation

City staff focused on the following factors in developing this recommendation:

- the City's claim history,
- premium comparison and market insights relating to future premium variation,
- difference in access to organizational leadership,
- breadth and depth of loss control services,
- insights and forethinking of City Public Works and Police staff, and
- direct experience and professional references.

Following analysis, staff recommends the City move to bind coverage with MPR for policy period July 1, 2024 – June 30, 2025, plus coverage from April 1 – June 30, 2024.

Suggested Motion:

I move to approve Resolution No. 126-2024 binding coverage for the City's commercial insurance program with Midwest Public Risk.

CITY OF WESTWOOD, KANSAS

RESOLUTION NO. 126-2024

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS,
AUTHORIZING BINDING PROPERTY AND LIABILITY INSURANCE COVERAGE WITH
MIDWEST PUBLIC RISK**

WHEREAS, the Kansas Municipal Group Funded Pool Act, K.S.A. 12-2616 through 12-2631, as amended (the “Group Funded Pool Act”) authorizes municipalities located in Kansas to enter into agreements to pool liabilities for various categories of risk, including but not limited to health, dental, and vision coverage of municipal employees and property and liability coverage; and

WHEREAS, Midwest Public Risk of Kansas, Inc. is a Kansas not-for-profit corporation formed in order to allow local governmental units to procure various benefit programs and risk coverages which are either unavailable or prohibitively expensive in the commercial marketplace; and

WHEREAS, it is the determination of the City that, by participation with MPR Kansas pursuant to the Group Funded Pool Act, the City will have the opportunity to share risk for health, dental, and vision coverage and property and liability coverage with MPR Kansas and will benefit from increased risk sharing and reduced costs of administration; and

WHEREAS, the Management Agreement between MPR Kansas and Midwest Public Risk (“MPR”) provides that MPR is responsible for the review and approval of applications for membership in MPR Kansas; and

WHEREAS, the City has been further advised in writing by MPR Kansas that: (a) MPR Kansas is not an insurance company subject to the general laws and regulations relating to insurance companies; (b) MPR Kansas is subject to separate regulation by the Kansas Insurance Department as authorized by state statute and cannot commence or continue operations without a certificate of authority and (c) the issuance of a certificate of authority by the Kansas Insurance Department does not constitute an endorsement or recommendation by the Kansas Insurance Department or the State of Kansas of the coverage provided by MPR Kansas; and

WHEREAS, the Governing Body of the City of Westwood adopted Resolution No. 99-2021 on October 14, 2021 approving execution of the MPR’s Bylaws.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WESTWOOD, KANSAS:

Section 1. The City, in accordance with the MPR Bylaws hereby requests consideration by MPR of the City’s desire to procure property and liability coverage effective April 1, 2024.

Section 2. The City hereby reaffirms its agreement to be bound to the terms of the Bylaws of MPR.

Section 3. Effective Date. This resolution shall be effective upon its adoption by the Governing Body of the City of Westwood, Kansas.

ADOPTED this 14th day of March, 2024, by majority vote of the Governing Body.

David E. Waters, Mayor

ATTEST:

Abby Schneweis, City Clerk

APPROVED AS TO FORM:

Ryan Denk, City Attorney

CITY OF WESTWOOD, PREMIUM & DEDUCTIBLE COMPARISONS

Coverage	EMC Expiring Premium	EMC Renewal Premium	Midwest Public Risk
Package Policy Property, Autos, Equipment, Liability	\$97,185 including changes	\$90,880	\$73,447 July 1,24-25 plus \$18,260 4/1 to 6/30/24
Cyber Liability Separate Coverage From Package (calendar year term)	\$10,865	\$11,072	\$11,072
Fidelity Bonds Individual Bonds	\$1,364	\$1,364	\$1,364
Fireworks Liability	\$1,538	Est. \$1,550	Est. \$1,550
KMIT Workers Comp 2024 ExMod from 1.55 to 1.15	\$34,090	\$27,605	\$27,605
Annualized Totals	\$145,042	\$132,471 Add \$4,521 for \$10,000 Wind/Hail Deductible	\$115,038

COVERAGE DEDUCTIBLE COMPARISONS

Property Deductible	EMC Option 1	EMC Option 2	Midwest Public Risk
Buildings, Contents, Computers Property in the Open	\$5,000 Each Occurrence \$25,000 Wind/Hail Damage	\$5,000 Each Occurrence \$10,000 Wind/Hail Damage	\$2,500 Each Occurrence \$25,000 Wind Hail
Inland Marine Equipment, Tools Public Safety & Public Works	\$1,000 Each Occurrence	\$1,000 Each Occurrence	\$2,500 Each Occurrence
General Liability Property Damage Employee Benefits Liability	\$500 Per Claim \$1,000 Per Claim	\$500 Per Claim \$1,000 Per Claim	\$1,000 Per Claim \$1,000 Per Claim
Commercial Auto Automobile Liability Uninsured/Underinsured Motorist Automobile Physical Damage	NIL NIL \$1,000 /\$3,000 High Value	NIL NIL \$1,000 / \$3,000 High Value	\$2,500 Each Occurrence \$2,500 Each Occurrence \$2,500 Each Occurrence
Law Enforcement Liability Each Occurrence	\$1,000	\$1,000	\$5,000
Public Officials/E&O [EMC's Linebacker]	\$2,000 Per Claim	\$2,000 Per Claim	\$5,000 Per Claim
Government Crime Each Occurrence	\$1,000	\$1,000	\$5,000

PROPERTY & LIABILITY COVERAGE PROGRAM PROPOSAL

Westwood, KS

Quote Number:

2324 – K01

Policy Period:

July 1, 2023 – June 30, 2024

Requested Effective Date:

April 1, 2024 – June 30, 2024 (3 months)

Rate Guaranteed thru June 30, 2025



MEMBER OWNED | MEMBER FOCUSED

WHO TO CONTACT

Underwriting and General Questions



Mike Sindel
President/CEO
(816) 292-7571
mike@mprisk.org

Risk Management Questions



Jason McMahon
Risk Management Director
(816) 292-7532
jason@mprisk.org

ABOUT MPR

KANSAS

Employee Benefits
Property & Liability

- Health
- Dental
- Vision
- EAP
- General Liability
- Sewer Liability
- Public Official Liability
- Employment Practice Liability
- Auto Physical Damage
- Auto Liability
- Crime
- Property
- Boiler & Machinery
- Inland Marine



MISSOURI

Employee Benefits
Workers' Compensation
Property & Liability

- Health
- Dental
- Vision
- EAP
- General Liability
- Sewer Liability
- Public Official Liability
- Employment Practice Liability
- Auto Physical Damage
- Auto Liability
- Crime
- Property
- Boiler & Machinery
- Inland Marine
- Workers' Compensation

MPR MEMBERS & OWNERS

Cities, Schools, Counties, Special Districts, Law Enforcement, Health Departments, Fire Protection Districts, Ambulance Districts, Housing Authorities, Election Boards, and other Public Entities.

