

CHAPTER I ADMINISTRATION

- Article 1. General Provisions
- Article 2. Governing Body
- Article 3. Standing Committees
- Article 4. Officers and Employees
- Article 5. Personnel Policy and Employee Benefits
- Article 6. Oaths and Bonds
- Article 7. Open Records and Record Preservation
- Article 8. Investment of Idle Funds
- Article 9. City Contracts
- Article 10. Petitions for Improvement
- Article 11. Tax Abatement

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 Clay Center, Kansas," and may be so cited. The Code may also be cited as the "Clay Center City Code." (Code 1999)

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 Clay Center, Kansas.
- (b) Code shall mean "The Code of the City of Clay Center, 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 Clay 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.
- (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 City Council as provided in this Code.
- (g) 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.
- (h) 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.

- (i) Month shall mean a calendar month.
 - (j) Number. Words used in the singular include the plural and words used in the plural include the singular.
 - (k) 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."
 - (l) 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.
 - (m) 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.
 - (n) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
 - (o) Property includes real, personal and mixed property.
 - (p) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.
 - (q) Shall, may. "Shall" is mandatory and "may" is permissive.
 - (r) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
 - (s) 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.
 - (t) State shall be construed to mean the State of Kansas.
 - (u) 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.
 - (v) 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.
 - (w) Tenses. Words used in the past or present tense include the future as well as the past and present.
 - (x) 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.
 - (y) Year means a calendar year, except where otherwise provided.
- (Code 1993, 1-101; Code 1999)

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 1999)

1-104 EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1999)

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 section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1999)

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 1999)

1-107 AMENDMENTS; REPEAL. 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 Clay Center is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the Code may be added as follows: "The Code of the City of Clay Center is hereby amended by adding a section (or article or chapter) which reads as follows:

... (the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) of the Code of the City of Clay Center is hereby repealed." (Code 1999)

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 1993,1-102; Code 1999)

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 1993, 1-102; Code 1999)

1-110 SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official City newspaper by the City Clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1999)

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 1999)

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 1993, 1-103; Code 1999)

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 1999)

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 Clay Center 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 1999)

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 1999)

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 \$1,000.00; 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 1999)

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 1999)

ARTICLE 2 GOVERNING BODY

1-201 GOVERNING BODY. The governing body shall consist of a Mayor and City Council to be elected as set out in Chapter 6 of this Code. (Code 1999)

1-202 SAME; POWERS GENERALLY. All powers exercised by cities of the second class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. 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. (K.S.A. 12-103; Code 1999)

1-203 SAME; MEETINGS.

- (a) Regular meetings of the governing body shall be held on the first and third Tuesdays of each month at 7:30 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 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. (K.S.A. 14-111 Ord. 2102; 03-01)

1-203A SAME; DEADLINES FOR COUNCIL AGENDAS

- (a) The agenda for the next governing body meeting will be closed at 11:00 o'clock a.m. on the Monday preceding the governing body meeting. If Monday is a holiday, the agenda will close at 11:00 o'clock a.m. on the Friday before the governing body meeting. Citizens are to contact the City Clerk or Mayor in order to have their topic listed on the agenda for the governing body meeting.
- (b) Any purchase of \$3,000.00 or more must be added to the agenda by 11:00 o'clock a.m. on the Monday preceding the governing body meeting, so that the purchase may be announced in the newspaper and on radio in order to inform the public.
(Ord. 2124; 04-02)

1-204 SAME; QUORUM. In all cases, it shall require a majority of the Council members-elect to constitute a quorum to do business. (K.S.A. 14-111; Code 1999)

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) Sign the commissions and appointments of all officers elected or appointed;
- (c) Endorse the approval of the governing body on all official bonds;
- (d) From time to time communicate to the City Council such information and recommend such measures as he or she may deem advisable;
- (e) Sign all orders and drafts drawn upon the City treasury for money.
(K.S.A. 14-301 et seq.; Code 1993, 1-105, 107:111, 113, 118; Code 1999)

1-206 SAME.

- (a) The Mayor shall have power, when he or she deems it necessary, to require any officer of the City to exhibit his or her accounts or other papers, and to make report to the Council in writing touching any subject or matter he or she may require pertaining to his or her office.
- (b) The Mayor is authorized to call on every inhabitant of the City over 18 years of age and under the same of 50 years, to aid in enforcing the laws.
- (c) The Mayor is hereby authorized and empowered to offer a reward, not exceeding \$500.00, whenever he or she shall deem it expedient to do so, for evidence sufficient to convict any person of any violation of any ordinance of this City which prohibits the

injuring or destruction of any public or private property and when such reward has become due the same shall be paid by the City upon a claim therefor being presented to the governing body and allowed as are other claims against the City. (Code 1993, 1-112, 115:117)

1-207 SAME; VETO OF ORDINANCES. The Mayor shall have power to sign or veto any ordinances passed by the governing body; provided, that any ordinance vetoed by the Mayor may be passed over his or her veto by a vote of three-fourths of the members of the Council elected, notwithstanding the veto; and should the Mayor neglect or refuse to sign any ordinance and return the same with his or her objections in writing at the next regular meeting of the governing body, the same shall become law without his signature. (Code 1993, 1-110)

1-208 SAME; ENFORCEMENT OF LAWS AND ORDINANCES; JURISDICTION. The Mayor shall be active and vigilant in enforcing all laws and ordinances of the government of the City and he or she shall cause all subordinate officers to be dealt with promptly for any neglect or violation of duty, and he or she shall have jurisdiction as may be vested in him or her by ordinance over all places within five miles of the corporate limits of the City for the enforcement of any health, quarantine, cemetery or waterworks ordinance and regulation thereof. (Code 1993, 1-113)

1-209 **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 Council members but shall exercise no veto. (K.S.A. 14-308; Code 1993, 1-105, 121; Code 1999)

1-210 **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 1993, 1-122; Code 1999)

1-211 **VACANCIES IN GOVERNING BODY; HOW FILLED.**

(a) Whenever the Mayor shall be temporarily absent from the City or temporarily disabled, the president of the Council for the time shall exercise the office of Mayor with all the rights and privileges and jurisdiction of the Mayor until the Mayor returns or such temporary disability is removed, and during the time he or she shall so act, he or she shall receive the same compensation that the Mayor would be entitled to. When any vacancy shall happen in the office of Mayor by death, resignation, removal from the City, removal from office, refusal to qualify or otherwise, the president of the Council, by and with the consent of the Council, shall appoint a new Mayor for the unexpired term.

(b) All Council members elected shall be qualified electors of the City and a bona fide resident of the ward they are to represent. Whenever a vacancy shall occur in the office of any Council member, it shall occasion a vacancy in such office. A vacancy shall be filled for the unexpired term by a new Council member from the same ward as the Council member for whom such vacancy is being filled in the manner set hereinafter. The Clerk shall enter every appointment to office and the date thereof on the journal of proceedings.

(c) At the direction of the Mayor or the Council, the Clerk shall publish an announcement in the official newspaper of the City that applications are being sought for the vacant City Council position and furnish the application form. The notice and application shall include, but are not limited to, a statement of qualification and personal background, a statement addressing why they wish to serve, and a statement addressing what they see as the top problem facing City government and how they would solve the problem. After the first publication of the notice, any qualified person may apply for the vacant Council seat and shall have two weeks in which to file their application.

