THE SHAWNEE COUNTY, KANSAS CODE

By Order of The Board of County Commissioners of the County of Shawnee, Kansas

Adopted November 27, 2006 Effective December 13, 2006

OFFICIALS OF SHAWNEE COUNTY, KANSAS AT THE TIME OF THIS CODIFICATION

Marice A. Kane, First District
Victor W. Miller, Second District
Theodore D. Ensley, Third District
Board of Shawnee County Commissioners

Richard V. Eckert
County Counselor

HOME RULE RESOLUTION NO. HR-2006-9

A HOME RULE RESOLUTION ADOPTING THE SHAWNEE COUNTY CODE; PROVIDING FOR THE REPEAL OF CERTAIN RESOLUTIONS NOT INCLUDED THEREIN PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING THE EFFECTIVE DATE OF SUCH CODE AND THIS RESOLUTION.

WHEREAS, The Board of County Commissioners (the "Board") of the County of Shawnee County, Kansas (the "County") has determined the need to codify its resolutions in order to review the laws of the County in conjunction with the current state laws and court decisions, to eliminate obsolete provisions, duplications, and inconsistencies within the laws and with state laws, and to provide the citizens of the County with one convenient, condensed source of such laws:

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SHAWNEE COUNTY, KANSAS:

- **SECTION 1.** The Code entitled "The Code of Shawnee County, Kansas," authorized under K.S.A. 19-101a, *et seq.*, and consisting of Chapters 1 through 29, each inclusive, is hereby adopted. The Code may also be cited as the "Shawnee County Code."
- **SECTION 2.** All resolutions enacted on or before November 27, 2006 that are in conflict with the Code are hereby repealed.
- **SECTION 3.** Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any resolution, rule, or regulation adopted or issued in pursuance thereof, shall be punished by a fine not exceeding Five Hundred and No/100 Dollars (\$500.00). Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the County may pursue other remedies such as abatement of nuisances, injunctive relief, revocation of licenses or permits, or any other remedy available by law to the County.
- **SECTION 4.** Subsequent resolutions adding to or amending the Code shall be deemed as incorporated in the Code, so that reference to the Code includes the additions and amendments, unless the amending resolution(s) specifies otherwise. At regular intervals, additions or amendments will be added to the existing Code in printed form.
- **SECTION 5.** Resolutions adopted after November 27, 2006 that amend or refer to resolutions that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.
- **SECTION 6.** It shall be the duty of the Shawnee County Counselor to weigh any resolutions that are enacted after the adoption of the Shawnee County Code, and to determine if each resolution is appropriate for inclusion in the Code. If a subsequent resolution is appropriate for inclusion in the Code, it shall be up to the discretion of the Shawnee County Counselor to determine the most suitable chapter, article, and section of the Code. All resolutions that are appropriate for inclusion in the Code shall be distributed to all department heads of Shawnee County prior to the resolution's enactment.
- **SECTION 7.** The Shawnee County Counselor shall have the power and authority to make minor amendments to the Shawnee County Code for spelling, grammar, and other stylistic purposes. Such amendments do not need to be adopted by separate resolution. The Shawnee County Counselor shall conduct an annual review of the Shawnee County Code.

Any employee of Shawnee County shall be free to make any suggestions for improving the Shawnee County Code to the Shawnee County Counselor at any time.

SECTION 8. The on-line version of the Shawnee County Code shall be considered the correct and current version for citation purposes.

SECTION 9. Printed versions of the Shawnee County Code shall be delivered to the Kansas Supreme Court Library, Washburn Law School Library, and the Topeka-Shawnee County Public Library. These editions shall be updated at least once per calendar year.

SECTION 10. This Home Rule Resolution shall take effect and be in force and effect after one (1) publication in the official County newspaper.

PASSED and approved by the Board of County Commissioners of Shawnee County, Kansas, this 27th day of November 2006.

BOARD OF COUNTY COMMISSIONERS SHAWNEE COUNTY, KANSAS

/s/Marice A. Kane, Chairman

/s/Theodore D. Ensley, Vice Chairman

/s/Vic Miller, Member

ATTEST:

/s/Cynthia A. Beck, County Clerk

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CHAPTER 1. GENERAL PROVISIONS

Art. I. In General, §§ 1-1-1-100

ARTICLE I. IN GENERAL

Sec. 1-1. Code Authorized And Designated.

This Code is authorized under K.S.A. 19-101a, *et seq*. The chapters herein shall constitute and be designated as "The Code of Shawnee County, Kansas," and may be so cited. The Code may also be cited as the "Shawnee County Code." (Code 2006)

Sec. 1-2. Definitions And Rules Of Construction.

- (A) In the construction of this Code and of all resolutions of the County, the following definitions shall apply, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
 - (1) Board means, unless otherwise indicated, the Board of County Commissioners of the County of Shawnee, Kansas;
 - (2) Board of County Commissioners means the Board of County Commissioners of the County of Shawnee, Kansas;
 - (3) *Charter Res.* is an abbreviation for charter resolution and refers to the charter resolution number from which the Code provision was derived;
 - (4) City means, unless otherwise clearly indicated, the City of Topeka, Kansas;
 - (5) County means the County of Shawnee, Kansas;
 - (6) County Board means the Board of County Commissioners of the County of Shawnee, Kansas;
 - (7) Code means "The Code of Shawnee County, Kansas" or the "Shawnee County Code;"
 - (8) Day means the period of time beginning at 12:00 midnight and ending at the following 12:00 midnight;
 - (9) Governing Body means the Board of County Commissioners of the County of Shawnee, Kansas;
 - (10) *H.R. Res.* is an abbreviation for home rule and refers to the home rule resolution number from which the Code provision was derived;
 - (11) In the County means, unless otherwise clearly indicated, all unincorporated and incorporated territory over which the County now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers;
 - (12) Joint authority means authority given to two (2) or more entities;

- (13) *K.A.R.* is an abbreviation for Kansas Administrative Regulations, as now or hereinafter amended. The term includes all supplements thereto;
- (14) *K.S.A.* is an abbreviation for Kansas Statutes Annotated, as now or hereinafter amended. The term includes all supplements thereto;
- (15) Month means a calendar month;
- (16) *Oath* means any form of attestation by which a person signifies he or she is bound in conscience to perform an act faithfully and truthfully;
- (17) Officers, departments, etc. means officers, departments, boards, commissions and employees of the County, unless the context clearly indicates otherwise;
- (18) *Owner* means the person in whom is vested the title of real, personal or mixed property. Owner shall include not only the owner of the whole but also any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such thing;
- (19) *Person* includes an individual, firm, partnership, association of persons, corporation, organization or any other group acting as a unit;
- (20) Personal property includes every kind of property except real property;
- (21) Real property includes lands, tenements, and improvements on land and also structures and hereditaments, and all rights thereto and interest therein, equitable as well as legal;
- (22) *Res.* is an abbreviation for resolution and refers to the resolution number from which the Code provision was derived;
- (23) *Sidewalk* means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
- (24) Signature or subscription means one's name, word or mark personally placed at the end of an instrument to attest to its validity;
- (25) State means the State of Kansas, unless otherwise clearly indicated;
- (26) 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 County;
- (27) *Tenant* or *occupant* applies to a building or land and includes 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;
- (28) *Tenses* means a distinction of form in a verb to express past, present or future time;
- (29) Unincorporated area means any land not within the corporate limits of any city;
- (30) 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; and
- (31) Year means a calendar year, except where otherwise provided.
- (B) In the construction of this Code and of all resolutions of the County, the following rules shall apply, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

- (1) Computation of time means the time within which an act is to be done and such computation shall exclude the first and include the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded;
- (2) Delegation of authority means whenever a provision appears requiring or authorizing the head of a department or officer of the County 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;
- (3) *Gender* words importing the masculine gender shall include the feminine and neuter;
- (4) *Number* words used in the singular include the plural and words used in the plural include the singular; and
- (5) *Shall* or *may*. *Shall* means mandatory, and *may* means permissive. (Code 2006)

Sec. 1-3. Existing Resolutions.