Since 1983, MPR has been a growing family of public entities in Missouri and Kansas who have found that public pooling is the answer to decrease financial risk to taxpayers created by routine, unanticipated and catastrophic events. Our Members work together to reduce all members' risks and associated costs.

Our Member Entities rely on the organization to be a trusted advisor, advocate and resource for their risk management and benefit needs. With a unique blend of services specifically tailored to meet your needs, MPR has a proven track record of success.

As a Member-driven organization, MPR Member Representatives are able to participate in collective ownership and decision making by directing pool services and encouraging staff to solve individual needs. This is MPR's greatest strength.

MPR is overseen by three separate Boards: MPR, MPR of Missouri, and MPR of Kansas, Inc. Each state has its own individual Board and the MPR Board oversees both State Boards. Each of the Boards has a slightly different role but come together in making the best decisions for the entire pool. The MPR of Missouri Board consists of eleven Members and the MPR of Kansas, Inc. Board consists of seven Members. These Board Members are elected by the Member Representatives of each Member entity.

By retaining a portion of the risk and not relying on the traditional coverage industry, MPR is able to reduce what our members contribute. When contributions are coupled with positive loss experience each year, the remaining equity is returned to our members in the form of dividends or additional services. Dividend returns have amounted to over \$10 million.

One characteristic that makes public entities and their boards predisposed to undue exposure are their limited resources. Tighter budgets, fewer personnel, and inability to consult outside professionals can produce an environment where errors or omissions occur. MPR has comprehensive knowledge on minimizing exposure and experienced consultants to assist with specific circumstances. We, as a pool, work together to make intelligent, informed decisions that make situations better for all of us.

MPR COVERAGES

RISK MANAGEMENT

**Because What You Don't Know
Can Hurt You**

MPR has a full-time team of experts experienced in the type of risks faced by the entities it serves. They have developed programming and assembled resources to help members control losses and protect their communities.

These include:

- Web-Based Training
- Consultation On-Site and at MPR
- Loss Control Training Resource Library
- Risk Prevention Advisories
- Free Legal Advice on Law Enforcement,
- Land Use and Employment Practice Issues
- Facility and Work Practices Reviews
- 24 Hour Workers' Comp Nurse Triage Hotline
- Telephone and On-Site Nurse Case Management Service
- WeTiP (no-cost criminal activity reporting hotline)
- Member Scholarships to National Conferences
- Lexipol Law Enforcement Policies and Daily Bulletins

WORKERS' COMPENSATION, PROPERTY & LIABILITY

**Employee Centered
Health Management and
Rehabilitation**

Loss control is the key to lower contributions and bigger dividends for MPR member entities, and MPR has extensive resources to help. These include training and consultation, online resources, certification programs, legal advice and more. Entities who take advantage of these resources benefit financially from fewer claims and protect their property, communities and employees in the process.

Workers' Compensation is self-funded by MPR members, so member participation in safety and loss control training is critical.

MPR's property and liability coverage benefits from the combined buying clout of its membership to reduce costs and expand services.

EMPLOYEE BENEFITS

**Plans Designed with
Our Members in Mind**

MPR offers a comprehensive employee benefits program. Rates are highly competitive because of MPR's greater purchasing power than any member can obtain acting on its own, covering more than 5,000 participants in its employee benefits program.

- Medical Plan Choices
- Dental, Vision, EAP
- Life and Disability Programs
- Worksite Voluntary Products
- COBRA and Retiree Administration
- COBRA and Retiree Direct Billing

MPR COVERAGES (CONTINUED)

WELLNESS

Feeling Good Pays
Multiple Dividends

The biggest risk, and the one entity's can influence the most, is the health of their employees. MPR has an extensive lifestyle program designed to help people feel better and experience fewer health problems. It includes articles, videos and seminars to provide information and motivation for healthier living. Through monthly topics and organized challenges, such as walking, biking and weight loss challenges, every community participant will have help choosing a healthier way to live.

- Wellness/Fitness Coaching
- Lab Testing and Interpretation
- Customized Health Fairs
- Focus on Prevention
- Health Information Seminars
- Wellness Credit Programs

TRAINING

MPR Staff can conduct a variety of training sessions on-site for Members or at the MPR Campus

- Accident Investigation
- Back Injury Prevention
- Blood Borne Pathogens
- Chainsaw Operation
- Confined Spaces
- Cybersecurity
- Defensive/Distracted Driving
- Effective Safety Committees
- Employment Discrimination/Harassment
- Facility Inspections
- Fall & Slip Prevention
- Government Ethics
- Hazard Communication
- Heat Stress
- Incident Reporting and Investigations
- Lock Out Tag Out
- Personal Protective Equipment
- Public Official Liability
- Sewer Back Up Response
- Snow and Ice Control
- Strains and Sprains
- Supervisor's Survival Skills
- Swimming Pool Hazards
- Trenching & Shoring
- Traffic Control
- Workplace Violence
- Many Other Topics by Request

WHY CHOOSE MPR?

Membership

Your public entity becomes a Member, not just a customer. Because our pool is a public entity itself, your membership provides an avenue to other Missouri and Kansas political subdivisions who share your interests. The program moves in the direction chosen by its Member entities.