(d) At the expiration of the two week period and at the direction of the Mayor or the Council, the Clerk shall inform the Council of the applicants and their qualification, and schedule interviews with the qualified applicants. Each Council member shall be given the opportunity to ask each applicant at least one question. Each applicant shall be asked the same questions. Applicants may be sequestered during the interview process. After all of the interviews have been conducted the Mayor or Council shall determine when voting shall be conducted. Each Council member shall be entitled to vote for one applicant. If one applicant receives a majority of the votes he or she shall be elected. If none of the applicant receive a majority of the votes, then the applicant(s) receiving the fewest votes shall be eliminated and the Council shall again vote on the remaining applicants. The process of voting and elimination shall continue until one applicant receives a majority of the votes. (Ord. #2154; 11-03)

(e) If there are no applicants for such vacant position, or persons making application are not found to be qualified, by the Council, for the vacant position, the Mayor, with the

consent of the Council, shall appoint, for the unexpired term, a new Council member from the same ward as the Council member for whom such vacancy is being filled. (Code 2007)

1-212 COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (K.S.A. 14-201; Code 1999)

1-213 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 United States Internal Revenue Service for each mile traveled by the shortest route upon the performance of duties assigned by the Mayor and/or City Council.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the Mayor and/or City Council, provided such expenses shall be documented by proper receipts. (Code 1999)

1-214 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 held at any time upon a call signed by a majority of the governing body. The call of a special meeting shall be in substantially the following form:

CALL FOR SPECIAL GOVERNING BODY MEETING
Clay Center, Kansas

_____, 20__

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the City hall, _____, 20__, at o'clock m., the object of said meeting being to _____ (state object)

Signed:

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the _____ shall be issued by the City Clerk to the chief of police, his or her deputy, or a law enforcement officer or other City employee, who shall be required to make service of said notice at once personally upon each _____ 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. The person serving the notice shall make a return in writing of the service, showing the manner of such service. 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. The notice and the return shall be in substantially the following form:

NOTICE OF SPECIAL GOVERNING BODY MEETING
Office of the City Clerk
Clay Center, Kansas

To _____

You are hereby notified that there will be a special meeting of the Governing Body at _____ o'clock _M., 20__, at the City hall for the object of _____ (state the same object as shown in the call).

Witness my hand and the seal of said City this _____ day of _____ 20__.

City Clerk

State of Kansas
County of Clay ss:
City of Clay Center

To (Chief of Police, his or her deputy, or a law enforcement officer or other City employee).

Greeting:

You are hereby directed to serve the above notice at once personally upon _____ or to leave it at his or her usual place of residence before _____ o'clock., M., 20__ , and to make a return in writing of said service, showing the manner of such service.

(SEAL)

City Clerk

RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at _____ o'clock m., on the _____ day of _____ 20__, and (served the same personally on _____ or left said original notice at the usual place of residence of _____) at _____ o'clock _m., on the _____ day of 20__.

Dated this _____ Day of 20_____.

Signed:

Person serving notice

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 call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business, which shall be conducted in the following order:

- (1) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
- (2) Presentations of claims and appropriation ordinance;
- (3) Presentation of petitions, memorials, and remonstrances;
- (4) Unfinished business;
- (5) New business;
- (6) Reports of other City officers.

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 previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she 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. Motions During Debate. When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;
- (4) To postpone;
- (5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. 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 12. 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 13. 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 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading an amendment (if any) of the ordinance, the question shall be: "Shall the Ordinance pass?" The vote on the final passage of an 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 15. Passing Over Veto. When an ordinance shall be returned by the Mayor to the Council with his or her objections thereto, the objections shall be entered at large upon the journal, and the Council shall proceed to reconsider the ordinance, upon which reconsideration the question shall be: "Shall the ordinance pass, the Mayor's objections thereto notwithstanding?" If three-fourths of the whole Council shall vote the ordinance, it shall be endorsed by the Clerk as having passed the Council over the Mayor's veto. Should the Mayor neglect or refuse to sign the ordinance and return the same with his or her objections in writing at the next regular meeting of the Council, the same shall become a law without his or her signature.

Rule 16. 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 by the acting Mayor, and attested by the Clerk, who shall secure publication of the ordinance as required by law.

Rule 17. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the Clerk under proper order of business upon presentation of the same to the board.

Rule 18. Appointment of Committees. All committees shall be appointed by the chair, unless expressly ordered otherwise by the Council.

Rule 19. Standing Committees. The standing committees shall consist of three members appointed annually, and the first person named on the committee shall be the chairperson thereof. The following shall be the standing committees, to wit:

- (a) Ways and Means.
- (b) Laws and Ordinances.
- (c) Fire Department.
- (d) Streets and Alleys.
- (e) City Parks and Pool.
- (f) City Property.
- (g) Cemetery.
- (h) Light, Water and Sewers.
- (I) Building Permits.
- (j) Airport.
- (k) Zoning.
- (l) Emergency Preparedness.
- (m) Insurance.
- (n) Public Recreation.

Rule 20. Action by Committees. It shall be the duty of the committees to act promptly and faithfully in all matters referred to them, and to make their reports at the next meeting of the Council.

Rule 21. Executive Sessions.

- (a) Upon formal motion made, seconded and , carried, all bodies and agencies subject to this act may recess, but not adjourn, open meetings for closed or executive meetings. Any motion to recess for a closed or executive meeting shall include a statement of
 - (1) the justification for closing the meeting,
 - (2) the subject to be discussed during the closed or executive meeting and
 - (3) the time and place at which the open meeting shall resume. Such motion, including the required statement, shall be recorded in the minutes of the meeting and shall be maintained as a part of the permanent records

of the body or agency. Discussion during the closed or executive meeting shall be limited to those subjects stated in the motion.

(b) No subject shall be discussed at any closed or executive meeting, except the following:

- (1) personnel matters of non-elected personnel;
- (2) consultation with an attorney for the body or agency which would be deemed privileged in the attorney-client relationship;
- (3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
- (4) confidential data relating to financial affairs or trade secrets of corporations, partnerships, trusts and individual proprietorships;
- (5) matters relating to actions adversely or favorably affecting a person as a student, patient or resident of a public institution, except that any such person shall have the right to a public hearing if requested by the person; and
- (6) preliminary discussions relating to the acquisition of real property.

(c) No binding action shall be taken during closed or executive recesses, and such recesses shall not be used as a subterfuge to defeat the purposes of this rule.

(K.S.A. 75-4320)

Rule 22. City Marshal-Chief of Police Attends Meetings. The City marshal-chief of police, when required, shall attend any meetings of the Council and preserve order in the room.

Rule 23. Appointments to Office. All appointments to office made by the Mayor requiring the consent of the Council shall be confirmed by a majority of the members elect, upon a motion made for the purpose, but when the Council is evenly divided the Mayor shall have a casting vote.

Rule 24. Suspension of Rules. These rules, or any of them, except those required by statute, may be temporarily suspended by consent of two-thirds of the Council members elect, and shall not be repealed, altered or amended, unless by concurrence of two-thirds of the Council, and upon notice given at some preceding meeting.

Rule 25. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order.