The provisions appearing in this Code, so far as they are in substance the same as those of resolutions existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments. (Code 2006)

Sec. 1-4. Effect Of Repeal.

The repeal of a resolution shall not revive a resolution 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 resolution repealed, except as shall be expressly stated therein. (Code 2006)

Sec. 1-5. Headings.

The headings of this Code are intended as mere headings and are inserted for the convenience of the users of the Code and shall have no legal effect. (Code 2006)

Sec. 1-6. Parenthetical And Reference Matter.

The source notes in parenthesis at the end of sections of this Code are for information only and are not intended to have any legal effect. Citations indicate only the Shawnee County resolution that served as a source and the text of this Code may or may not alter the language of the source. References to state statutes are generally for information and cross-reference purposes only and are not necessarily part of this Code. (Code 2006)

Sec. 1-7. Amendments.

Any amendments to this Code, when passed in such form as to indicate the intention of the Board to make the amendment a part hereof, shall be deemed to be incorporated in this Code, so that reference to this Code shall be understood as including them. (Code 2006)

Sec. 1-8. Code Applicability.

Unless clearly indicated otherwise, the provisions of this Code apply in the unincorporated areas of the County, including all areas within three (3) miles of the corporate limits of cities. The provisions of this Code shall also apply within an incorporated municipality if:

- (1) The Board and the governing body of such municipality execute an agreement providing for such provisions to apply within such municipality;
- (2) The governing body of such municipality takes such action as is required by such agreement; and
- (3) By law, such provisions apply to an incorporated municipality. (Code 2006)

Sec. 1-9. Severability.

If any portion of this Code is for any reason found to be unconstitutional, inoperative or void, such finding shall not affect the remaining portions of this Code and it shall be construed to have been the Board's intent to pass this Code without such unconstitutional, invalid or inoperative part therein, and the remainder of this Code after the exclusion of such part shall be deemed and held to be valid as if such part had not been included herein. If this Code or any provision thereof shall be held inapplicable to any person, group of persons, property of any kind, or circumstances or set of circumstances, such holding shall not affect the applicability hereof to any other person, property or circumstance. (Code 2006)

Sec. 1-10. Resolutions Not Affected By Code.

Nothing in this Code or the resolution adopting this Code affects any:

- (1) Charter resolution;
- (2) Resolution promising or guaranteeing the payment of money;
- (3) Resolution authorizing the issuance of bonds or any evidence of indebtedness;
- (4) Resolution authorizing, approving or constituting a contract or agreement not codified in this Code:
- (5) Resolution granting a franchise;
- (6) Resolution dedicating, naming, establishing, locating, relocating, opening, closing, paving or widening any street, road or public way;
- (7) Resolution establishing or approving policies not codified in this Code;
- (8) Resolution relating to community antenna television systems;
- (9) Resolution establishing or altering the grades of any road;
- (10) Resolution approving a budget or providing for or making any appropriation;
- (11) Resolution authorizing, levying or imposing taxes;
- (12) Resolution establishing salaries or benefits for County officers or County employees or otherwise relating to County personnel. The term *County officers* or *County employees* includes any officers or employees of districts over which the Board of County Commissioners is the governing body;
- (13) Resolution dealing with special assessments for specific property;

- (14) Resolution relating to housing programs;
- (15) Resolution establishing departments or agencies of county government that is not codified in this Code;
- (16) Resolution providing for subdivision regulations or zoning regulations, accepting, approving or rejecting any plat or replat or zoning specific property or regulating mobile homes, trailers, mobile home parks or trailer parks;
- (17) Resolution, the purpose of which has been accomplished;
- (18) Resolution which is special although permanent in effect;
- (19) Resolution which is temporary although general in effect; and
- (20) Resolution establishing for eign trade or enterprise zones. (Code 2006) $\,$

Sec. 1-11. Code Does Not Affect Prior Offenses, Rights, Etc.

- (A) Nothing in this Code or the resolution adopting this Code shall affect any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (B) The adoption of this Code shall not be interpreted as authorizing or allowing any use or the continuance of any use of a structure or premises in violation of any resolution in effect on the date of adoption of this Code. (Code 2006)

Secs. 1-12-1-100. Reserved.

CHAPTER 2. ADMINISTRATION

- Art. I. In General, §§ 2-1-2-50
- Art. II. Open Records Policy, §§ 2-51-2-70
- Art. III. Open Meetings Policy, §§ 2-71 2-90
- Art. IV. Claims Against County, §§ 2-91 2-120
- Art. V. Corrections Department, §§ 2-121-2-160
- Art. VI. Tax Refund Interest Payment, §§ 2-161 2-190
- Art VII. Inherent Power Of Eminent Domain, §§ 2-191 2-220
- Art. VIII. Abandoned/Unclaimed Cash, §§ 2-221 2-240
- Art. IX. Credit Cards, §§ 2-241 2-260
- Art. X. Insufficient Funds Checks, §§ 2-261-2-280
- Art. XI. Titles On Forfeited Vehicles, §§ 2-281 2-300
- Art. XII. HIPAA Compliance, §§ 2-301 2-330
- Art. XIII. Replacement Checks, §§ 2-331-2-350

ARTICLE I. IN GENERAL

Sec. 2-1. Board Of County Commissioners.

The Board may transact all County business and perform all powers of local legislation and administration it deems appropriate, subject only to certain limitations, restrictions or prohibitions.

(Code 2006; K.S.A. 19-101, et seq.; K.S.A. 19-201, et seq.)

Sec. 2-2. Exemption From K.S.A. 19-209.

- (A) The Board hereby exempts itself from the provisions of K.S.A. 19-209.
- (B) The Board may have fewer than two (2) meetings each week when approved in advance by a majority vote of all members of the Board. (Code 2006; History: Charter Res. 1993-1, §§ 1-2)

Sec. 2-3. Meetings And Resolutions.

- (A) In order to conduct the business of County government, the Board of County Commissioners of the County of Shawnee, Kansas shall hold regularly scheduled meetings at 9:00 A.M. every Monday and Thursday of each week in the Commission Chambers at the Shawnee County Courthouse, provided those days do not fall upon official holidays. Notwithstanding the above, the Board of County Commissioners of the County of Shawnee, Kansas may have fewer than two (2) meetings each week when approved in advance by a majority vote of the Board of County Commissioners of the County of Shawnee, Kansas at a meeting of the Board.
- (B) Meetings of the County Commission will be governed by ROBERT'S RULES OF ORDER unless in conflict with Commission rules. The County Counselor shall serve as parliamentarian; in the Counselor's absence, an Assistant County Counselor will serve.
- (C) In lieu of or in addition to regularly scheduled meetings, special meetings of the Board of County Commissioners of the County of Shawnee, Kansas may be scheduled at any time (with appropriate notification) by a majority of the Board of County Commissioners as needed.