Representation

Every public entity provides one of their full-time employees to serve as a Member Representative to the pool. Members vote to select the Board who guides MPR. Additional opportunities for participation are provided through the advisory committees.

Financial Stability and Coverage

The plan documents are specifically designed to provide the most comprehensive coverage necessary for public entities. This is coupled with the commitment to change these plans when necessary to meet specific needs. The policy year begins July 1st and budget contributions for all programs are determined by April 30th. Pricing is very competitive when compared to any other coverage available.

Cooperation

Working together is a two-way street and provides the foundation for success. The program assists your entity with wellness and risk management training and expects Member interest and participation in operating your organization in ways that minimize risk for all concerned.

Philosophy and Approach

The focus in our Health Benefit program is on employee wellness. Similarly, in our Property/Liability Programs the focus is loss prevention. Rather than limiting our attention to efficient claim payments, Members are encouraged to direct their primary efforts to preventing or minimizing losses. Our focus for Workers' Compensation is also loss prevention; emphasizing a safe work environment and best practices.

Expertise

Services are provided by competent, professional personnel who understand the needs of public entities. Our full-time staff members have many years of combined local government experience. MPR retains business partners who are considered "best in class."

LOSS CONTROL SERVICES

Training Opportunities	MPR Staff can conduct a variety of training sessions on-site for Members. In addition, training is periodically conducted at committee meetings.
Online Training	<ul style="list-style-type: none"> - Individual employees can participate in MPR's on-line training program at their convenience. - 24/7. Our online training logs each employee's grade attained for each course completed. - Member Representatives either download grades at their convenience, or MPR staff provides the information.
Consultation Services	Safety and loss control consultation, and answers to your questions, are just an e-mail or phone call away. Staff members carry specialized degrees and direct experience in Safety, Human Resources, Public Works, and Public Administration.
Facility / Work Practices Reviews	MPR staff performs on-site reviews of Member facilities and parks at regularly scheduled times or upon request. In addition, the individual work practices of Members' crews are also evaluated as needed.
Pre-Litigation Consultations with MPR Designated Attorneys	MPR recognizes the significant exposures associated with employment practice, law enforcement liability and land use claims. When warranted, Members may receive a predetermined period of legal guidance from an attorney designated by MPR during the early stages of a potential claim in an effort to avoid or minimize litigation. Should a claim actually be filed, associated expenses will then be approached in the same manner as other claims would be processed for a similar event. These services are provided as part of the "core liability coverage services" at no additional charge. For more information, contact the MPR Risk Management team at (816) 292-7500.
Risk Prevention Advisories	Risk Prevention Advisories are updated annually to provide overviews of common risks faced by public entities. These advisories have specific information and practical loss control approaches to address these concerns.

COVERAGE SUMMARY: GENERAL LIABILITY

COVERAGE	LIMITS
General Liability	
Each Occurrence	\$5,000,000
Annual Aggregate	\$6,000,000

Deductible: \$1,000

COVERAGES INCLUDE

- Sexual Abuse and Molestation
- Liquor Liability
- Medical Professional (Excluding Doctors & Dentists)
- Herbicides & Pesticides
- Volunteers (if approved by the entity)
- Products/Completed Operations

Premises Medical Payments	
Each Person	\$5,000
Each Occurrence	\$5,000

**** Fireworks Limit – Note exclusion 3.13 on any pyrotechnic demonstration. ****

COVERAGE SUMMARY: WRONGFUL ACTS/EMPLOYMENT PRACTICES

COVERAGE	LIMITS
Wrongful Acts (Claims made)	
Each Occurrence	5,000,000
Annual Aggregate	6,000,000

Deductible: \$5,000

COVERAGE SUMMARY: LAW ENFORCEMENT LIABILITY

COVERAGE	LIMITS
Law Enforcement Liability	
Each Occurrence	\$5,000,000
Annual Aggregate	\$6,000,000

COVERAGES INCLUDE

- Auxiliary Officers
- Good Samaritan
- Intergovernmental/Mutual Aid Agreements
- Authorized Moonlighting

Deductible: \$5,000

COVERAGE SUMMARY: AUTO LIABILITY & PHYSICAL DAMAGE

<u>AUTO LIABILITY</u>	LIMITS
Each Occurrence	\$5,000,000
Annual Aggregate	\$6,000,000
Auto Medical Payments	
Each Person	\$5,000
Each Occurrence	\$25,000

Deductible: \$2,500

UNINSURED & UNDERINSURED MOTORIST LIABILITY

Per Person	\$50,000
Per Accident or Occurrence	\$100,000

Deductible: \$2,500

AUTO PHYSICAL DAMAGE (Comprehensive and Collision)

Total Scheduled Value	Per Schedule
Total Agreed Value	Per Schedule
Number of Vehicles	Per Schedule
<ul style="list-style-type: none"> Newly Acquired Automobiles Physical Damage (Non-Auditable) Hired/Non-Owned Liability Hired Auto Physical Damage Garage-keepers Legal Liability – per Occurrence Commandeered Autos Loss of Use and Lease Gap Coverage 	<ul style="list-style-type: none"> Included \$500,000 Included Included \$100,000 Included

Deductible: \$2,500**COVERAGE SUMMARY: CYBER LIABILITY**

Cyber liability coverage is NOT included in this proposal. However, a policy from Arthur J. Gallagher and Co can be obtained separately at the MPR discounted rate (rate our other members received for 2023/2024).

COVERAGE SUMMARY: POOL-RETAINED LIMITS

COVERAGE		LIMITS
General Liability	Excess of \$500,000 Per Occurrence	\$4,500,000
Wrongful Acts	Excess of \$500,000 Per Occurrence	\$4,500,000
Law Enforcement Liability	Excess of \$500,000 Per Occurrence	\$4,500,000
Auto Liability/Auto PD	Excess of \$500,000 Per Occurrence	\$4,500,000

COVERAGE SUMMARY: PROPERTY

Occurrence Limit of Liability applies to the agreed upon schedule of Buildings, Contents, and Business Personal Property. These agreed upon values will be reimbursed at replacement cost. The importance of accurate property values is critical given the margin clause of 115%.