(Code 1993, 1-105; Code 1999)

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 obtain 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 appointed 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 1999)

1-216 EMERGENCY GOVERNMENT. In the event of a catastrophe in which all, or a majority, of the members of the governing body are fatally injured, the interim governing body shall be composed of the City Clerk, City attorney and City Treasurer. (Code 1993,1-123)

ARTICLE 3 STANDING COMMITTEES

1-301 APPOINTMENT. 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. Standing Committees shall be appointed at the first regular meeting of the governing body following the qualification of new Council members elected at the regular City election. Such appointments shall be for one year. When a new Council member is elected at a special election to fill a vacancy he or she shall be assigned to standing Committees and in such event the governing body may authorize the reappointment and reorganization of any and all standing Committees. (Code 1993, 1-106)

1-302 CHAIRPERSON; REPORTS. It shall be the duty of the chairperson of all standing Committees, when he or she is present to make any and all reports, and in his or her absence any other member of the Committee may make such report. (Code 1993, 1-301)

1-303 INVESTIGATIONS. It shall be the duty of such standing Committee to make thorough examination of all subjects coming within the scope of their respective jurisdictions and of subjects referred by the governing body to such Committees and to report the results of the investigations to the governing body. (Code 1993, 1-302)

1-304 MEETINGS. The Chairperson of each of the respective Committees shall have power to call the members of his or her Committee together at any reasonable time and place, to consider and consult concerning any proper subject for the Committee's investigation, or any subject referred to such Committee. (Code 1993, 1-303)

1-305 MINORITY REPORT. When a member of any Committee cannot agree with the views of the other members of the Committee, such member may make a separate report to the governing body setting forth his or her views in regard to any matter under investigation. (Code 1993, 1-304)

1-306 WAYS AND MEANS COMMITTEE. The Ways and Means Committee shall have supervision of all matters affecting the treasury and revenues of the City, and participate as requested in the preparation of the annual budget for the City. (Code 1993; 1-305)

1-307 LAWS AND ORDINANCES COMMITTEE. The Law and Ordinances Committee shall have supervision of all questions on matters affecting the legal rights of the City, and of all ordinances introduced for the consideration of the governing body, and all ordinances introduced

shall be referred to the Committee, unless otherwise ordered by the governing body, which ordinances the Committee shall review and report thereon to the governing body and the Committee shall have supervision of all such other matters as may be referred to the Committee. (Code 1993, 1-307)

1-308 FIRE DEPARTMENT COMMITTEE. The Fire Department Committee shall have supervision of all matters relating to the Fire Department and fire companies of the City. (Code 1993, 1-309)

1-309 STREET AND ALLEY COMMITTEE. The Street and Alley Committee shall have supervision of all streets, alleys, lanes, sidewalks, curbs, gutters, bridges and culverts, and the Committee shall examine and report to the governing body from time to time, where any excavation, fillings, constructions and repairs are required in the City, and shall have general supervision of all such improvements to be made, and of such other matters as may be referred to the Committee; but the Committee shall not make any improvement requiring an expenditure of money, except upon express direction of the governing body. (Code 1993, 1-309)

1-310 PARKS AND POOL COMMITTEE. The Parks and Pool Committee shall have supervision of all matters pertaining to the parks and swimming pool of the City and shall, from time to time report to the governing body any change or alteration in the park and pool system of the City, and such other matters as may be referred to the Committee. (Code 1993,1-310)

1-311 CITY PROPERTY COMMITTEE. The City Property Committee shall have supervision of all matters relating to public buildings and property of the City not assigned to some other Committee. (Code 1993, 1-311)

1-312 CEMETERIES COMMITTEE. The Cemeteries Committee shall have supervision of all subjects relating to the cemeteries of the City and report to the governing body from time to time such rules and regulations concerning the same as may to them seem advisable. (Code 1993, 1-312)

1-313 LIGHTS, WATER AND SEWER COMMITTEE. The Lights, Water and Sewer Committee shall review all matters relating to the Public Utilities Department and supervise sewers, drains and sewage disposal of the City. (Code 1993, 1-313)

1-314 BUILDING PERMITS COMMITTEE. The Building Permits Committee shall examine all applications for building permits and, if approved by the building inspector, may approve or reject the same and if rejected shall state thereon their requirements of approval. (Code 1993, 1-314)

1-315 AIRPORT COMMITTEE. The Airport Committee shall have supervision of all matters pertaining to the municipal airport. (Code 1993, 1-315)

1-316 ZONING COMMITTEE. The Zoning Committee shall have supervision of all matters pertaining to zoning as provided by law and ordinances of the City other than those zoning matters which are referred by law to the City Planning Commission. (Code 1993, 1-317)

1-317 EMERGENCY PREPAREDNESS COMMITTEE. The Emergency Preparedness Committee shall have supervision of all matters relating to the emergency preparedness of the City as provided by Chapter 8, Article 7. (Code 1999)

1-318 INSURANCE COMMITTEE. The Insurance Committee shall have supervision of all matters relating to insurance as provided by the laws and ordinances of the City. (Code 1999)

1-319 PUBLIC RECREATION COMMITTEE. The Public Recreation Committee shall oversee the business and affairs of the recreation system of City as provided by Chapter 12, Article 5. (Code 1999)

ARTICLE 4 OFFICERS AND EMPLOYEES

1-401 APPOINTMENT. At the first regular meeting in May of each year, the Mayor, by and with the consent of the Council, shall appoint a City Clerk and City Treasurer, and may appoint a City Attorney, City Prosecutor, Municipal Judge, Chief of Police and such other officers as may be deemed necessary for the best interest of the City so long as the candidates meet the requirements of section 1-402. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The Council shall vote on the question of confirmation in an open meeting. Upon the request of any Council member, confirmation of any nomination shall be voted upon separate from the other nominees. The duties and salaries of all appointed officers shall be fixed by ordinance. Any office may be abolished by ordinance if deemed expedient by the Council. (K.S.A. 14-201)

1-402 QUALIFICATIONS; TERM; REMOVAL. Every person appointed to any office in this City, shall be, at the time of such appointment, a qualified elector of the City, except that the City may appoint nonresidents as City Attorney, City Prosecutor, Municipal Judge and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve as City Attorney, City Prosecutor, Municipal Judge or law enforcement officers of another municipality or public agency; provided, that nothing herein shall authorize the appointment of nonresidents of this state. The City Attorney and the City Prosecutor shall both be a qualified electors of the County in which the City is located or of an adjoining County. All persons when so appointed, shall hold their respective offices for the term of one year, that is to the first meeting in May next ensuing and until their successors are appointed and qualified, unless removed from office by the votes of a majority of the Council for incompetence, gross neglect in the discharge of their duties, misconduct in office or other good cause; provided further, that if the appointment of any officer or officers should be deferred until after the first meeting in May, such officer or officers shall hold their office only from the date of such appointment until the first meeting in May then next ensuing, and until their successors are appointed and qualified. The governing body may retain a licensed professional engineer to act in the capacity of City Engineer for specifically defined duties and provide for reasonable compensation for the services rendered. (Code 1993,1-202)

1-403 EMPLOYEES. The governing body shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 1999)

1-404 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, maybe 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. 14-1503; Code 1993,1-202; Code 1999)

1-405 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. 14-1504; Code 1993, 1-205; Code 1999)

1-406 CITY CLERK. The City Clerk shall:

- (a) Keep an office in the City building, which office shall be open at the usual business hours observed in the City;
- (b) 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;
- (c) Carry on all official correspondence of the City;
- (d) Shall keep suitable files and records of all of the documents, papers, and other effects pertaining to the business of the City including all correspondence, deeds, contracts, bids, petitions, and similar official documents.
- (e) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
- (f) Enter every appointment of office and the date thereof in the journal;
- (g) Enter or place each ordinance of the City in the ordinance books after its passage;
- (h) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance;
- (i) 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;
- (j) Keep an accurate account of all bonds issued by the City;
- (k) Keep a record of all special assessments. (Code 1993,1-214:215; Code 1999)

