

CHAPTER I. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

1-101 CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as “The Code of the City of Colwich, Kansas,” and may be so cited. The Code may also be cited as the “Colwich City Code.” (Code 2004)

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

(a) City shall mean the City of Colwich, Kansas.

(b) Code shall mean “The Code of the City of Colwich, 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.

(d) County means the County of Sedgwick in the State of Kansas.

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

(f) Gender. Words importing the masculine gender include the feminine and neuter.

(g) 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.

(h) 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.

(i) 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.

(j) Month shall mean a calendar month.

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

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

(m) Officers, department, 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.

(n) Owner applies 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.

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

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

(q) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

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

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

(t) Signature, subscription 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.

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

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

(w) Tenant or occupant applies 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.

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

(y) 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.

(z) Year means a calendar year, except where otherwise provided.
(Code 2004)

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 2004)

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EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 2004)

- 1-105 CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any sections, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 2004)
- 1-106 PARENTHETICAL AND REFERENCE MATTER. The matter in parentheses 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 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 2004)
- 1-107 AMENDMENTS; REPEAL. This Code may be Amended, Revised, or Recodified in accordance with applicable State Statute governing such actions.
- 1-108 ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. 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. (K.S.A. 12-3002; Code 2004)
- 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. (K.S.A. 12-3004; Code 2004)
- 1-110 SAME; PUBLICATION. No ordinance, except those appropriating money, shall not be in force until a summary of the ordinance is published in the official city newspaper by the city clerk. One publication of any such ordinance summary shall be sufficient unless additional summary publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 2004)
- 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. (K.S.A. 12-3008; Code 2004)

- 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 2004)
- 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 provided in the state open records act and the city policy regarding open public records. (K.S.A. 12-120:121; Code 2004)
- 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 temper with such code in any manner whatsoever which will cause the law of the City of Colwich 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 2004)
- 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 2004)
- 1-116 GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not 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 2004)
- 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 decisions shall not affect the validity of the remaining portions of this code. (Code 2004)

ARTICLE 2. GOVERNING BODY

- 1-201 GOVERNING BODY. The governing body shall consist of a mayor and council to be elected as set out in Chapter 6 of this code. (Code 2004)

- 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 council as governing body of the city. (K.S.A. 12-103; Code 2004)
- 1-203 SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the second (2nd) Monday of January and the 3rd Monday thereafter 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. (Ord. No. 695)
- (b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting of the Governing Body 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.
- (d) When a request has been made for verbatim minutes of any council, planning commission, or ad hoc committee meeting, the city will hire a transcriptionist with all associated costs being paid by the person making the request prior to the production of such specially created document(s) and subject to section 1-614. (K.S.A. 15-106; Ord. 495, Secs. 1:2; Ord. 498, Sec. 1; C.O. No. 14, Sec. 2; Code 2004)
- 1-204 SAME; QUORUM. In all cases, it shall require three of the five councilmembers elect to constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the city council, by ordinance, may have previously prescribed. (K.S.A. 15-106; C.O. No. 14, Sec. 2; Code 2004)
- 1-205 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. (K.S.A. 15-301:302, 305:406, 308:309; Code 2004)

1-206 **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. (K.S.A. 15-301:311; Code 2004)

1-207 **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 2004)

1-208 **VACANCIES IN GOVERNING BODY; HOW FILLED.** If any person elected to the office of councilmember does not qualify within the required time, he/she shall be deemed to have refused to accept the office and a vacancy shall exist and, thereupon, the mayor shall, with the consent of a majority of the remaining councilmembers appoint a suitable elector of the city to fill the vacancy for the term to which the refusing person was elected. In case of a vacancy in the office of councilmember occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the consent of the majority of the remaining, councilmembers shall appoint a suitable elector of the city to fill the vacancy until the next election for that office.

In case of a vacancy in the office of mayor occurring by reason of resignation, death, removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the councilmember becoming mayor. (C.O. No. 1, Sec. 5; Code 2004)

1-209 **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by the governing body. (Code 2004)

1-210 **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.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or council provided such expenses shall be documented by proper receipts. (Code 2004)

RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

Rule 1. Adjourned Meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special Meetings. Special meetings may be called by the mayor or acting mayor on written request of any three members of the council, specifying the object and purpose of the meeting. The request must be read at the meeting and entered at length in the journal. (K.S.A. 15-106)

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the mayor shall be issued by the city clerk or other city employee, who shall be required to make service of said notice at once personally upon each councilmember or to leave it at his or her usual place of residence, and such notice must be served or left at the usual place of residence at least two hours before the time of meeting. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member.

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall note the roll and note the absentees. Upon the appearance of a quorum the governing body shall proceed with business, which shall be conducted following the order of the printed agenda unless otherwise amended.

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. Decorum. Every member shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Certain Motions in Writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. Resolutions. All resolutions must be in writing.

Rule 9. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position

taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 10. Precedence of Questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 11. Previous Question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 12. Passing of Ordinances. The vote on any ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002, 12-3004)

Rule 13. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law. (Code 2004)

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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 this 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 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 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 give 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 2004)

ARTICLE 3. OFFICERS AND EMPLOYEES

1-301 APPOINTMENT. 1. The City of Colwich, Kansas, a mayor-council city of the third class, by the power vested in it under and by virtue of Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from, and make inapplicable to it, certain portions of K.S.A. 15-204, which applies only to mayor-council cities of the third class, and provides substitute and additional provisions for the appointment of, and/or employment of all parties and items for all positions set out in K.S.A. 15-204, and additional provisions as hereinafter provided.