COVERED PROPERTY	LIMITS
Building Value	\$5,288,650
Contents	\$435,000
Other Property	\$1,453,900
EDP	<u>\$60,000</u>
Total Property	\$7,237,550

Property Deductible: \$2,500
Wind/Hail Deductible: \$25,000

ADDITIONAL PROPERTY COVERAGES

Earthquake	\$25,000,000
Program Aggregate	\$25,000,000

Earthquake Deductible: \$50,000

Flood	\$25,000,000
Program Aggregate	\$25,000,000

Flood Deductible: \$50,000

Regarding flood coverage, this quote excludes coverage related to property in Special Flood Hazard Area (SFHA) as determined by the Federal Emergency Management Agency (FEMA) at the time of loss.

COVERAGE SUMMARY: PROPERTY (CONTINUED)

LIMITS OF LIABILITY

LIMITS OF LIABILITY	LIMITS
Occurrence Limit except for following sublimits:	\$500,000,000
Flood	\$25,000,000
Flood (Special Flood Hazard Area)	\$10,000,000
Flood (Vehicles, Contractor's Equipment, Fine Arts)	\$5,000,000
Earthquake	\$25,000,000
Accounts Receivable	\$10,000,000
Arson and Theft Reward	\$1,000,000
Building Ordinance or Law	
Coverage A	Included
Coverage B	\$50,000,000
Coverage C	\$50,000,000
Civil or Military Authority	1 mile/30 days not to exceed \$10,000,000
Course of Construction	\$10,000,000
Debris Removal (lesser of)	\$2,500,000 or 25%
Electronic Data and Media Other than Cyber	\$25,000,000
Errors or Omissions	\$25,000,000
Expediting Expense	\$25,000,000
Extended Period of Indemnity	365 Days
Extra Expense	\$25,000,000
Business Interruption and Rental Income (only if reported)	\$3,000,000
Contingent Business Interruption, Extra Expense, Rental Value	\$3,000,000
Fine Arts	\$2,500,000
Fire Brigade Charges and Extinguishing Expenses	\$100,000
Fungus, Mold, Wet or Dry Rot (as a result of direct physical loss or damage from a covered peril)	\$1,000,000
Ingress/Egress	30 days/1 mile not to exceed \$10,000,000
Land Improvements	\$5,000,000
Unscheduled Landscaping	\$1,000,000
Miscellaneous Unnamed Locations	\$25,000/item
Unscheduled Infrastructure	\$1,000,000
Newly Acquired Property	\$25,000,000
Newly Licensed Vehicles	\$1,000,000
Service Interruption	\$10,000,000
Transit	\$10,000,000
Valuable Papers and Records	\$2,500,000
Outdoor Property	\$10,000,000
Brands or Trademarks	\$500,000
Building Materials Off Premises/Storage for property Under Construction	\$2,500,000
Deferred Payments	\$500,000
Fairs and Exhibitions	\$1,000,000

Land and Water Clean-Up	\$1,000,000
Locks and Keys	\$500,000
Preservation of Property	\$2,500,000
Monies and Securities for named perils only as referenced in policy	\$2,500,000
Professional Fees	\$1,000,000
Property Removed from a Covered Location	\$1,000,000
Spoilage	\$250,000
Soft Costs	\$5,000,000
Contractors Equipment	\$10,000,000
Ordinary Payroll	60 Days
Installation Coverage	\$500,000
Pairs and Sets	Included
Royalties	\$500,000
Personal property not at a Covered Location	\$1,000,000

COVERAGE SUMMARY: PROPERTY (CONTINUED)

Outdoor Property		\$1,000,000
Including but not limited to:		
Fences	Goal Posts	Traffic Lights/Control Boxes
Light Fixtures/Poles	Playground Equipment	Bleachers
Road Signs	Scoreboards	Ticket Booths
Non-Utility Poles	Benches	Dugouts
Fountains	Statues	Bike Racks
Monuments	Fire Hydrants	

All Supplemental Property Coverages are subject to a \$25,000 deductible.

COVERAGE SUMMARY: INLAND MARINE (MOBILE EQUIPMENT)

SCHEDULED LIMITS

LIMITS

Value \$493,401

Deductible: \$2,500

COVERAGE SUMMARY: EQUIPMENT BREAKDOWN (BOILER & MACHINERY)

COVERAGE

Total Building and Contents Value \$5,723,650

Deductible: \$2,500

- Interruption of Service Waiting Period: 4 Hours

LIMITS

LIMITS OF LIABILITY

LIMITS

Equipment Breakdown Limit	\$250,000,000
Property Damage	Included
Business Income	Included
Extra Expense	Included
Civil Authority	Included
Contingent Business Income	\$2,500,000
Data Restoration	\$2,500,000
Demolition	\$2,500,000
Expediting Expenses	Included
Green	\$25,000
Hazardous Substances	\$2,500,000
Mold	\$25,000
Newly Acquired Locations	Included
Off Premises Equipment Breakdown	\$2,500,000
Ordinance of Law	\$2,500,000
Perishable Goods	Included
Public Relations	\$5,000
Service Interruption	Included
Newly Acquired Locations	365 Days
Extended Period of Restoration	365 Days
Interruption of Service Waiting Period	4 Hours
Miscellaneous Unnamed Locations Limit	\$1,000,000

COVERAGE SUMMARY: CRIME

COVERAGE	LIMITS
Blanket Employee Dishonesty	\$500,000
Loss Inside the Premises – Money & Securities	\$500,000
Loss Outside the Premises	\$500,000
Money Orders and Counterfeit Currency	\$500,000
Depositors Forgery or Alterations	\$500,000
Computer Fraud	\$500,000
Funds Transfer Fraud	\$500,000

Deductible: \$5,000

The MPR Crime Form includes coverage for any of your officials who are required by law to give bonds for the faithful performance of their service against loss through the failure of any employee under the supervision of that official to faithfully perform his or her duties as prescribed by law and will meet the requirements for public officials bonds up to the statutory limit or policy limit, whichever is less.