1-407 SAME; ACCOUNTING RECORDS; ORDERS; FUNDS; LEVIES. The City Clerk shall prepare and keep suitable fiscal accounting records in the form and manner which shall have been approved for minimum accounting standards by the Municipal Accounting Board of Kansas. He or she shall prepare, or cause to be prepared, all orders for the purchase of goods and services required by the City and shall make the suitable entries in his or her books of all such orders and contracts entered into by the City which shall obligate the funds or credit of the City. He or she shall keep a separate account of each of the several funds of the City, whether it be derived from tax money coming to the City or otherwise, and he or she shall promptly credit all money coming to the City of whatever source derived to the proper fund of the City. The money belonging to one fund shall not be placed to the credit of any other fund or be transferred to another fund unless there is lawful authority of the same and the money in accordance with the directions of the governing body. Each separate tax levy shall constitute a separate fund as provided by law authorizing any such levy. (Code 1993, 1-217)

1-408 SAME; BUDGET DUTIES. The City Clerk shall render such assistance as may be required in preparing the budget, any ordinance for the levying of taxes, and shall certify the same to the County Clerk in the form and manner required by law together with a copy of the budget. In addition a copy of the annual City budget shall be filed with the State Accountant. At the beginning of the budget year, the City Clerk shall open and keep an account of each fund thereof, showing the total amount appropriate for that fund in the budget, the date, number, and amount of each warrant or warrant check drawn thereon. He or she shall keep such records as may be

required to show the outstanding contracts or other obligations against any fund of the budget. (Code 1993, 1-218)

1-409 SAME; CLAIMS; FINANCIAL REPORTS; WARRANTS. The City Clerk shall receive at his or her office all claims against the City for goods or services rendered and he or she shall prepare them in suitable form for the consideration of the governing body at its next succeeding meeting. He or she shall prepare appropriate ordinances for the payment of all claims to be allowed. He or she shall draw warrants or warrant checks only when appropriations to pay the same have been made by ordinance. He or she shall keep a current record of all warrants drawn on the City treasury showing the number, date and amount thereof, on what fund drawn, and the name of the person or persons to whom the same are made payable. His or her accounts shall properly show the amounts paid from any fund of the City and the cash balance existing in each fund. He or she shall prepare a report showing the financial conditions of the City each month and present the same to governing body at its first regular meeting of the succeeding month. The report shall show the balance of the fund at the end of the next preceding month, the amount paid out of any fund and the outstanding claims authorized to be paid of all funds of the City so that the governing body may not create debts nor authorize the issuance of warrants in violation of the budget law. In no event shall the City Clerk draw any warrants or warrant checks which shall call for the payment of funds not represented by cash in the City treasury nor for the total amount of which shall be in excess of the amount authorized for the expense of any such fund by the annual budget. (Code 1993, 1-219)

1-410 SAME; LICENSE; CERTIFICATES; PERMITS; NOTICES. Upon the payment of any license fees or taxes to the City, the Clerk shall issue a receipt and/or a license in a suitable form prepared for the purpose. All licenses except dog licenses shall be signed by the Mayor and City Clerk and countersigned by the City Treasurer and the Clerk shall affix the corporate seal of the City thereto. The Clerk shall prepare and issue on behalf of the City such notices, other certificates, permits, and forms under the seal of the City as may be required by law or ordinances. He or she shall make and preserve such records and accounts pertaining to any such notice, licenses, permits, and certificates as may be required, and pay into the City treasury all fees or money received by him or her by reason of the foregoing, issuing his or her receipts therefor. (Code 1993, 1-220)

1-411 SAME; SETTLEMENT WITH TREASURER. The City Clerk shall enter in a suitable book under the appropriate heading the amount received by the City Treasurer as shown by his or her receipt in duplicate given to the County Treasurer, one of which the County Treasurer files with the Clerk. The amounts so receipt for, the books and vouchers to be for reference in the settlements between the City Treasurer and the County Treasurer. (Code 1993, 1-224)

1-412 SAME; PETTY CASH FUNDS. There is hereby established a petty cash fund for the use of the City Clerk for the purpose of paying postage, freight, express, temporary labor, and other emergency expense. Such petty cash fund shall not exceed the sum of \$500.00 and shall be deposited in the designated City depository bank and paid out on the order of the City Clerk by checks which shall state clearly the purpose for which issued. Whenever such petty cash fund becomes low or depleted, the City Clerk should prepare vouchers covering such expenses as have been paid from the petty cash fund and shall submit such vouchers together with the paid checks to the governing body for audit and allowance of the amount from the regular funds of the City. Warrants issued therefor shall be payable to the petty cash fund and shall be deposited therein to restore such petty cash fund to its original amount for use as herein provided. (C.O. No. 3; Code 1993, 1-225)

1-413 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 1993,1-216, 221; Code 1999)

1-414 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 1999)

1-415 CITY TREASURER; DEPOSIT MONEYS; SECURITY. The City Treasurer shall deposit all public moneys coming into his or her hands in his or her official capacity in some responsible bank or banks within the City, the same to be designated by the governing body, as provided by K.S.A. 9-1401 et seq. Such deposits shall be made in the name of the City Treasurer, as such officer; provided, that when more than one bank is designated as depository for any fund, such fund shall be equally divided by the City Treasurer among such banks. Before making such deposit the governing body shall take from such bank either a bond or the security as provided by K.S.A. 9-1402. (Code 1993, 1-206)

1-416 SAME; MONEY FROM COUNTY TREASURER; RECEIPTS. The City Treasurer shall receive from the County Treasurer all moneys and evidences of indebtedness collected for and payable to the City and give to the County Treasurer duplicate receipts therefor, one of which the County Treasurer shall file with the City Clerk. The City Clerk shall enter in a book kept for that purpose, and under the proper heads, all amounts so receipted for, the books and vouchers to be for reference in the settlements with the Treasurers. (K.S.A. 79-1801; Code 1993, 1-208)

1-417 SAME; WARRANTS; RECORDS; COUNTERSIGNATURE. Before delivering any warrant to the person for whose benefit the same is drawn, the City Clerk shall present the same to the City Treasurer, who shall enter in a book kept by him or her for that purpose, the number, date and amount of such warrant, on what fund drawn, and the name of the payee, and thereupon countersign the warrant on the face thereof. (K.S.A. 10-805; Code 1993, 1-209)

1-418 SAME; DUTIES; CASH BASIS LAW. The City Treasurer shall not knowingly pay any order, warrant, check or other evidence of indebtedness out of the treasury of the City in excess of the amount of funds actually on hand in the treasury at the time for such purpose, unless otherwise provided in the Cash Basis Law. (K.S.A. Ch. 10, Art. 11). He or she shall keep a record of the amount of money on hand in the treasury, which record shall show at all times, the amount of money in each particular fund, and each order, warrant, check or other evidence of indebtedness, drawn on the treasury and paid, giving the date of payment, and the Treasurer shall, upon the request of the City Clerk, City Attorney, any member of the governing body or at the request of any taxpayer of the City or any person desiring to contract with the City or who has a claim against the City, exhibit such record to such person to give such person a statement in writing, showing the balance on hand in each of the funds of the City. (K.S.A. 10-1118; Code 1993, 1-210)

1-419 SAME; BUDGET LAW. The budget for the City as approved and filed with the County