2. The City of Colwich, Kansas, Mayor and City Council are hereby empowered to change the terms of appointment and/or employment of all parties and items set out in K.S.A. 15-204 and may provide for these parties to be employees rather than officers of the City.

3. The Colwich City Council and City Mayor may provide, in their discretion, longer terms of office for the parties and items set out in K.S.A. 15-204, or provide open-ended terms for these parties and items set out in K.S.A. 15-204; Co. No. 17; Co. No. 26; Code 2004)

1-302 EMPLOYEES. The council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 2004)

1-303 REMOVAL. (a) A two-thirds (2/3) majority of all members elect of the governing body may remove any appointed officer, or employee.

(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. (K.S.A. 15-204; Code 2004)

1-304 VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 2004)

1-305 CITY CLERK. The city clerk shall:

- (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
- (b) Carry on all official correspondence of the city;
- (c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
- (d) Enter every appointment of office and the date thereof in the journal;
- (e) Enter or place each ordinance of the city in the ordinance books after its passage;
- (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance. (Code 2004)

1-306 SAME; FISCAL RECORDS. 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 2004)

1-307 SAME; 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 2004)

1-308 SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any

city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2004)

1-309 DEPUTY CITY CLERK. (a) The office of deputy city clerk is hereby established.

(b) The court/deputy city clerk shall perform those duties assigned by the city clerk.

(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the deputy city clerk shall act in the position of deputy city clerk and shall fulfill the duties of that office. (Code 2004)

1-310 CITY TREASURER. The city treasurer shall:

(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(b) Publish an annual financial statement;

(c) Deposit all public moneys and sign all checks of the city;

(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;

(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.

(K.S.A. 10-803; K.S.A. 12-1608; Code 2004)

1-311 CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

(a) Attend meetings of the city council when so directed to attend by the council;

(b) Advise the city council and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;

(c) When requested by the city council, give opinions in writing upon any such questions;

(d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;

(e) Approve all ordinances of the city as to form and legality;

(f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;

(g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;

(h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.

(Code 2004)

1-312 CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for;

(a) The design and specification for all city streets, sewers, water lines, public buildings and other public facilities;

(b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;

(c) The general supervision of the maintenance and repair of all public facilities. (Code 2004)

1-313 APPONTMENT 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 2004)

1-314 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 souse; 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.

(K.S.A. 75-4301; Code 2004)

ARTICLE 4. OATHS

1-401 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:

“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.” (K.S.A. 75-4308; Code 2004)

1-402 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 by the city clerk. (Code 2004)

ARTICLE 5. RESERVED

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 2004)

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 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 2004)

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 2004)

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 2004)

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 2004)

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 2004)

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) Fire Chief – All public records not on file in the office of the city clerk and kept and maintained in the city fire department.

(e) 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.

(f) 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 2004)

1-608 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 2004)

1-609 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 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 2004)

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 2004)

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 2004)

1-612 INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$20 per hour per employee engaged in the record search. A minimum charge of \$10 shall be charged for each such request. (Ord. 408, Sec. 2; Code 2004)

- 1-613 **COPYING FEE.** (a) A fee of \$.25 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.
(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records. (Ord. 408, Sec. 3; Code 2004)
- 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.
(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. (Ord. 408, Sec.4; Code 2004)
- 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. All fees received shall be paid to the city treasurer whenever the amount of fees collected totals \$50, but not less than monthly. (Ord. 408, Sec. 5; Code 2004)
- 1-616 **REFUSAL TO PAY FEES.** Any person or persons who refuses to pay any fee as authorized by this article, and demanded by the records custodian shall not be entitled to access to or copies of requested records until such payment has been made. (Ord. 408, Sec. 6; Code 2004)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

- 1-701 **PURPOSE AND GOALS.** It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:
(a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.
(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to

secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (Code 2004)

1-702

INVESTMENT OF IDLE FUNDS. Temporarily idle money of the city not currently needed, may in accordance with the procedure hereafter described be invested:

(a) In temporary notes or no-fund warrants issued by such investing governmental unit;

(b) In time deposit, open accounts or certificates of deposit with maturities of not more than two years;

(1) In commercial banks which have offices located in such investing governmental unit; or

(2) If the office of no commercial bank is located in such investing governmental unit, then in commercial banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(c) In time certificates of deposit with maturities of not more than two years:

(1) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or

(2) If the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(d) In repurchase agreements with:

(1) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or

(2)(B) If no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan association or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or

(3) If no bank, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such

county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the State of Kansas;

(e) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with the following, which is doing business within the State of Kansas, and state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer which is registered in compliance with the requirements of section 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and amendments thereto;

(f) The municipal investment pool fund;

(g) The investments authorized and in accordance with the conditions prescribed in section 2 of the municipal investment pool fund act;

(h) The trust departments of commercial banks which have offices located in such investing governmental unit or with trust companies which have contracted to provide trust services under the provisions of K.A.S. 9-2107, and amendments thereto, with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Investments of public moneys under this paragraph shall be limited to those investments authorized under subsection (b) of section 1 of the municipal investment pool fund act.

(i) The investments authorized in paragraphs (e), (f), (g) or (h) of this section shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraphs (b) or (c) of this section available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto.

(K.S.A. 12-16785, as amended; Code 2004)

1-703

PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available

for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2004)

1-704 CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 2004)

1-705 SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2004)

1-706 INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2004)

Ref. See K.S.A. 12-1677, and amendments thereto.