- (D) Informal meetings of the Board of County Commissioners of the County of Shawnee, Kansas may be scheduled by any member of the Board of County Commissioners. Informal meetings may be requested by each Commissioner, individuals, groups or county department heads who have business relating to or affecting County government, but only a County Commissioner may schedule such a meeting. All of the regular, special and informal meetings will be open to the public.
- (E) All items to be included on the agenda of any special meeting should be submitted, in writing, to the County Commission Office no later than four (4) work days prior to the date of the special meeting at which the item is to be considered. For regular Monday meetings, agenda items must be submitted by 12:00 noon on the Monday one week prior. For regular Thursday meetings, the agenda items must be submitted by 12:00 noon on the Thursday one week prior. Six copies, including the original, of all documents are to be provided. Of the six copies, one copy should not be stapled. Elected officials and department heads must submit a memorandum detailing the item or proposal, the requested action, reasons for the requested action and the financial impact and funding source. All contracts, resolutions or any other documents requiring signature must be marked with "sign here" stickers indicating where the signatures are required. Annual maintenance agreements are considered contracts and should have a line drawn for a signature where there is no place for a signature, and also marked with "sign here" stickers.
- (F) All resolutions, proclamations, contracts, and other documents requiring the signatures of the Board of County Commissioners should be submitted to the County Counselor's Office at least five (5) work days prior to placement on the agenda. The County Counselor's Office will approve the document for legality and form, or prepare a memorandum for the appropriate department stating the reason for disapproval. All personnel items must be submitted to the Human Resources Department prior to being placed on a County Commission agenda. This includes filling vacant positions (for other than elected officials), creating positions, reclassifications, reallocations, personnel reorganizations, and any other item needing action by the Human Resources Department. All agenda items that contain a fiscal note must be submitted to Audit Finance at least five (5) days prior to placement on the Commission agenda.
- (G) Any Shawnee County resolution, charter resolution or home rule resolution which sets policy or procedures for Shawnee County or this Board shall first be placed on the Commission agenda for a "First Reading" prior to its final approval. After the "First Reading," any resolution, charter resolution or home rule resolution which sets policy or procedures for Shawnee County or the Board may be placed on the Commission agenda for final approval. This requirement may be overridden by a simple majority of the Board of County Commissioners in open session. Failure to follow this provision shall not invalidate the effectiveness of any resolution, charter resolution or home rule resolution of the Board of County Commissioners. The requirements of this paragraph shall not require a First Reading of this resolution.

(Code 2006; History: Charter Res. 1993-1; amended by Res. 2004-14; amended by Res. 2008-5; amended by Res. 2009-2; amended by Res. 2010-3; amended by Res. 2011-3; amended by Res. 2012-1; amended by Res. 2013-4; amended by Res. 2014-3; amended by Res. 2015-1; amended by Res. 2016-5; amended by Res. 2017-1; amended by Res. 2018-1; amended by Res. 2019-4)

Sec. 2-4. Office Hours.

1. All Shawnee County offices shall remain open a minimum of nine (9) hours per day, five (5) days per week from 8:00 A.M. to 5:00 P.M., Monday through Friday, with the following exceptions:

- (a) The Courts of the Third Judicial District;
- (b) The District Attorney which is closed for one hour each day between 12:00 noon to 1:00 p.m.
- (b) Departments operating on twenty-four (24) hour schedule including, but not limited to the Sheriff's office, Corrections Department, Parks and Recreation Department; Kansas Expocentre; Shawnee County Health Agency and Emergency Management;
- (c) The Shawnee County Register of Deeds' office, which shall remain open to the public from 8:00 A.M. to 4:30 P.M., Monday through Friday, to allow time to close its books and records before 5:00 P.M.; and
- (d) The Shawnee County Treasurer's office, which shall remain open to the public from 8:00 A.M. to 4:30 P.M., Monday through Friday, to allow time to close its books before 5:00 P.M. On the last business day of the month, the office shall remain open from 7:30 A.M. to 4:30 P.M.. Additionally, the Shawnee County Treasurer's offices will be closed on December 31st

(Code 2006; History: Res. 2004-14, § 1; amended by Res. 2005-9, § 1; amended by Res. 2006-8, § 1; amended by Res. 2007-7; amended by Res. 2008-5, § 1, amended by Res. 2015-1)

Sec. 2-5. Resolution Procedure.

All resolutions issued by the Board on and after the first regular meeting in each year shall bear consecutive numerical designations indicating the number of the resolution, and continuing consecutively through the year. Numerical designations shall thereafter revert to the number one (1) in the beginning of each succeeding year, commencing with the first resolution of the first regular or special session of the year. All resolutions shall bear three (3) signature lines. The names of the three (3) commissioners shall be typed beneath the signature lines. Each commissioner shall sign all resolutions so prepared, or failing to do so, his or her signature line shall state his or her reason for not signing stating "abstain", "absent", "opposed" or other appropriate statement indicating the reason for failure to sign the resolution.

(Code 2006; History: Res. 1964-1)

Sec. 2-6. Resolution Shall Bear Name Of Commissioner Sponsoring Same.

Any resolution, home rule resolution or charter resolution placed on the Board's agenda for consideration at the request of an individual commissioner shall bear the name of the commissioner sponsoring the same.

(Code 2006; History: Res. 2003-115, § 1)

Sec. 2-7. Costs Of Telephone Participation.

Any commissioner who attends a regular session of the Board by telephone shall bear the cost of such attendance.

(Code 2006; History: Res. 2001-47, § 1)

Sec. 2-8. Resolution Book.

All resolutions approved by the Board shall be maintained in the office of the County Clerk. Each resolution shall have appended thereto the manner in which the resolution was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, and, if published, the name of the newspaper in which published and the date of publication.

(Code 2006)

Sec. 2-9. Logo.

Unless specific advance approval is sought and obtained from the Board, no County employee or elected official or candidate for elective office shall use the County's logo *except* on materials for official County business, such as stationery and envelopes, business cards, and/or memo pads.

(Code 2006; History: Res. 1995-220)

Sec. 2-10. Flag.

The purchase price of a County flag will be Forty-five Dollars (\$45) plus all applicable state and local sales taxes.

(Code 2006; History: Res. 2000-74)

Sec. 2-11. Commission Districts.

- (A) The Shawnee County Commissioner Districts shall be as follows:
 - (1) Commission District One:

Ward 1	Precincts 5, 6, 7, 8
Ward 7	Precincts 2, 3, 4, 5, 6, 9, 10, 11
Ward 8	Precincts 3, 4, 5, 6, 7, 8, 9, 10, 11
Ward 9	Precincts 1, 2, 3, 4, 12
Ward 10	Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14
Ward 11	Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9
Ward 12	Precincts 1, 17, 19, 81, 91, 92, 93,
Ward 13	Precincts 3, 5, 8, 10, 12, 13, 30
Auburn To	Ruffele City of Aubum Meedew

Auburn Township Buffalo, City of Auburn, Meadowlark

Dover Township Dover, Hodges Rd, Willard

Grove Township Grove

Mission Township Aldersgate, Gaillardia, Indian Hills, Lykins, North

Mission, South Sherwood, Sunflower, Vaquero,

Verbena, Yucca

Menoken Township Kiro, Messhoss Creek

Rossville Township East Rossville, West Rossville Silver Lake Township East Silver Lake, West Silver Lake

Soldier Township East Wichita, East Wichita Coup, Halfday, Indianola,

Rochester, West Wichita, Whitfield

(2) Commission District Two:

Ward 1 Precincts 1, 2, 3, 4

Ward 2 Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Ward 3 Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10

Ward 4 Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15

Ward 5 Precinct 1, 2, 3, 5, 11, 14

Ward 7 Precincts 1, 7 Ward 8 Precincts 1, 2

Soldier Township Apache, East Soldier, Elmont, Fox, Iroquois, Kilmer,

Little Muddy Creek, Pottawatomie, Sac, Sherman,

Sioux

Tecumseh Township Cheyenne, Croco, East Peck, Kaw, North Tecumseh,

Peck, Stinson Creek

Topeka Township North Potter

(3) Commission District Three:

Ward 5 Precincts 4, 6, 7, 8, 9, 10, 12, 13, 15, 91

Ward 6 Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13

Ward 9 Precincts 5, 6, 8, 9, 10, 11

Ward 11 Precincts 10

Ward 12 Precincts 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 20, 31, 41

Ward 13 Precincts 1, 2, 4, 6, 7, 9, 21, 22

Ward 14 Precincts 1, 2, 3, 4, 5

Ward 15 Precincts 1, 2, 3, 4

Mission Township Central Mission, Ichabod Wasburn, Sherwood, South

Mission, Washburn, York, York Outer

Monmouth Township Northeast Monmouth, Northwest Monmouth, South

Monmouth

Tecumseh Township Kiowa, Pawnee, Ponca, South Tecumseh

Topeka Township Central Pauline, Deer Creek, Pauline, West Potter Williamsport Township 61st Street, Cullen, Forbes, Kingston, Montara,

Wakarusa

(B) The resulting population figures for the districts are as follows:

Commission District	Population in Incorporated Area	Population in Unincorporated Area	Total Population	Percentage of Total
#1	42,239	14,415	56,654	33.35%
#2	42,252	14,276	56,528	33.28%
#3	42,251	14,438	56,689	33.37%

(Code 2006; History: Res. 1996-105; amended by Res. 2006-67; amended by Res. 2013-190; amended by Res. 2018-6; amended by Res. 2018-9)

Sec. 2-12. Kansas Association Of Counties And National Association Of Counties.

- (A) Shawnee County will maintain its memberships in the Kansas Association of Counties and the National Association of Counties from year to year and will budget for the yearly memberships during its annual budget cycles.
- (B) The County Clerk is directed to renew the memberships on an annual basis with no further action necessary from the Board, provided funds are available and have been budgeted.

(Code 2006; History: Res. 1998-254, §§ 1-2)

Sec. 2-13. Establishing The Shawnee County Waste Hotline.

- (A) There is hereby established the *Shawnee County Waste Hotline* whereby any member of the public or any County Employee may report wasteful expenditures of Shawnee County funds.
- (B) Reports may be made via telephone call to (785) 233-8200 ext. 4306 or via email to efficiency@snco.us. Persons making reports should be prepared to provide sufficient detail as will provide the County with an adequate opportunity to review and investigate the same. (Code 2011; History: Res. 2011-42, §§ 1-2)

Sec. 2-14. Establishing the Shawnee County Counselor as the County's Legislative Coordinator.

The Shawnee County Counselor is hereby designated as the County's legislative coordinator. Any Shawnee County department desiring to provide written or oral testimony on behalf of the County to the Kansas Legislature shall first obtain the approval of the County Counselor. The Counselor is hereby authorized to answer questions from legislators, provide oral or written testimony or otherwise convey the County's opinion on proposed, pending or enacted legislation.

(Code 2012; History: Res. 2012-137)

Sec. 2-15. Establishing that Shawnee County, Kansas has not adopted a policy to become a Sanctuary County.

- (A) The Board of County Commissioners of the County of Shawnee, Kansas sets policy for Shawnee County officials and employees.
- (B) The U.S. Congress has enacted 8 U.S.C. §1373 which prohibits federal, state, and local entities and officials from establishing policy that prohibits or restricts communication with federal agents who enforce federal immigration laws.
- (C) The Board of County Commissioners of the County of Shawnee, Kansas requires Shawnee County officials and employees to comply with the Constitution and the laws of the United States government and the State of Kansas, as interpreted by state and federal courts.
- (D) Shawnee County officials and employees should respect and observe the rules of law.
- (E) Unless repealed or declared unconstitutional, Shawnee County officials and employees shall comply with 8 U.S.C. § 1373. (Code 2017; History: Res. 2017-79)

Sec. 2-16. Establishing an Active Meeting Policy.

- (A) The Board of County Commissioners of the County of Shawnee, Kansas desires to promote the public health, safety, and welfare of the citizens of Shawnee County, including Shawnee County employees and elected officials.
- (B) The Board of County Commissioners of the County of Shawnee, Kansas desires to create and maintain a productive, professional and healthy work environment by encouraging physical activity for better wellness and creative ability.
- (C) The Board of County Commissioners of the County of Shawnee Kansas hereby adopts the following Active Meeting Policy:
 - a. After each 60 minute period during any meeting conducted by or with employees or elected officials of Shawnee County, meeting attendees will be given the opportunity to stand as they are able for a period of 5 minutes without interruption to the agenda. This includes Board of County Commission Meetings. Meeting participants may also stand during the

- meeting as they wish. Participants who are unable to stand may participate in appropriate activity according to their abilities.
- b. Meeting organizers will make recommendations for healthier access and departure to or from the meeting: such suggestions may include walking the stairs, parking at the back of the parking lot, etc.

(Code 2018; History: Res. 2018-12)

Secs. 2-17-2-50. Reserved.

ARTICLE II. OPEN RECORDS POLICY

Sec. 2-51. Open Records Procedures.

- (A) 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 hereby adopted by the Board for record inspection and copying, including those procedures established by record custodians as hereby authorized by the Board. Such procedures shall be posted by each County office keeping and maintaining open public records.
- (B) Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records.
- (C) All request forms must be completed by the party requesting the copies. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian.
- (D) Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanically reproducing the subject record is likely to cause damage to such record.
- (E) No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the record custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge.
- (F) A fee of Fifty Cents (\$0.50) per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.
- (G) For copying any public records which cannot be reproduced by the County's photocopying equipment, the requester shall be charged the actual cost to the office, including staff time, in reproducing such records. Any copy produced on a reader-printer from microfilm shall be One and 50/100 Dollars (\$1.50) per page.
- (H) A record custodian may demand prepayment of the fees whenever he or she believes this to be in the best interest of the office. 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.
- (I) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.
- (J) Nothing contained herein, specifically § 2-51(F), shall be construed to prohibit the record custodian from charging such fee as is now prescribed by law for other services. Whenever there is a statutory provision for a charge greater than Fifty Cents (\$0.50), the custodian shall charge and collect the greater fee.

- (K) Other provisions of this article notwithstanding, the Shawnee County Appraiser's Office may provide to any owner of real property in this county, or such owner's designee, copies of the following documentation without cost. Provision of such documentation shall be in accordance with law, and shall be limited to documentation for the most recent tax year or for any tax year for which an appeal of the property's value or classification has been filed. Documents provided under this article shall be limited to the following:
 - (1) Inventory Content Sheets (ICS) for all properties;
 - (2) Sales Comparison Sheets for residential properties; and
 - (3) Valuation Sheets for commercial properties.
- (L) Other provisions of this article notwithstanding, the various departments within the County shall provide reproductions of public records to taxing governmental entities at no cost.

(Code 2006; History: Res. 1993-103, §§ 1-10; amended by Res. 2000-31, § 1)

Sec. 2-52. Freedom Of Information Officer.

- (A) Appointment. The Shawnee County Clerk is hereby appointed as the Freedom of Information Officer for Shawnee County and is charged with all of the statutory duties prescribed by K.S.A. 45-226 as set forth in § 2-52(B).
 - (B) Duties. The Freedom of Information Officer or the Officer's designee shall:
 - (1) Prepare and provide educational materials and information concerning the open records act:
 - (2) Be available to assist the County and members of the general public to resolve disputes relating to the open records act;
 - (3) Respond to inquiries relating to the open records act; and
 - (4) Establish the requirements for the content, size, shape, and other physical characteristics of a brochure required to be displayed or distributed or otherwise make available to the public under the 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 requestor, the responsibilities of a public agency and the procedures for inspecting and obtaining a copy of public records under the open records act.