Clerk each year shall constitute an appropriation for each fund, and the appropriation thus made shall not be used for any other purpose. No money in any fund shall be used for any other purpose. No money in any fund shall be used to pay for any indebtedness created in excess of the total amount of the adopted budget of expenditures for such fund. No part of any funds shall be diverted to any other fund, whether before or after the distribution of taxes by the County Treasurer, except as provided by law. (K.S.A. 79-2934; Code 1993, 1-211)

1-420 SAME; QUARTERLY REPORT; PUBLICATION. The City Treasurer shall cause to be published in the official City paper, within 20 days after the quarter ending in March, June, September and December of each year, a statement showing the total amount received into and expended from each fund, and the cash balances of each fund at the beginning and close of each quarter; provided, that such quarterly statement shall show the amount of outstanding registered warrants, temporary notes, bonds and all other obligations and liabilities of the City. (K.S.A. 12-1608; Code 1993,1-212)

1-421 SAME; KEEPING RECORDS; SETTLEMENTS. The City Treasurer shall keep in suitable books, as required by law or as directed by the governing body, a full and accurate account of all moneys received and disbursed by him or her in behalf of the City and he or she shall submit a verified statement of his or her accounts with proper vouchers to the City Clerk for partial settlement each month, and at the close of each year he or she shall submit a statement of his or her accounts for final settlement for the year, and all statements and vouchers shall be preserved in the City Clerk's Office until final settlement. The Treasurer shall reconcile all monthly bank statements; post and balance general ledger monthly and provide copies to the City Clerk; countersign checks issued by the City Clerk and public utilities superintendent; invest idle funds as instructed by the City Clerk; retain investment certificate and deposit interest payments; and retain safekeeping certificates issued by financial institutions for securities pledged against deposits. (Code 1993, 1-213)

1-422 CITY ATTORNEY, CITY PROSECUTOR; OFFICE; DUTIES.

(a) 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:

- (1) Attend meetings of the City Council when so directed to attend by the governing body;
- (2) Advise the City governing body and all officers of the City upon such legal questions affecting the City and its offices as may be submitted to him or her;
- (3) When requested by the City governing body, give opinions in writing upon any such questions;
- (4) 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;
- (5) Approve all ordinances of the City as to form and legality;
- (6) Attend Planning Commission meetings when so directed;
- (7) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.

(b) There is hereby established the office of City Prosecutor. No person shall be eligible for the office of City Prosecutor who is not an Attorney at law admitted to practice in the Supreme Court of the State of Kansas. The City Prosecutor shall be charged with prosecution of violations of City ordinances and general direction and supervision of affairs of the City associated with prosecution of violations of City ordinances. The City Prosecutor shall:

- (1) Prepare and Prosecute complaints in Municipal Court;
- (2) Administer a diversion program;
- (3) Advise and work with police officers, animal control officer, court services officer and Municipal Judge;
 - (4) Appear and prosecute all violations of City ordinances in municipal court when his or her services shall be required;
 - (5) Prepare reports for KBI, Mayor and Council; and
- (6) Perform such other duties as may be prescribed by the governing body and the Kansas Statutes. (Code 2007)

1-423 SAME; ADDITIONAL DUTIES. The City Attorney or the City Prosecutor shall represent the City in all suits and proceedings instituted in any Court within the State of Kansas, by or against the City, or in which the City may be interested, he or she shall report at the end of each year, the proceedings in all cases (other than Municipal Court cases) during the year and the nature and condition of each. (Code 1993, 1-226)

1-424 SAME; ADDITIONAL SERVICES; COMPENSATION. In all actions or proceedings by or against the City, or any of its officers or employees as such in any Court of record, and for legal work in connection with the issuance of bonds or temporary notes, and for revising the ordinances of the City, and for all other legal work performed by him or her for the City outside of his or her usual duties, the City Attorney, in addition to the salary provided by ordinance, shall be paid his or her legitimate expense and such reasonable compensation for his or her services as are usually paid for legal services in the locality where such services are rendered, or as may be agreed upon by the City Attorney, the City Prosecutor and the governing body. (Code 1993, 1-227)

- 1-425 SAME; ADDITIONAL COUNSEL. In all actions or proceedings by or against the City, or any of its officers or employees as such, in any court of record, which in the judgment of the governing body, are of such magnitude and importance that additional legal counsel should be retained, the governing body may, at the request of the City Attorney, for the better protection of the interests of the City, employ such assistant Attorney or Attorneys as the City Attorney may actually need, and pay him, her or them such reasonable compensation for his, her or their services and expenses as may be established or agreed upon. (Code 1993, 1-228)
- 1-426 STREET COMMISSIONER; ROAD OVERSEER; COMPENSATION; REMOVAL. The street commissioner shall be road overseer of the City, and shall have all power and authority of road overseer under the laws of the State of Kansas and shall be designated as street commissioner. The governing body shall fix the compensation of the Street Commissioner and may remove him or her from office for any misconduct in office, in like manner, as other officers are removed. (Code 1993,1-234)
- 1-427 SAME; STREETS; SIDEWALKS; REPAIRS; REPORTS. The Street Commissioner, under the direction of the Streets and Alleys Committee, shall devote his or her time and attention to the duties of this office so as to best serve the interests of the City. It shall be the duty of the Street Commissioner to thoroughly examine, from time to time, the streets, alleys, avenues, and other public thoroughfares of the City, and all walks, sidewalks, crosswalks, and public grounds belonging to the City, and all bridges, culverts, sewers and drains, in the City, and it shall be his or her duty to exercise general care over all such places and to see that they are kept in proper repair, and report to the governing body at each meeting, the condition thereof, when any are out of repair and what repairs are needed, and where it is necessary that repairs should be done immediately, he or she shall make such repairs forthwith and report to the governing body at its next meeting, and shall superintend all such work as the governing body shall order. (Code 1993, 1-235)
- 1-428 SAME; CLEANING STREETS; OTHER DUTIES. It shall be the duty of the Street Commissioner to superintend the cleaning of the streets, alleys and public grounds, to cause all obstructions, dead animals, rubbish and other nuisances to be removed immediately, and to do and perform such other duties as the governing body may order and direct. (Code 1993, 1-236)
- 1-429 SAME; SEWAGE COLLECTION SYSTEM; PLUMBING CONSTRUCTION INSPECTION; PRETREATMENT PERMITS. It shall be the duty of the Street Commissioner, under the direction of the Lights, Water, and Sewer Committee, to assume all duties and responsibilities for the proper operation, maintenance and improvement of the sewer collection system from the building connection to the point where the sewage enters the treatment facilities, with the exception of lift stations. Further, it shall be the duty and responsibility of the street commissioner (superintendent) to inspect the installation and connection of all building sewers and drains to the wastewater system and to perform the inspection of plumbing construction not otherwise inspected by other City personnel. To enforce his or her duties hereunder, the Street Commissioner shall have those rights and duties of inspection provided for in Chapter 15 of this Code. Further, the street commissioner (superintendent) shall have the duty and responsibility to enforce those permit requirements provided for in Chapter 4. (Code 1993, 1-237)
- 1-430 WASTE WATER TREATMENT PLANT SUPERINTENDENT. It shall be the duty of the Waste Water Treatment Plant Superintendent, under the direction of the Lights, Water, and Sewer Committee, to assume all duties and responsibilities for the proper operation, maintenance and improvement of the Waste Water Treatment Plant, its appurtenances, lift stations and further those

improvements hereinafter made to such facilities. It shall be the duty and responsibility of the treatment plant operator to monitor all discharges into the wastewater collection system and to enforce the discharge criteria provided for in Chapter 15, Article 4 of this code. Further, it shall be the duty and responsibility of the Waste Water Treatment Plant Superintendent to provide for the inspection of the construction and operation of private wastewater disposal facilities and septic tanks. To enforce the discharge requirements, the treatment plant superintendent shall have those rights and duties of inspection provided for in Chapter 15, Article 4 of this code. It shall be the further duty of the Waste Water Treatment Plant superintendent to oversee the necessity, design and construction of required facilities intended to provide pretreatment of certain discharge prior to entry into the collection system, and the facilities shall be subject to the inspection and approval of the Waste Water Treatment Superintendent. (Code 1993, 1-238)