CONTRIBUTION SUMMARY

Prospective Member: Westwood, KS

Quote Number: Policy Year: 2324 – K01

Requested Effective Date: April 1, 2024

Contribution Total (Prorated for Six Months)	\$18,260
Total Property Contribution (Prorated)	\$7,260
Total Liability Contribution (Prorated)	\$9,340
Broker Commission (10%)	\$1,660

* The contribution amount shown above is prorated from April 1, 2023 through June 30, 2024. MPR transitions all members to a 7/1 – 6/30 fiscal year. MPR agrees to keep the same rate for the following 12 months beyond this quote (7/1/23 – 6/30/24). This does NOT factor in changes in exposures that will affect the contribution amount.

**** Terrorism coverage is excluded. ****

ACCEPTANCE STATEMENT & INVOICE

Prospective Member: Westwood, KS
Quote Number: Policy Year: 2324 – K01
Requested Effective Date: April 1, 2024

Total Contributions (Prorated for 3 Months) \$18,260

Terms and Conditions

The Named Member can only cancel the coverage at program anniversary and only if 90-day prior written notice of cancellation is given. If required notice is not given, full estimated contribution is earned, due and payable.

- All terms and conditions of Membership in Midwest Public Risk are set forth in the by-laws. A copy of this document is available for your review.
- Per the Bylaws, the member must be with MPR for 12 months prior to withdrawing.
- The following must be received prior to binding:
 - Signed Acceptance Form
 - Board Resolution Approving MPR Membership
 - New Member Rep Form
 - Signed Bylaws (Signed by Member Rep)
 - Member's Contact Information

Acceptance Statement:

Please accept this as a formal confirmation that all terms and conditions, attached scheduled items, and contributions proposed by Midwest Public Risk are accepted effective this ____ day of _____, 2024.

Signature of Official

Date

COUNCIL ACTION FORM

Meeting Date: March 14, 2024
Staff Contact: Curtis Mansell, Chief of Police

Agenda Item: Consider Authorization of Purchase of 2023 Police Dodge Durango & Related Equipment

Background/Description of Item

Staff recommends the Governing Body approve an expenditure to purchase of a 2023 Dodge Durango Police Cruiser and related equipment in the listed in the 2024 Equipment Replacement Plan. Funds used are identified within the Equipment Reserve Fund. This vehicle would replace an existing 2017 Ford Police Interceptor.

The car will be delivered & upfitted by Superior Emergency Response Vehicles (SERV, LLC), a company located in Andover, KS. The list of equipment to be installed along with pricing for decommissioning our current vehicle is itemized on the attached quote from SERV, LLC.

SERV, LLC has pre-negotiated contracts for upfitting and equipment for numerous public safety agencies in Kansas. They also act as a “pass-through” for delivering police vehicles based on contract pricing. Most notably for the Dodge Durango via the Kansas Highway Patrol contract.

Budget Impact

Funds for the purchase have been allocated in the 2024 Equipment Reserve Fund in the amount of \$68,250, representing \$52,500 for the vehicle purchase and another \$15,750 in related equipment.

Pursuant to the City’s Financial and Purchasing Policy, for purchases more than \$10,000, three (3) price quotes are generally required unless there is a pre-negotiated contract through another governmental agency for the product. The State of Kansas has a contract in place for Police Dodge Durangos running through 01/31/2028. This particular contract (351156) also extends contract pricing to other political subdivisions and state agencies.

The anticipated total expenditure is expected to be significantly less than the total budgeted amount of \$68,250. However, there may be some contingency expenditures that exceed the attached equipment quote based on the condition of any equipment currently owned that is planned for re-use.

Staff Comments/Recommendation

Staff recommends that the City Council authorize the purchase of the Dodge Durango Police Cruiser from SERV, LLC in the amount of \$42,780.00 and to accept the quote for equipment and upfitting of the new vehicle from SERV, LLC, in the amount of \$13,633.63, to be paid from the Equipment Reserve Fund allocated in FY24.

Suggested Motion

I move to authorize the purchase of the Dodge Durango Police Cruiser and related equipment from Superior Emergency Response Vehicles in the amount of \$56,413.63, to be paid from the Equipment Reserve Fund in 2024.

Superior Emergency Response Vehicles

12548 SW Highway 54
 P.O. Box 965
 Andover, KS. 67002

Item C. Section X, Item

Date	Estimate #
1/11/2024	3549

Customer Name
Westwood Police Department 4700 Rainbow Blvd. Westwood, KS 66205



www.SERVLLC.com 316-733-2223 Email:andy@servllc.com

Description	Qty	Rate	Total
IN STOCK UNIT			
2023 Dodge Durango Pursuit AWD V-8 - DESTROYER GRAY	1	42,780.00	42,780.00
Remove Equipment From Decommissioned Emergency Vehicle	1	450.00	450.00
Unity LED LH Spotlight	1	575.00	575.00
Whelen Legacy DUO WeCanX Lightbar	1	1,950.00	1,950.00
Whelen Cencom CORE Siren/Lighting Controller	1	965.00	965.00
Whelen ION Universal - Red	3	95.00	285.00
Whelen ION Universal - Blue	3	95.00	285.00
Whelen ION T-Series - Red	2	102.00	204.00
Whelen ION T-Series - Blue	2	102.00	204.00
Whelen LINSV2R - Red -Under-Mirror Light w/Bracket	1	191.00	191.00
Whelen LINSV2B - Blue - Under-Mirror Light w/Bracket	1	191.00	191.00
Setina PB450L Push Bumper	1	675.00	675.00
425-6706 Jotto Durango Max Depth Console	1	525.00	525.00
425-6651 Jotto 12V 3 Plug Faceplate	1	48.00	48.00
425-3704 Jotto Dual ABS Cupholder	1	38.25	38.25
425-0029 Jotto Armrest Tall	1	89.00	89.00
ProGard Pro-Cell 1/2 Cage Prisoner Transport System	1	2,960.00	2,960.00
ProGard Rifle Lock System	1	460.00	460.00
H-C-PKG-PSM-345 Havis Premium Passenger Side Mount - Durango & Grand Cherokee	1	595.00	595.00
Antenna Coax/Antenna Kit	1	75.00	75.00
Circuit Breaker	1	48.50	48.50
75-100AMP Accessory Relay	1	51.90	51.90
Blue Sea Fuse Block 12 Split	2	58.99	117.98
Shop Supplies - Wiring, Connectors, Securement Items, Brackets, Etc.	1	200.00	200.00
Professional Installation / Upfitting	1	2,450.00	2,450.00
Install Customer Equipment: Radio, Radar, Camera System, Cradlepoint, Printer, Flashlight			

		Sales Tax (0.0%)	\$0.00
AUTHORIZED CUSTOMER SIGNATURE		Total	\$56,413.63
DATE			

By signing this estimate, Customer authorizes SERV to provide products and services as listed. Customer also agrees to our Standard Terms and Conditions as set forth on our "Terms and Conditions" page.