(Code 2006; History: Res. 2000-137, §§ 1-2)

Sec. 2-53. Publication of Public Records Related To The Joint Economic Development Organization

Subject to the valid exceptions to disclosure found in the Kansas Open Records Act, all Joint Economic Development Organization (JEDO) documents in the possession of Shawnee County shall be made available free of charge to the public on Shawnee County's website. (Code 2011; History: Res. 2011-120)

Secs. 2-54-2-70. Reserved.

ARTICLE III. OPEN MEETINGS POLICY

Sec. 2-71. Open Meetings Policy.

It is hereby declared to be against the public policy of this County for any meeting to take place in any way that would subvert the policy of open meetings. The use of telephone calls by Commissioners to transact County business is prohibited, if such telephone calls are not part of a public meeting and notice of such meeting has not been given. (Code 2006; History: Res. 1994-22, § 1)

Sec. 2-72. Same; Circumvention.

No chance meeting, social meeting or electronic communication shall be used in circumvention of the spirit or requirements of this article. (Code 2006; History: Res. 1994-22, § 2)

Secs. 2-73-2-90. Reserved.

ARTICLE IV. CLAIMS AGAINST COUNTY

Sec. 2-91. Claims Procedure.

All claims against the County are to be processed in accordance with K.S.A. 12-105b. (Code 2006)

Sec. 2-92. Providing Defense In Legal Actions.

- (A) In accordance with the Kansas Tort Claims Act at K.S.A. 75-6101 *et seq.*, the County, upon request of an employee in accordance with K.S.A. 75-6108(e), shall provide for the defense of any civil action or proceeding against such employee (as defined by K.S.A. 75-6102b[d]), in such employee's official or individual capacity or both, on account of an act or omission in the scope of such employee's employment as an employee of the governmental entity, except as provided in K.S.A. 75-6108(c).
- (B) In accordance with K.S.A. 75-6108(a)(2), as amended, the County shall provide counsel to such employee when such employee is summoned to appear before any grand jury or inquisition on account of an act or omission in the scope of such employee's employment as an employee of the governmental entity, except as provided in K.S.A. 75-6108(c). (Code 2006)

Sec. 2-93. Authority to Settle Claims Against the County

- A. The Shawnee County Counselor is authorized to negotiate, settle and approve any claim filed against the County whenever the following conditions are satisfied:
 - 1) An investigation has been conducted by the department head of the County department against whom the claim is made; and
 - 2) The department head's investigation reveals that there is no dispute that the County caused the claimed damage or injury; and
 - 3) The County Counselor concurs with the finding of the department head and finds that the County is legally liable for the claim; and
 - 4) The amount of the claim does not exceed One Thousand Dollars (\$1,000.00)

- B. If the conditions are satisfied the County Counselor may issue a memorandum to the County Clerk authorizing payment of the claim in an amount not to exceed One Thousand Dollars (\$1,000.00).
- C. The County Counselor shall provide the Board with monthly reports of all claims approved pursuant to this resolution.

(Code 2014; History: H.R. Res. 2012-141)

Sec. 2-94. Civil Claims Against County Employees.

The County shall be liable for payment of the following:

- (1) All enforceable civil claims and judgments against the County Commissioners, department heads, or members of boards appointed by the County Commissioners, in their official capacity arising out of errors or omissions committed by any such person while acting within the scope of his or her authority.
- (2) All civil claims against the County Commissioners, department heads or board members shall be processed and defended by the Shawnee County Counselor. Nothing contained herein shall prohibit the County Counselor from obtaining from the Board the authority to retain outside counsel for additional assistance whenever the need arises. Provided, if a County Commissioner, department head, or board member elects to retain counsel outside those provided by the County, without the consent of the County Counselor, such Commissioner, department head or board member waives the right to payment by the County of defense fees and claims and judgments awarded.

(Code 2006; History: H.R. Res. 1977-2, §§ 1-2)

Sec. 2-95. Authorization To Settle Employment Claims.

- (A) The Board authorizes the County Human Resources Director to settle employment-related claims brought by County employees against Shawnee County. Provided, however, that the settlement authority granted the Human Resources Director under this section shall be limited to claims where monetary awards, if any, shall not exceed Three Thousand Dollars (\$3,000). Provided further, that any settlement agreement and its accompanying Release of Liability executed under this section shall be reviewed and approved by the County Counselor.
- (B) The Board requires that the Human Resources Director provide the Board with a confidential report of each claim settled under the authority of this section pertaining to each such employee. The confidentiality of the report is authorized pursuant to the Kansas Open Records Act, K.S.A. § 45-221a(4).

(Code 2006; History: Res. 2000-206, §§ 1-2)

Secs. 2-96-2-121. Reserved.

ARTICLE V. CORRECTIONS DEPARTMENT

Sec. 2-122. Booking And Processing Fee.

(A) A booking and processing fee of Forty-five Dollars (\$45) shall be collected as court costs from any person convicted or diverted, or adjudicated or diverted under a preadjudication program, pursuant to K.S.A. 22-2906 et seq., K.S.A. 38-1635 et seq., or K.S.A. 12-4414 et seq., and amendments thereto, of a misdemeanor or felony contained in Chapters

- 8, 21, 41, or 65 of the Kansas Statutes Annotated, and amendments thereto, where fingerprints are required pursuant to K.S.A. 21-2501, and amendments thereto.
 - (B) Such fees shall be deposited in Shawnee County's general fund.
- (C) Any person who is acquitted, not charged or who has had all charges against them dismissed, may, within thirty (30) days after such event, make application to the County Department of Corrections for the return of this fee.

(Code 2006; History: Res. 2004-40, §§ 1-3; amended by Res. 2006-176)

Sec. 2-123. Collection Of Maintenance Costs Of Certain Inmates.

- (A) Any inmate of the Shawnee County Department of Corrections who participates in a work release or job training program for which the inmate receives compensation or a subsistence allowance shall be required to pay to the County an amount not exceed Twenty Dollars (\$20) per day to defray costs of maintaining such inmate in the jail.
- (B) The Director of the Shawnee County Department of Corrections shall have the authority to adopt a fee schedule establishing the amount of the fee (up to Twenty Dollars [\$20] per day) in proportion to the compensation received by the inmate. In addition, the Director shall have the authority to waive the fee in instances where payment would create undue hardship for an inmate.
- (C) All amounts collected pursuant to this section shall be deposited in the Shawnee County General Fund.

(Code 2006; History: Res. 2004-63, §§ 1-3)

Secs. 2-124 - 2-161. Reserved.

ARTICLE VI. TAX REFUND INTEREST PAYMENT

Sec. 2-162. Interest To Be Paid On Tax Refunds.

When a property tax refund is paid to a taxpayer, the County Treasurer is directed to pay interest to the taxpayer on the refunded amount to be calculated from the date of payment until the date of the refund. Such interest shall be calculated in accordance with K.S.A. 79-2005(l)(1) and K.S.A. 79-2968.

(Code 2006; History: H.R. Res. 1997-6, § 1)

Secs. 2-163 - 2-191. Reserved.

ARTICLE VII. INHERENT POWER OF EMINENT DOMAIN

Sec. 2-192. County's Inherent Power Of Eminent Domain.

- (A) The Board may at any duly scheduled public meeting authorize the taking of private property for any lawful purpose through the initiation of eminent domain proceedings pursuant to K.S.A. 26-501 *et seq.* Lawful purposes shall include, but not be limited to, the construction of roads, bridges, sewers or any other lawful public work, the construction of recreational facilities, economic development, or facilities determined to be necessary to conduct County business or serve the public health, safety or welfare.
- (B) This section shall also ratify and acknowledge the intent of the Board, acting during a duly scheduled meeting on March 14, 2002, to resolve to exercise its home rule power and initiate eminent domain proceedings to acquire property for an industrial park and to promote economic development within Shawnee County.