1-431 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 1999)

1-432 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 \$5,000.00 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 \$1,000.00 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 1999)

**ARTICLE 5
PERSONNEL POLICY AND EMPLOYEE BENEFITS**

1-501. PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Clay Center, 2009 Edition." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Clay Center" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Ord. #2220 12/08)

**ARTICLE 6
OATHS AND BONDS**

- 1-601 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 1993, 1-401; Code 1999)
- 1-602 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 1999)
- 1-603 FAILURE TO QUALIFY. The neglect or refusal of any person appointed to any office in this City to qualify by taking the required oath or affirmation, and giving the required bond, for the space of 10 days after he or she has been appointed shall be deemed a refusal to accept the office. (Code 1993, 1-204)
- 1-604 BONDS REQUIRED.
- (a) The following City officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the City. The bond shall be in the following amount, to wit:
- (1) City Treasurer - \$35,000.00;
 - (2) City Clerk - \$10,000.00;
 - (3) Secretary - \$5,000.00;
 - (4) Public Utilities Clerk - \$10,000.00;
 - (5) Assistant Public Utilities Clerk - \$5,000.00.
- (b) 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 1993,1-402; Code 1999)
- 1-605 OTHER BONDS. All Treasurers of City boards and the Firemen's Relief Association shall give bonds in such sums as now are, or may hereafter be prescribed by the laws of the State of Kansas, or fixed by the governing body. (Code 1993, 1-404)
- 1-606 SAME; SURETIES; APPROVAL; FILING. Each of the bonds shall have two or more good and sufficient sureties, if a personal bond be given, and all bonds are to be subject to the approval of the governing body. The City Treasurer's bond shall be filed with the City Clerk, and the bonds of the City Clerk, secretary, Public Utilities Clerk and assistant Public Utilities Clerk shall be filed with the City Treasurer or City Clerk. (Code 1993, 1-405)
- 1-607 SAME; PREMIUMS. All premiums on surety bonds shall be paid by the City. (K.S.A. 78-111; Code 1999)
- 1-608 CONDITION OF BONDS. Each of the bonds required in section 1-603 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the City, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office.

(Code 1993, 1-403; Code 1999)

**ARTICLE 7
OPEN RECORDS AND RECORD PRESERVATION**

1-701 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 1993,1-806; Code 1999)

1-702 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 2001)

1-703 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 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 2001)

1-704 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 2001)

- 1-705 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 record keeper 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 2001)
- 1-706 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 2001)
- 1-707 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 2001)
- 1-708 APPOINTMENT OF LOCAL FREEDOM OF INFORMATION At the 1st meeting held in May of each year, a local freedom of information officer shall be appointed, by the Council, and charged with all of the duties as set forth in section 1-703. (Code 2007)
- 1-709 DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.
- (a) Each of the official custodians appointed in section 1-706 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 2001)
- 1-710 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 1999)

1-711 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-financial officer and Treasurer of the City. (Code 1999)

1-712 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 \$10.00 per hour per employee engaged in the record search. A minimum charge of \$5.00 shall be charged for each such request. (Code 1993,1-808; Code 1999)

1-713 COPYING FEE.

(a) A fee of \$.50 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) In addition to the fees herein established, the custodians shall assess a charge to cover postage and handling in responding to requests through the postal service.

(c) 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.

(d) No record inspection or copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties. (Code 1993,1-808; Code 1999)

1-714 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 \$15.00.

(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 1993,1-808; Code 1999)

1-715 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 1999)

1-716 ADDITIONAL PROCEDURES; INSPECTION; COPYING. Regarding the inspection and copying of records:

(a) Custodian may adopt any procedure to provide access to records compatible with the normal routine of their office, so long as the procedures are consistent with this article and

the Kansas Open Records Act, K.S.A. 45-205 et. seq. and such procedures shall insure the protection and preservation of the public records.

(b) All inspections and copy of records shall be performed by, or under the supervision of, the custodian responsible for such records.

(c) In cases where a request for a specific record gives the custodian reason to believe that the record contains information of a personal nature which if disclosed would constitute an unwarranted invasion of personal privacy, the custodian shall inform the requester that a 72 hour waiting period must run before such record may be inspected. During that 72 hour period, the custodian shall make every reasonable effort to determine the identity of those person whose privacy interests may be so effected by the disclosure. The custodian shall attempt to contact such person and ascertain whether they, or any of them, will seek a court order challenging a disclosure. If so, the record custodian shall deny inspection pending the outcome of litigation or an intervening court order.

(d) Mechanical reproduction of a record shall not be undertaken when it is the judgment of the custodian that any available means of mechanically reproducing the subject record is likely to cause damage to such record. (Code 1993,1-809)

1-717 **DESTRUCTION OF OLD CITY RECORDS.** The City Clerk or any other officer or employee of the City charged with the custody or having in their custody the following records, documents, or other papers may, subject to the provisions of section 1-718, destroy the same after they have been on file for the period stated:

(a) Claims (and the purchase orders thereto attached) presented and allowed by the governing body of the City or the board, commission, department, bureau or office authorized to allow such claims, 15 years;

(b) Warrants or warrant checks, whether originals or duplicates, that have been stamped or marked paid as provided by law, seven years;

(c) Duplicate of receipts or stubs of receipts issued, seven years;

(d) Duplicates of utility bills sent to customers, five years;

(e) Bookkeeping or accounting records of utility customer's accounts, five years, except that the period for the record of deposits to guarantee the payment of bills or the return of meters shall begin when the account is closed or the customer ceases to receive service;

(f) Duplicates or stubs of licenses issued for licensees or occupation taxes, seven years;

(g) Bonds of officials, officers, or employees, 15 years, the period to begin at the date of the termination of the term or employment;

(h) Insurance policies, five years, the period beginning at expiration of the policy unless a rate case is pending;

(i) Canceled checks, seven years;

(j) Requisition and duplicate purchase orders, seven years;

(k) Bonds and coupons stamped paid or canceled and returned by the state fiscal agent, seven years, the period beginning at the date of maturity of the bond or coupon.