Thank you for considering SERV!

Shawnee Mission Ford

11501 SHAWNEE MISSION PARKWAY P.O. BOX 3179
 SHAWNEE, KANSAS 66203-0179 913/631-0000 FAX 913/268-6521
 WWW.SHAWNEEMISSIONFORD.COM

PURCHASER CITY OF WESTWOOD
 ADDRESS 4700 RAINBOW BLVD
 CITY WESTWOOD STATE KS ZIP 66205

YEAR	MAKE	MODEL	NEW OR USED	VIN #
2022	FORD	POLICE INTERCENEW	NEW	1FM5K8AB7NGA08007
SALESMAN JAY COOPER				ODOMETER 10

N/A

Terms-Net 20 Days
 From Invoice Date

USED CAR TRADED			
YEAR	MAKE	MODEL	VEHICLE I.D. #
N/A	N/A	N/A	N/A

DATE: 02/08/22 28654 STOCK NUMBER 66930F Item C.Section X, Item

DESCRIPTION	
SALE PRICE	34,305.00
TOTAL PRICE	34,305.00
CASH DOWN	N/A
BALANCE DUE	34,305.00

purchased PD vehicle.

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PLEASE PAY FROM THIS INVOICE
 NOTE TERMS

*Always Bring Your
 Car Here For
 Factory Authorized
 Service*



11501 SHAWNEE MISSION PARKWAY • SHAWNEE, KANSAS 66203-0179
(913) 631-0000 • FAX (913) 268-6521
WWW.SHAWNEEMISSIONFORD.COM

Quote for exact same vehicle purchased in 2022 (invoiced above). \$14,490 (29%) price jump in one year.

May 23rd, 2023

Christopher Bishop
City of Westwood

Budget Pricing

2024 Ford Utility PI AWD (K8A)

3.3L V-6 Gas (99B)

Exterior: Agate Black (UM)

Interior: Cloth Front Vinyl Rear (96)

Rough Budget #

\$48,795

Options:

- Driver side spot Whelen LED (51T)
- Heated Exterior Mirrors (549)
- Remote Keyless Entry (55F)
- Keyed Alike 1284X (59B)
- Grill Wiring (60A)
- Rear Door Controls inoperable (68G)
- Reverse sensors (76R)
- Rear AC Heater (17A)
- Rear View Camera in Mirror (87R)
- Rear Tail Lamp Predrilled (86T)
- Cargo Dome Lamp (17T)
- Front Waring Aux LED Lights (21L)
- Police Engine Idle (47A)
- Full Wheel Covers (65L)
- Courtesy Lamps Disable (43D)
- Receiver Hitch & Wiring
- Front Head Lamps Pre Drilled
- Basic Bluetooth

Thank you for your time and interest.

Sincerely,

Jay Cooper

Government Fleet Sales

[View this email in your browser](#)

Notice providing context for future availability of police vehicles.



Kansas Association of Chiefs of Police

PO Box 2163, Hutchinson KS 67504-2163

PHONE: 620-242-6565

<http://ksacp.org>

SERV - 2024 Vehicle Update

Good morning!

As we move towards the end of 2023 (as far as vehicles are concerned), I wanted to share the information that we have gathered from our vehicle suppliers (Dodge, Ford, GM). *Please note that this information changes often and it isn't always reliable, however it is the best that we have for now.*

Ford Police Interceptor Utility: This one continues to be frustrating, at best. If you ordered a 2023 and have not received it, there is a chance that it may still get built in the next month or two. If not, Ford is going to build the ordered, but "un-built" 2023's as 2024's and they would be delivered late this year or sometime in the first half of 2024. If you want to order a 2024, you're out of luck. From my understanding, they are NOT going to accept NEW 2024 Ford PIU orders. Instead, they will start accepting **2025** orders later this year (2023).

City's current PD fleet vehicle.

Ford F-150 Police Responder: The order bank for 2023 Ford F-150 Police Responders has re-opened for another week or two. My understanding is that we will be able to order 2024 F-150 Responders later this year (2023).

Dodge Durango Pursuit AWD: Order banks are **OPEN NOW** for 2024 Dodge Durango Pursuits with production starting in November. If you will need vehicles between now and 2025, I would highly recommend getting these ordered sooner, rather than later. Pricing for the 2024's has increased by around \$2,000.00.

Dodge Ram Special Service Vehicle: As of now they are NOT planning to build 2024 Ram SSV Trucks. The rumor is that there will new SSV truck in 2025.

Dodge Charger Pursuits: No 2024's available, I believe these are done.

Chevrolet Tahoe Pursuit: Order Banks for 2024 Tahoe Pursuits will open this

I am hearing that the price will increase (imagine that), but we're not sure what the exact price will be yet. 2023 pricing was upper \$40's + upfitting, so my guess is that we will be looking at low-mid \$50's + upfitting.

Chevrolet Silverado Pursuit: Order banks are OPEN NOW for 2024 Chevrolet Silverado Pursuit Vehicles. If you haven't seen these yet, they are NICE! Supply will be limited!!