(C) This section shall be liberally construed to give the Board the broadest authority allowed by law; any word, phrase, sentence, or section found to be invalid or unconstitutional shall be severed from this section.

(Code 2006; History: H.R. Res. 2002-4, §§ [A]-[C])

Secs. 2-193 - 2-221. Reserved.

ARTICLE VIII. ABANDONED/UNCLAIMED CASH

Sec. 2-222. Abandoned/Unclaimed Cash.

The Board resolves that abandoned and unclaimed cash, under Twenty-Five Dollars (\$25) per incident, lost or abandoned, and subsequently found in the County by County personnel, which has an unidentifiable owner and is left for more than twenty (20) days, be donated to the County's General Fund.

(Code 2006; History: Res. 2001-112)

Secs. 2-223 - 2-241. Reserved.

ARTICLE IX. CREDIT CARDS

Sec. 2-242. Issuance Of Credit Cards.

- (1) Shawnee County employees may make application for a Shawnee County credit card for official County use, subject to the normal purchasing procedures as set out in Home Rule Resolution No. H.R. 2006-1, as amended.
- (2) Applications for a credit card shall be forwarded to the Purchasing Director, who shall make an initial recommendation as to the necessity for the card to the Audit Finance Administrator.
- (3) Thereafter, the Audit Finance Administrator shall review the application. If the Audit Finance Administrator believes that a card is necessary, the application and recommendations shall be placed on the Board's agenda for consideration.
- (4) If the Board approves a request for a credit card, the Audit Finance Administrator shall take the steps necessary to cause the credit card to be issued to the applicant.
- (5) All Shawnee County credit cards shall be used strictly for Shawnee County business. At no time shall any Shawnee County issued credit card be used to pay for personal expenses incurred by the user. Any charges for personal expenses shall be the sole responsibility of the user. In addition, any employee who charges or attempts to charge personal expenses to a Shawnee County credit card shall be subject to the disciplinary procedure as established by the Shawnee County Personnel Rules and Regulations and /or any applicable Union contract.
- (6) Prior to receiving a Shawnee County credit card, the recipient shall read and sign an acknowledgement of their understanding and agreement with paragraph (5) of this section.

(Code 2006; History: Res. 2001-59; amended by H.R. 2008-37)

ARTICLE X. INSUFFICIENT FUNDS CHECKS

Sec. 2-262. Insufficient Funds Checks.

- (A) A service charge of Thirty Dollars (\$30) shall be assessed against any person who makes a check payable to Shawnee County or to any official or department of Shawnee County if said check is returned to Shawnee County by the bank upon which it is drawn because of no money or insufficient money on deposit for the payment of such check.
- (B) The Shawnee County Treasurer shall deposit all money received as service charges for insufficient or no-fund checks into the General Fund of Shawnee County, Kansas. (Code 2006)

Secs. 2-263 - 2-281. Reserved.

ARTICLE XI. TITLES ON FORFEITED VEHICLES

Sec. 2-282. Transferring Title On Forfeited Vehicles Upon Sale.

The Sheriff of Shawnee County is authorized to sign titles on forfeited vehicles for the purpose of transferring title to the purchaser upon sale of such vehicle. (Code 2006; History: Res. 2001-26)

Secs. 2-283 - 2-300. Reserved.

ARTICLE XII. HIPAA COMPLIANCE

Sec. 2-301. HIPAA Compliance; Appointment Of Security Officer.

- (A) The County Health Agency shall elect at this time to not be considered as a hybrid entity for purposes of the Health Insurance Portability and Accountability Act ("HIPAA") and shall be solely responsible for compliance regarding its activities as a community and public health agency.
- (B) The Board hereby directs the County Health Agency administration to complete the initial security assessment and to develop and adopt reasonable policies and procedures to orchestrate and insure that the provisions of HIPAA are complied with in the day-to-day operation of the Health Agency. Said policies and procedures shall be reviewed, approved and adopted by the County Health Agency Board and may be amended as necessary from time to time.
- (C) The Board also hereby appoints the Health Information Management Supervisor as the County Health Agency Security Officer for HIPAA compliance purposes.
- (D) The provisions of this section may be amended from time to time as additional HIPAA compliance requirements are required by the appropriate governmental entities. (Code 2006; History: Res. 2003-52, §§ 1-4; *amended by* Res. 2005-63, §§ 1-3)

ARTICLE XIII. REPLACEMENT CHECKS

Sec. 2-331. Procedures for Reissuance of Shawnee County Checks

- (A) Stale Check Defined any Shawnee County check that is more than two (2) years old and has not cleared the bank shall be considered a stale check.
- (B) Stale Check Policy It is the policy of Shawnee County to ensure that checks issued by Shawnee County to individuals, public organizations or companies are cleared in a timely manner to maintain accurate accounting records of Shawnee County by the Treasurer, County Clerk and Audit Finance departments. It is the policy of Shawnee County to reconcile stale checks.
- (C) Stale Check Procedures In order to effectuate the Shawnee County Stale Check Policy, the Audit/Finance Department, County Treasurer and County Clerk of Shawnee County will:
 - (1) Track all checks written on behalf of Shawnee County;
 - (2) The check cancellation review will begin in October of each year. Checks written will be reviewed and a recommendation to cancel and/or void any stale checks will go before the Board of County Commissioners for approval by the first commission meeting in December each year.
 - (3) Cancel or void checks in the financial records (IFAS) if the payee cannot be reached and/or two (2) years have elapsed since the check was written;
 - (4) The funds will be re-deposited back into the original fund where payments were drawn from;
 - (5) If a payee still possesses the check but it is past the 180 date of issuance, but within two (2) years, approval to cash the check may be granted through written approval to the bank under the direction of the Shawnee County Financial Administrator.
 - (6) If the payee does not possess the check because it was lost, destroyed or was not received (hereinafter "lost check") and less than two (2) years have elapsed since its issuance, the Board of County Commissioners may authorize reissuance of the lost check in accordance with the procedures set forth below.
- (D) Procedures for Reissuance of Stale or Lost Shawnee County Checks The following procedures shall govern the reissuance of stale or lost checks:
 - (1) No Shawnee County check may be reissued if more than two (2) years have elapsed since the date the check was originally issued.
 - (2) Any person or entity seeking reissuance of a stale of lost Shawnee County check shall submit a Shawnee County Check Re-issue Request Form containing the following:
 - (a) A statement that a replacement check is requested;
 - (b) If the payee still possesses the check, it shall be attached to the form;
 - (c) For lost checks, the requestor shall provide a statement as to why the original check cannot be provided (ex. lost, destroyed, not received); a certification that if the original check is later located, it will not be cashed by payee and that it will be immediately returned to the Shawnee County Treasurer;
 - (d) The requestor's signature and taxpayer ID
 - (3) All Shawnee County Check Re-issue Request Forms shall be filed with the Shawnee County Clerk's Office or Shawnee County Treasurer's Office and placed on the Board of County Commissioners' Consent Agenda for its consideration.

- (4) If a request to reissue a check is approved by the Board of County Commissioners, the check shall be reissued.
- (5) Shawnee County Resolution Nos. 2005-68, 2001-87 and any other Resolution in conflict herewith is hereby rescinded.

(Code 2006; History: Res. 2005-68, §§ 1-2, amended by Res. 2011-87; amended by Res. 2014-31)

Sec. 2-332. Direct Deposit Required For All Shawnee County Payroll Checks

- (A) Shawnee County employee wages shall be paid by electronic fund transfer or deposit to an automated clearinghouse member financial institution account designated by the employee.
- (B) Prior to November 13, 2013 all employees still receiving paper payroll checks shall submit a completed electronic deposit authorization form to the Shawnee County Clerk's Office payroll division.
- (C) Any employee who fails to submit an electronic deposit authorization prior to November 13, 2013 shall be paid via payroll card.
- (D) On or before October 14, 2013, the Shawnee County Clerk's Office payroll division shall distribute educational information to employees about payroll cards. (Code 2013; History: Res. 2013-127)

Secs. 2-333-2-350. Reserved.