(K.S.A. 12-120; Code 1993,1-801)

1-718 **RECORDS TO BE PRESERVED.** Nothing in section 1-717 shall be deemed to apply to records, documents or papers not specifically mentioned nor authorize the destruction of records, documents, or papers which in their nature should be preserved permanently, nor to prohibit destruction of records, documents or papers obviously of only temporary value after a reasonable time. (Code 1993, 1-802)

1-719 **GOVERNING BODY'S DUTY; MINUTES.** Before destroying any records, papers or documents specifically mentioned herein the City Clerk or other officer in charge with the custody of the same, shall present the question of the advisability of ordering such destruction to the governing

body. The City Clerk shall keep suitable minutes of any such matter before the governing body describing as near as may be the records, documents and papers to be destroyed and a minute of the final destruction of the same. (Code 1993, 1-803)

1-720 RECORDS MAY BE PHOTOGRAPHED. The governing body may cause any or all records, documents or papers to be photographed, micro photographed or reproduced on film. Such photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the national bureau of standards and the device used to reproduce such records on such film shall be one which accurately reproduces the original thereof in detail. (Code 1993, 1-804)

1-721 FILE OF PHOTOGRAPHS; DESTRUCTION OF ORIGINAL RECORDS. Whenever such photographs, microphotographs or reproductions on film shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the custodial officer may with the approval of the governing body cause the originals from which the photographs or microphotographs have been made or any part thereof to be deposited in a safe place if the same are of permanent value or destroyed if not of permanent value. (Code 1993, 1-805)

ARTICLE 8 INVESTMENT OF IDLE FUNDS

1-801 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 1999)

1-802 INVESTMENT OF IDLE FUNDS. Temporarily idle moneys 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) of 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

(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 (1) 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 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 (1) 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, any 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.S.A. 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 units 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 (1) of K.S.A. 75-4201, and amendments thereto. (K.S.A. 12-1675, as amended; Code 1993,1-207; Code 1999)

- 1-803 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 1999)
- 1-804 CUSTODY AND SAFE KEEPING. Securities purchased pursuant to this article shall be under the care of the City Treasurer, City Clerk and Mayor 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 1999)
- 1-805 SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-803, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-804 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 1999)
- 1-806 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 1999) Ref. See K.S.A. 12-1677, and amendments thereto.

ARTICLE 9 CITY CONTRACTS

- 1-901 BOND TAKEN BY CITY OFFICER FROM CONTRACTOR. Whenever any public official of the City shall, under the laws of the state, enter into contract in any sum exceeding \$40,000.00, with any person for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond with good and sufficient sureties to the State of Kansas in a sum not less than the sum total in the contract, conditioned that such contractor or any subcontractor shall pay all indebtedness incurred for supplies, materials, or labor furnished, used, or consumed in connection with or in or about the construction of the public building or in making such public improvements, including gasoline, lubricating oils, fuel oils, greases, coal, and similar items used or consumed directly in furtherance of such improvements. (K.S.A. 1983 Supp. 60-111 (a); Code 1993, 9-101)
- 1-902 SAME; FILING; APPROVAL; SUIT. Any such bond shall be subject to the approval of the Clerk of

the District Court of Clay County and shall be filed in the office of the Clerk. When such bond is so approved and filed, no lien shall attach as provided by law, and if when such bond is filed liens have already been filed, such liens shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in the preceding section, or his or her assigns, may bring an action on the bonds for the recovery of the indebtedness; provided, that no action shall be brought on the bond after six months from the completion of the public improvements or public buildings. (K.S.A. 60-1111 (b); Code 1993, 9-102)

1-903 **DEVELOPERS BOND FOR ASSESSMENTS IN UNDEVELOPED AREAS.** That upon receipt by the City of a petition for the construction of any water sanitary or storm sewer, or street improvement, in an area which is substantially undeveloped and it is further requested by the petition that the cost of the construction be financed by the issuance of bonds payable in part by assessments made and levied against the undeveloped land, the owner or developer petitioning for such improvements shall be required to insure the payment of such assessments until buildings or other improvements are constructed upon the land benefitted. The payment of such assessments shall be guaranteed by the posting of a developers bond, with sufficient sureties, or by the pledge and escrowing of unencumbered liquid assets by the developer, which assets would be payable to the City in the event such assessments are not paid when due. The term of the bond or other agreements made and entered into between the developer and the City shall be for that period of time until improvements have been constructed upon the property assessed, or until the assessments are fully paid, whichever event occurs first. The nature and extent of security required, the initial amount of the bond, the approval of sureties on the bond, any subsequent reduction in the bond, or the amount of the security required during the life of the bond issue, or any other terms and conditions deemed necessary to provide for the financial integrity of the City shall be within the sole discretion of the governing body. (Code 1993, 9-103)

1-904 **CONTRACTS; ESTIMATES REQUIRED.** Before the governing body shall make any contract for building bridges or sidewalks or for any work on streets, or for any other work or improvement, an estimate of the cost thereof shall be made by an engineer or the street superintendent and submitted to the governing body, and no contract shall be entered into for any work or improvement for a price exceeding such estimate. (K.S.A. 14-440; Code 1993, 9-201)

1-905 **CONTRACTS WITH CERTAIN PUBLIC OFFICIALS VOID.** No contract for macadamizing, grading, paving, or in any other manner improving any street or alley in the City shall be let to or made with the Mayor or any Council member of the City, or with any person whose duty it shall be to levy or aid in levying any tax or assessment to pay for any of the aforesaid, or with any person permitting any of the persons aforesaid to become directly or indirectly interested in the same, shall be deemed and held to be null and void. (Code 1993)

1-906 **CONTRACTS OR PUBLIC IMPROVEMENTS; LIMITATION OF CONTRACT AMOUNT CHARGEABLE TO CITY; EXCEPTION.** That in all benefit district improvement projects, including the curbing, guttering and paving of streets and alleys, the construction of storm sewers, and the construction of sanitary sewers, including lifts and force mains, hereinafter ordered by ordinance after the filing of a legal and sufficient petition, or as allowed by law without such petition, those expenses charged to and paid by the City at large shall not exceed 30 percent of the entire cost of the project where the remainder of such cost in the project shall be assessed against the lots and parcels of land within a defined benefit or assessment district. In the event the City shall own property in the benefit district, the amounts assessed against such property shall not be included in the 30 percent limitation stated above. If it is determined by the governing body that it would be in the best interests of the City that a project be constructed wherein the share of costs

apportioned to the City at large would exceed 30 percent of the total cost of the project, such project may be ordered; provided, however, the ordinance creating such project shall be passed by at least a two-thirds vote of all members of the Council. (Code 1993)

1-907 INSURANCE CERTIFICATES REQUIRED OF ALL CONTRACTORS. All contractors must file with the City Clerk a certificate of insurance as outlined herein prior to the awarding of bids or the authorizing of work by any contractor for the City. As a part of preparing bids for public improvements in the City prior to beginning work on any public improvements, any and all contractors must file with the City Clerk a certificate indicating the contractor has worker's compensation coverage for all employees and a certificate of general liability insurance coverage in the amount of not less than \$500,000.00. The certificates of insurance from the company insuring the contractor shall be provided at the time the bid is submitted to the City for consideration, but not later than the date work is to commence. No contractor is authorized to begin work for the City without first providing valid, up-to-date certificates of insurance. (Ord. 2065; 1997)

ARTICLE 10
PETITIONS FOR IMPROVEMENT

1-1001 PETITION FOR IMPROVEMENT. Property owners within the City limits of the City of Clay Center may petition the City for certain improvements, as shown in K.S.A. 12-6a02.

1-1002 POWERS, GENERALLY. The Governing Body may cause municipal works or improvements which confer a special benefit upon property within a definable area of the City and may levy and collect special assessments upon property in the area deemed, by the Governing Body, to be benefitted by such improvement.

1-1003 PROCEDURE. The following procedure, based on K.S.A. 12-6a01 et seq. shall be used by the Governing Body.