Remaining 2023 Vehicles - Available This Fall:

2023 Dodge Durango Pursuits – **A few Available** – Contact Me ASAP

2023 Dodge Ram SSV – **A few Available** - Contact Me ASAP

2023 Dodge Charger – **A few Available** – Contact Me ASAP

2023 Ford F-150 Responders – Can order more **NOW** at 2023 pricing with a Purchase Order.

2023 Chevrolet Tahoe Pursuit – **A few Available** – Contact Me ASAP

This email is NOT a sales tactic, I am merely trying to help you stay ahead of your upcoming fleet needs. If you will need vehicles in the next 2 years, it may take a lot of luck and some forward thinking (along with a governing body that understands your needs and the environment that we're still in post-covid) - The "normal" practice of sending out bid requests in January-February, expecting 3 competitive bids, ordering in March and expecting cars in the Summer is basically over for the foreseeable future.

Side Note: As you may know, SERV does not mark up the pricing of the vehicle itself, our business revolves around sales from upfitting and equipment. Therefore, if you have a normal vehicle dealer that you're comfortable with, I encourage you to reach out to them. We are perfectly fine with upfitting vehicles that you purchase and bring to us. Please let me know if you hear anything different than what I have stated above.

SERV has been (and still is) your #1 trusted source for emergency vehicles in Kansas! We sincerely appreciate your business in the past and look forward to working with you in the future.

<https://mcusercontent.com/f0e18ae4cdcc8af084b95965e/images/757f4b62-2673-b130-91f8-0b73e99818eb.png>

Andy Saville

Superior Emergency Response Vehicles

P.O. Box 965

Andover, Kansas 67002

316-733-2223



Randy Henderson
Conference Director
KS Association of Chiefs of Police
PO Box 2163
Hutchinson KS 67504-2163
620.899.4122
rhenderson@ksacp.org
<http://www.ksacp.org>
Retired Hutchinson KS Police Dept

Photographic examples of Durangos in Northeast Johnson County PDs.





COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: John Sullivan, Public Works Director

Agenda Item: Consider Agreement with Johnson County, KS for the 2024 Stormwater Best Management Practices (BMP) Cost-Share Program

Background / Description of Item

The Stormwater Management Advisory Council determined that it is in the best interests of the residents of Johnson County for the County's Stormwater Management Program to participate in a cost-share program with the City that promotes the use of rain barrels, rain gardens, native trees, and native plantings on residential property to reduce stormwater runoff as well as increase public awareness of stormwater-related issues, all as required by federal NPDES stormwater rules and regulations.

Staff Recommendation

Staff recommends that the City Council authorize the Mayor to sign the agreement.

Suggested Motion

I move to authorize the Mayor to execute the 2024 Agreement for Stormwater BMP Cost-Share Program with Johnson County.

Agreement

For “Contain the Rain” BMP Cost-Share Program

THIS AGREEMENT is entered into by and between the Board of County Commissioners of Johnson County, Kansas, acting through its Public Works Department (hereinafter “the County”) and the City of Westwood, Kansas, (hereinafter “the City”) (hereinafter collectively “the Parties”) as of the 14th day of March, 2024.

Recitals

A. The City and the County cooperate, in general, and have entered into numerous beneficial arrangements in the past for the control of stormwater runoff to reduce the amount of pollutants in local streams, prevent stream bank erosion, and reduce flooding caused by stormwater.

B. The Stormwater Management Advisory Council determined that it is in the best interests of the residents of Johnson County for the County’s Stormwater Management Program to participate in a cost-share program with the City that promotes the use of best management practices including rain barrels, rain gardens, native trees, and native plantings on residential property to reduce stormwater runoff as well as increase public awareness of stormwater-related issues, all as required by federal NPDES stormwater rules and regulations.

C. The City has developed the Contain the Rain Program (“Program”), a BMP cost-share program which allows its residents to seek and receive reimbursement for a portion of costs related to the installation of certain BMPs.

D. The County, with the concurrence of the Stormwater Management Advisory Council, hereby agrees to provide \$6,000 to the City for its Program upon the following terms and conditions:

Agreement

1. **Purpose of Agreement.** The Parties enter into this Agreement for the purpose of providing City residents the opportunity to receive partial reimbursement for implementing certain stormwater best management practices. The Parties acknowledge that residents shall be allowed to apply for funding in accordance with the Program requirements set forth in the attached Exhibit A.
2. **County Contribution.** The County agrees to contribute up to \$6,000 towards the Program. Not more than once each calendar quarter, the City shall submit to the County a statement satisfactory in form and content to the Manager of the Stormwater Management Program detailing the expenditure of funds during the preceding calendar quarter.
3. **Administration of Program.** It is acknowledged and agreed that the City shall enter into all contracts relating to the Program in its own name and not as an agent of the County. The City agrees to be solely responsible for the administration of all other contracts for the Program. Any contract disputes shall be resolved by the City at the City’s sole cost and expense.
4. **Reporting Requirements.** The City agrees to provide a final report, formatted as set forth in the attached Exhibit B, to the County summarizing the projects completed under the Program.

5. **Duration and Expiration of Agreement.** This Agreement shall be effective as of March 18, 2024, and shall expire on January 31, 2025. The Parties acknowledge and agree that any prior agreements on the same subject matter have expired and neither party has any unfilled obligations under that agreement.

IN WITNESS WHEREOF, the above and foregoing Agreement has been executed in duplicate by each of the Parties hereto.

City of Westwood, Kansas

Johnson County Public Works Department

David E. Waters
Mayor

Brian Pietig
Director of Public Works

Approved as to form:

Approved as to form:

Ryan Denk
City Attorney

Scott Abbott
Asst. County Counselor

Attest:

Abby Schneweis
City Clerk

Exhibit A

Contain the Rain Program Requirements – 2024

The City encourages individual homeowners and businesses to incorporate Stormwater Best Management Practices (BMPs) on their property to aid in the improvement of local and regional water quality. Additionally, the City encourages planting native plants and trees to support the natural ecosystem and provide food sources for birds and pollinators. The program will reimburse applicants up to 50% of eligible expenses, not to exceed a project reimbursement cap for the proper installation of the following BMPs:

Project Type	Project Reimbursement Cap
Rain Barrel	\$75 per barrel, up to two
Native Tree	\$150 per tree, up to two
Native Plant Garden (must receive runoff)	\$1000
Rain Garden (must have pre-approval)	\$1000