CHAPTER 3. ALARM SYSTEMS

Art. I. In General, §§ 3-1-3-50

Art. II. Purpose, $\S 3-51-3-70$

Art. III. Definitions, §§ 3-71-3-100

Art. IV. Regulations And Standards, §§ 3-101-3-150

ARTICLE I. IN GENERAL

Secs. 3-1-3-50. Reserved.

ARTICLE II. PURPOSE

Sec. 3-51. Purpose.

The purpose of this chapter is to provide minimum standards and regulations applicable to burglar and hold-up alarm systems, and alarm users as defined in this chapter. (Code 2006; History: H.R. Res. 1983-14, § I)

Secs. 3-52-3-70. Reserved.

ARTICLE III. DEFINITIONS

Sec. 3-71. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their deviations, shall have the meanings given herein. When not inconsistent with the context, words of the

present tense include the future, words used in the plural number include the singular number, and words in the singular number include the plural number. The word *shall* is always mandatory not merely directory.

- (1) Alarm system means an assembly of equipment and devices (or a single device such as a solid state unit which plugs directly into a one hundred ten [110] Volt AC Line) arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond. In this chapter, the term alarm system shall include the terms burglar alarm system, and hold-up alarm systems, as those terms are hereinafter defined. Fire alarm systems and alarm systems which monitor temperature, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premise or an attempted robbery at a premise are specifically excluded from the provisions of this chapter;
- (2) Alarm user means any person on whose premises an alarm system is maintained within the County, except for alarm systems on motor vehicles or proprietary systems. If, however, an alarm system on a motor vehicle is connected with an alarm system at a premise (other than a proprietary system), the person using such system is an alarm user. Also excluded from this definition and from the coverage of this chapter are persons who use alarm systems to alert or signal persons within the premise in which the alarm system is located, of an attempted unauthorized intrusion or hold-up attempt. If such a system, however, employs an audible signal admitting sounds or a flashing light or beacon designed to signal persons outside the premise, such system shall be within the definition of alarm system and shall be subject to this chapter;
- (3) Answering service means a telephone answer service providing among its services the service of receiving on a continuous basis through trained employees, emergency signals from alarm systems, and thereafter immediately relaying the message by live voice to the Shawnee County Consolidated Emergency Communications Center (hereinafter "CECC");
- (4) Automatic dialing device means any alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect;
- (5) Burglar alarm system means an alarm system signaling an entry or attempted entry into the premises protected by the system;
- (6) Central station means any facility, central station, modified central station, or answering service operated by any person, business, firm, corporation or other commercial entity engaged in the occupation of selling, renting, leasing, installing, maintaining, operating or repairing an alarm system which facility is manned at all times by operators employed to receive, record and validate alarm signals transmitted to such facility and to relay information about such signals to the CECC by a direct telephone line;
- (7) *Modified central station* means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise the circuits. Such modified central stations are not listed by Underwriter Laboratories;
- (8) County or Shawnee County means Shawnee County, Kansas;
- (9) *Direct connection* means an alarm system which has the capability of transmitting system signals to and receiving them at an agency maintained by the County; *e.g.*, the CECC;

- (10) *Direct line* means a telephone line leading from a central station to the CECC that is for use only to report emergency signals on a person-to-person basis;
- (11) Emergency response agency includes but is not limited to the following: Sheriff's Office, Police Department or Fire Department;
- (12) False alarm means an alarm signal eliciting a response by an emergency response agency where an emergency situation does not in fact exist, but does not include an alarm caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm business operator or alarm user;
- (13) *Hold-up alarm system* means an alarm system signaling a robbery or an attempted robbery;
- (14) *Interconnect* means to connect an alarm system to a voice grade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system;
- (15) Local alarm system means a signaling system which when activated causes an audible and/or visual signaling device to be activated in or on the premises within which the system is installed;
- (16) *Person* means any person, firm, partnership, association, corporation, company, or organization of any kind. It does not, however, include a governmental agency;
- (17) Primary telephone line means a telephone line leading directly into the CECC that is for the purpose of handling emergency calls on a person-to-person basis, and which is identified as such as a specific number included among the emergency numbers listed in the telephone directory issued by the telephone company and covering the service area within the public service answering point ("PSAP"). 911 is such emergency number;
- (18) *Proprietary system* means an alarm system sounding and/or recording alarm and supervisory signals to a control center located within the protected premises, the control center being under the supervision of the proprietor of the premises. If a proprietary system includes a signal line connected directly or by means of any automatic dialing device to the CECC, a central station, modified central station or answer service, it thereby becomes an "alarm system" as defined in this chapter;
- (19) Remote signaling system means an alarm signaling system which when activated by an alarm device transmits a signal from an alarm signaling device to a central location, other than the CECC, where appropriate action is taken to investigate and respond to the signal;
- (20) Shawnee County Consolidated Emergency Communications Center or CECC means the entity which receives emergency signals from alarm systems;
- (21) *Sheriff* means the duly elected, appointed or acting Sheriff of Shawnee County, Kansas or his/her designated representative;
- (22) *Sheriff's Office* means the publicly supported Shawnee County Sheriff's Office, or any authorized agent or officer thereof;
- (23) Signal line means the transmission line through which the signal passes from one of the elements of the signal transmission to another;

- (24) Special telephone line means a telephone leading into the CECC and having the primary purpose of handling emergency signals or messages originating either directly or through a central location from automatic dialing devices;
- (25) Telephone company means the utility that furnishes telephone services to the citizens of Shawnee County; and
- (26) Bank Protection Act means the United States Public Law 90-389 (Bank Protection Act of 1968), or amendments thereto.

(Code 2006; History: H.R. Res. 1983-14, § II)

Secs. 3-72-3-100. Reserved.

ARTICLE IV. REGULATIONS AND STANDARDS

Sec. 3-101. Automatic Dialing Device; Interconnection Prohibited To Primary Line.

No automatic dialing device shall be interconnected to a primary telephone line. (Code 2006; History: H.R. Res. 1983-14, § III)

Sec. 3-102. Same; Interconnection To CECC.

- (A) Automatic dialing devices designed to transmit signals directly to the CECC are prohibited for any but certain governmental agencies pursuant to § 3-112. Before such a device is interconnected to a special telephone line, the person performing this operation shall first obtain instructions from the CECC concerning the procedure to be followed. The CECC shall designate the number to be used for this purpose.
- (B) The owner or lessee of any automatic dialing device which is allowed to be connected to a special telephone line transmitting directly into the CECC shall pay all telephone company charges connected therewith.

(Code 2006; History: H.R. Res. 1983-14, § IV)

Sec. 3-103. Same; Intermediary Service.

- (A) Persons owning or leasing an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:
 - (1) A central station:
 - (2) A modified central station; or
 - (3) A licensed answering service.
- (B) Relaying of messages by intermediate services to the CECC shall be over a special telephone line, except that central stations may relay messages over a direct line. All telephone charges involved shall be paid by such intermediate services or central stations.
- (C) Automatic dialing devices may also by interconnected to one (1) or more telephone numbers available to the owner or lessee of the devices or their designated representative, at another location.
- (D) This section shall apply only to those automatic dialing devices interconnected to the CECC, other County offices or to telephone company operators. (Code 2006; History: H.R. Res. 1983-14, § V)

Sec. 3-104. Same; Standards.