- (a) Any legal resident who feels the need for improvement of the street or other similar project, may request such an improvement from the City Clerk.
- (b) Upon request, any legal resident of the City of Clay Center, Kansas, shall be supplied with Petition for Improvement forms.
- (c) The Department Head, in charge of the area under request for improvement shall review the property and assign a monetary value for the requested improvements.
- (d) Additional costs for estimated engineering, legal bond and administrative work shall also be assigned a monetary value.
- (e) Any resident requesting such improvements shall discuss said improvements and the cost of such improvements with all property owners who own property adjoining any such improvement.
 - (f) Upon obtaining signatures of the majority of the resident owners of record with property adjoining any such improvement, said Petition for Improvement shall be filed with the City Clerk.

- 1-1004 HEARING REQUIRED. If less than 100% of the resident owners of record have signed such Petition, the Governing Body shall, by Resolution, direct and order a public hearing on the advisability of the improvement. Such notice shall be given by publication in the local newspaper, for two consecutive weeks, with the last publication not less than three days prior to the date of the hearing.
 - 1-1005 WRITTEN PROTESTS. If written protests, signed by both 51% or more of the resident owners of record of property within the improvement area and the owners of record of more than half of the total area of the improvement area, are filed with the City Clerk, the improvement shall not be commenced.
 - 1-1006 HEARING NOT REQUIRED. If all of the resident owners of record have signed such Petition and are willing to pay the costs associated with the requested improvement, the Governing Body may proceed with notice and hearing, to order the improvement.
 - 1-1007 SPECIAL ASSESSMENT. After the Governing Body has taken action to proceed with the improvement, an Ordinance shall be passed by the Governing Body Levying Special Assessments, plus administrative costs, on the properties adjoining the improvement area, assessed equally per front foot against all lots and pieces of land within such improvement area.
- (Code 2007)

**ARTICLE 11
TAX ABATEMENT**

- 1-1101 REQUEST FOR TAX ABATEMENT. The City of Clay Center will consider applications for tax abatement or tax exemption-incentives upon a clear and factual showing of direct economic benefit to the City through the creation of additional jobs and the stimulation of additional private investment. No tax exemption will be granted if the exemption would create an unfair advantage for one business over another competing business within the City.
- 1-1102 LIMITATIONS. The Governing Body may exempt certain property used for economic development purposes from taxes for a maximum of ten (10) years. Any business requesting a tax exemption must meet the criteria set out in the current City Policy on Tax Exemptions and Incentives for Economic Development.
- 1-1103 APPLICATION AND FEE. Any business requesting a tax exemption must pay an application fee of \$500.00, to the City Clerk along with an application, provided by the City Clerk.
- 1-1104 ADMINISTRATIVE REVIEW COMMITTEE. The Administrative Review Committee shall be comprised of the Mayor, City Clerk and the Ways and Means Committee. Said Committee shall review any application submitted by a local business owner, requesting a tax exemption. The Committee will then make a recommendation to the City Council.
- 1-1105 FAVORABLE VOTE FOR FURTHER CONSIDERATION. Providing the Committee makes a favorable recommendation to the City Council, the Council will consider the matter, at a regularly scheduled Council meeting, and determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, a public hearing shall be scheduled to consider granting a tax exemption-incentive.

1-1106 NOTICE OF PUBLIC HEARING. No tax exemption shall be granted by the City prior to a public hearing. Notice of a public hearing to consider granting a requested tax exemption-incentive shall be published, in the local newspaper, at least seven days prior to the hearing, giving the time and place of said meeting. The City Clerk shall notify the following entities of said hearing: Board of County Commissioners, the Superintendent of the School District and the Clerk of any other taxing jurisdiction, excluding the State, which derives or could derive property taxes from the affected business.

1-1107 STANDARDS FOR DETERMINING BENEFITS. The City will consider granting tax exemptions only upon a clear and factual showing of direct economic benefit to the City through advancement of its economic development goals, including the creation of additional jobs and the stimulation of additional private investment. The City Council, in determining the amount and term of exemption to be granted, shall consider various factors, as outlined in the "Statement of Policy and Procedures Tax Exemptions and Incentives for Economic Development," including, but not limited to the following:

1. The assessed valuation of the property in relation to the economic benefit to the City of increased employment;
2. The gain in tax revenue which may result from the new or expanded business, including the increase in the property tax base upon the expiration of the exemption;
3. The contribution that the new or expanded business will make towards increased employment and earnings within the community;
4. The number of new jobs created directly by the business in relation to the amount of tax exemption granted;
5. The kinds of jobs created in relation to the type of skills available from the local labor market;
6. The utilization by the business of labor skills and abilities of unemployed persons in the community;
7. The degree to which the business improves the diversification of the economy of the City and its environs;
8. The degree to which the ultimate market products are outside the community, recognizing that outside markets bring in "new money" to the local economy;
9. The potential of the business for future expansion and additional job creation;
10. The beneficial impacts the business may have by creating any other new jobs and businesses, including the utilization of local products or other materials and substances in manufacturing;
11. The beneficial economic impact the business will have on a particular area of the City, including designated enterprise zones and areas of needed revitalization or redevelopment;
12. The compatibility of the location of the business and land use and development plans of the City and the availability of existing infrastructure facilities and essential public service;
13. The extent to which additional direct or indirect public costs to the City and to other local units would be necessary, such as the cost of the extension of public facilities;
14. The extent to which the economic and employment benefits of the tax exemption accrue to the residents and taxpayers of those taxing subdivisions which indirectly subsidize the business as a result of the foregone tax revenue;
15. The business must be physically located within the City Limits of the City of Clay Center.

1-1108 AMOUNT OF TAX INCENTIVE. If it is determined that some tax exemption should be granted, a 100 percent exemption of that property of the business legally eligible for exemption shall be provided. Tax abatement shall not be provided for any previously existing portion of a business. Tax abatement shall be provided only for acquisition of new property, including real estate, buildings and/or equipment.

1-1109 APPROVAL BY COUNCIL. Upon holding of a public hearing, and no objections regarding the

tax exemption-incentives request, the Council shall take favorable action to assist in completion of the formal application "Application for Exemption from Ad Valorem Taxation Pursuant to Article II, Section 13 of the Kansas Constitution for Economic Development Purposes" to the Board of Tax Appeals.

- 1-1110 SUBMISSION TO THE COUNTY APPRAISER. Once the formal application is completed, it shall be submitted to the Clay County Appraiser for review. If approved, the County Appraiser must then sign the formal application.
- 1-1111 SUBMISSION TO THE BOARD OF TAX APPEALS. Once the County Appraiser has given his or her consent and signed the formal application, the application, along with the required documentation, to the Board of Tax Appeals for consideration.
- 1-1112 ANNUAL RENEWAL SUBJECT TO REVIEW; RENEWAL FEES. Any business granted a tax abatement by the Council and by the Board of Tax Appeals, shall be subject to an annual review by the City Ways and Means Committee, to ensure that the ownership and use of the property and other qualifying criteria of the business continue to exist. The review of each business granted a tax abatement, shall include information from the business indicating compliance with the terms and conditions established for the granting of the exemption. The review shall be completed by not later than March 1st. Any business granted a tax abatement by the Council and by the Board of Tax Appeals, shall pay to the City, an annual renewal fee in the amount of \$75.00. Upon a finding that the property continues to meet all terms and conditions, the City Clerk shall so certify, to the Clay County Appraiser's Office, no later than March 1st, who shall then submit such renewal to the Board of Tax Appeals, for consideration. (Code 2007)