Program Applicant Guidelines

1. All trees and plants must be native to KC Metro area. Cities may provide plant lists to participants for guidance.
2. Trees must not be planted where it will interfere with traffic sight lines or in the right-of-way.
3. Homeowner is responsible for verifying the tree species is appropriate for space. Consult <https://www.arborday.org/trees/righttreeandplace/> for more information.
4. The City is not liable for personal injury or property damage resulting from work related to the project.
5. The funded project must be maintained for a minimum of three years. All maintenance costs are the sole responsibility of the applicant and/or property owner. The City is not responsible for trees or plants that do not survive.
6. The applicant is responsible for obtaining applicable permits, including notifying Kansas One-Call before digging. The Dig Safe phone number is 811.
7. To be reimbursed:
 - a. City will reimburse participant after all costs have been incurred, final receipts submitted and project final approval obtained. Project and costs must be complete in the funding year.
 - b. All reimbursements are on a first-come, first-served basis until funding runs out.
 - c. Applicant is responsible for all project costs.
 - d. All projects and/or installations must be completed with all final documentation submitted by November 30, 2024.
8. For Rain Gardens Only:
 - a. Pre-approval required before work can begin.
 - b. City requires access to property for evaluation of the application prior to the start of project, during installation and after project is complete for final inspection.
 - c. Projects pre-approved for funding carry no implied warranty or guarantee of reimbursement by City.
 - d. Implementation of approved project is sole responsibility of applicant.

Instructions to Apply for Rain Garden Reimbursement

1. Complete pre-approval application. Applicant provides:
 - a. Completed online or paper application
 - b. Description of proposed project and preliminary sketch or design
 - c. Photo(s) of project location on property
 - d. Cost summary and/or contractor's estimate for project
 - e. Contractor's Certificate of Insurance listing City name as additional insured
 - f. Anticipated project schedule and completion date
2. Submit form and supporting documents/photos online or mail to contact below.
3. A site visit will be scheduled by JoCo SMP staff. This initial site visit must be complete before work can begin.
4. After initial site visit, and once pre-approval is issued, project may begin.
5. Contact JoCo SMP staff for final inspection once project is complete.
6. Submit final receipts and photos, if applicable, to JoCo SMP staff for final approval.
7. Approval decision will be issued within five business days of completed final application.
8. Payment of approved projects will be issued within six-eight weeks.

All reimbursements made on a first-come, first-served basis while funding is available. Pre-approval of project does not guarantee reimbursement.

Contact Information:

Lesley Rigney
Johnson County Stormwater Management Program (JoCo SMP)
1800 Old 56 Hwy, Olathe, KS 66061
Lesley.Rigney@jocogov.org
913-715-8316

Exhibit B**Contain the Rain Final Report Template – 2024**

Total Reimbursement Amount Requested/ Official Invoice

Project Table

Last Name	First Name	Street Address	City	Zip	Email	Project Type	Project Reimbursement

Project Narrative

- Program Background: Include brief overview of project, name(s) of program contacts, program website
- Promotion/ outreach methods and strategies
- Participation overview
- Program assessment (successes, lessons learned, suggestions for program improvement)
- Project Documentation (photos, unique designs, positive feedback)
- Project Location Map (optional)

COUNCIL ACTION FORM

Meeting Date: March 14, 2024

Staff Contact: John Sullivan, Public Works Director

Agenda Item: Provide direction to staff on Spring 2024 expenses at 5000 Rainbow Blvd.

Background/Description of Item

As 5050 and 5000 Rainbow Boulevard are currently under contract to be sold and redeveloped, staff is seeking direction from the Governing Body pertaining to various maintenance and repair expenses on both properties. The Development Agreement between the City and Karbank acknowledges that the School District's property will be in use by them through July 2024; however, Karbank could take possession of the City's parcels before that date depending on when the sale closes, which could occur at any time between April and July 2024.

As the City's original closing date was January 4, 2024, since approval of the Development Agreement and Development Plan for these sites in October 2023, staff anticipated the City would no longer own 5050 and 5000 Rainbow Blvd. As the sale has not yet closed but could close at any point within the next few months, staff is looking for direction from the Governing Body before entering contracts and beginning labor-intensive work by City Public Works crews to prepare the grounds for another full warm weather season.

Staff Comments

The items Public Works would typically be preparing for and performing starting now include:

- A. Contract execution for turf fertilization and weed control at both 5000 and 5050 Rainbow;
- B. Contract execution for irrigation system start-up and backflow inspections;
- C. Decorative fountain start-up, performed by Public Works staff; and
- D. Routine inspection and maintenance of equipment such as play equipment, drinking fountain & tennis court, performed by Public Works staff.

Staff has weighed the following factors and is looking for basic direction in how much expense should be incurred and staff time spent on these properties to keep them useful in this interim and uncertain time.

- A. The turf fertilization and weed control contract for both properties must be executed by March 15, 2024, and is anticipated to be approximately **\$3,500** for the contract term.
- B. The irrigation system start-up and backflow inspections contract must be executed by March 15, 2024, and is anticipated to be approximately **\$600**.
- C. The decorative fountain developed a leak at the end of the season last year. Staff is not sure exactly where the leak is occurring or exactly what will be needed to correct the issue and will need to start the fountain to investigate and diagnosis the issues to develop a solution. Because of the wet environment in which the motor and pump operate, staff have at times had to remove the equipment for rebuilding, which is an annually recurring unknown.

Public Works staff time is estimated to be between 10 and 20 hours to investigate, diagnose, resolve the issue. In the past if a rebuild is needed it has generally run **\$3,000 to \$5,000**.

- D. The play equipment is obsolete, and parts are unavailable. Should a repair be required staff may not be able to restore a given function for it to be used, which may result in having to remove it from service.

The drinking fountain would be turned on with the irrigation system and decorative fountain, if they are turned on this year. It was functioning last year when it was winterized.

Currently the tennis court is in service with no repairs required at this time. You may recall that we spent several thousand dollars last year to get the court in a usable condition, however, these repairs were not permanent solutions.

Item E. Section X, Item

Suggested Motion

No formal motion needed but direction requested.