Automatic dialing devices installed on any premises in the County which are interconnected to a special telephone line transmitting signals into the CECC, or to a telephone line directly serviced by intermediate service that will be responded to by members of an emergency response agency, shall meet the following standards as determined by the head of an emergency response agency:

- (1) The contents of the recorded message to be transmitted by such device must be intelligible and in format approved by the CECC Director as appropriate for the type of emergency being reported.
- (2) Upon a single stimulus of the alarm device, an automatic dialing device may place two (2) separate calls to the CECC via the special telephone line. No such call shall be longer than one (1) minute in duration. There must be at least three (3) minutes between the completion of the first call and the initiation of the second, and the second call must be clearly identified as a second call.
- (3) Messages transmitted during such second calls, stating the location and nature of the alarm condition, shall not exceed thirty (30) seconds in length.

(Code 2006; History: H.R. Res. 1983-14, § VI)

Sec. 3-105. Same.

- (A) The time gap between delivery of messages must be less than five (5) seconds.
- (B) All such devices shall be capable of transmitting an emergency message to two (2) or more separate locations, so that upon activation any message may be sent not only on a special telephone line or telephone line serviced directly by telephone operators, but also to a location where an authorized person could be available to respond to the emergency message, and to open the premises on which the device is installed.
- (C) The sensory apparatus and hardware comprising such devices shall be maintained by the owner or lessee in such physical condition that false alarms will be minimal.
- (D) The provisions of this chapter contained in § 3-107 shall apply to all subscribers or persons having direct connect systems, except municipal, county, federal and state agencies exempted by the Board.

(Code 2006; History: H.R. Res. 1983-14, § VII)

Sec. 3-106. Financial Institutions Subject To Bank Protection Act; Penalties.

- (A) Alarm users shall not be assessed any penalty for false alarms caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user, interruption or failure of the service provided by public utilities, electrical or electronic interruption or interference, sonic booms, traffic accidents, mechanical malfunction or failure except, when, in the opinion of the head of an emergency response agency, the mechanical malfunction or failure is a result of continuing negligence by the alarm user or its failure to comply with the provisions of the Bank Protection Act. Penalty in such cases shall be computed on the same basis as false alarms caused by personnel error.
- (B) Alarm system users shall not be assessed any penalty for the first false alarm in any one (1) calendar month. A charge of Twenty-five Dollars (\$25) may be levied for each subsequent personnel-activated false alarm in the same calendar month if, in the opinion of the head of an emergency response agency, the alarm user has been negligent in its responsibility to prevent false alarms.

(C) Such penalty shall be paid by the alarm user to the County. The proceeds from such false alarm penalties shall be deposited to the general fund of the County. (Code 2006; History: H.R. Res. 1983-14, § VIII)

Sec. 3-107. Alarm System Users Not Subject To Bank Protection Act; Penalties.

- (A) Any person, firm or corporation other than a business under § 3-106 shall not be assessed any penalty for the first false alarm in any one (1) calendar month. Each subsequent false alarm in the same calendar month may require payment to the County: the sum of Seven Dollars (\$7) for the second such alarm, Twenty-one Dollars (\$21) for the third, Thirty-five Dollars (\$35) for the fourth, Fifty Dollars (\$50) for the fifth and each subsequent false alarm, provided alarms caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to control by the alarm user, interruption or failure of the service provided by public utilities, electrical or electronic interruption or interference, sonic booms, traffic accidents, or mechanical malfunction or failure except, when, in the opinion of the head of an emergency response agency, the mechanical malfunction or failure is a result of continuing negligence by the alarm user, may be excused. No other causes will be excused.
- (B) Such penalty shall be paid by the alarm user to the County. The proceeds from such false alarm penalties shall be deposited to the general fund of the County. (Code 2006; History: H.R. Res. 1983-14, § IX)

Sec. 3-108. Procedure For Imposing Penalties.

- (A) The head of an emergency response agency shall keep accurate records of reported false alarms, and shall notify alarm system users of any penalty imposed as authorized by this chapter.
- (B) Any alarm system user who receives notice from the head of an emergency response agency that a penalty has been imposed upon the user may appeal the decision of the head of an emergency response agency to the Board if the appeal is made within ten (10) days of receipt of notice from the head of an emergency response agency. (Code 2006; History: H.R. Res. 1983-14, § X)

Sec. 3-109. Inspection Of Alarm Devices In Businesses; Right Of Entry.

For the purpose of enforcing the provisions of this chapter, the head of an emergency response agency shall have the authority at reasonable times and upon reasonable oral notice, to enter the premises in the County in or upon which alarm systems or alarm businesses subject to this chapter are located to inspect the installation and/or operation of such alarm systems or alarm businesses on official department business.

(Code 2006; History: H.R. Res. 1983-14, § XI)

Sec. 3-110. Testing Equipment.

No alarm system designed to transmit its emergency message directly to the CECC shall be tested or demonstrated without first obtaining permission from the CECC Director. Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the CECC unless the messages are to be relayed to the CECC. (Code 2006; History: H.R. Res. 1983-14, § XII)

Sec. 3-111. Notice Of Disruption Of Service.

When an alarm business' service to subscribers is disrupted for any reason by the alarm business, or the alarm business becomes aware of such disruption, it shall promptly notify its subscriber by telephone that protection is no longer being provided. If, however, the alarm business has written instructions from its subscriber not to make such notification by telephone during certain hours, the alarm business may comply with such instructions. (Code 2006; History: H.R. Res. 1983-14, § XIII)

Sec. 3-112. Direct Connection To CECC.

Upon a favorable recommendation of the CECC Director and the approval of the Board, alarms from government agencies and financial institutions may be terminated in the CECC. No other alarms may terminate in the CECC.

(Code 2006; History: H.R. Res. 1983-14, § XIV)

Sec. 3-113. Penalties For Violations.

Any person who fails to discontinue the use of a direct dialing system other than in accordance with the provisions of this chapter shall be deemed guilty of a misdemeanor crime, and upon conviction or plea of guilty thereof, may be fined a definite sum of money not to exceed One Thousand Dollars (\$1,000). Each day that the violation continues after the expiration of the period allowed for compliance under the provisions of this chapter shall constitute a separate offense.

(Code 2006; History: H.R. Res. 1983-14, § XV)

Secs. 3-114 - 3-150. Reserved.

CHAPTER 4. ALCOHOLIC BEVERAGES

- Art. I. In General, §§ 4-1-4-50
- Art. II. License Fees, §§ 4-51-4-80
- Art. III. County Property, §§ 4-81-4-120
- Art. IV. Sunday Sales, §§ 4-121-4-150
- Art. V. Alcoholic Liquor Sales On Sunday And On Holidays, §§ 4-151 4-190
- Art. VI. Club/Drinking Establishment Tax, §§ 4-191 4-230
- Art. VII. Delinquent Real Estate Taxes, §§ 4-231 4-250

ARTICLE I. IN GENERAL

Sec. 4-1. Criminal Background Check Required for Cereal Malt Beverage Licenses

- (A) In order to ensure that applicants for cereal malt beverage licenses satisfy the requirement of K.S.A. 47-2703, the Shawnee County Clerk shall request and obtain conviction information from the Kansas Bureau of Investigation.
- (B) The County Clerk shall forward a copy of this Article to the Kansas Bureau of Investigation in accordance with Kansas Administrative Regulation 10-12-1(c). (Code 2010; History: Res. 2010-99)

ARTICLE II. LICENSE FEES

Sec. 4-51. License Fees.

The license fee for the sale of cereal malt beverages shall be as follows:

- (1) For the sale of cereal malt beverages in original and unopened containers and not for consumption on the premises, with no Sunday sales – Two Hundred Dollars (\$200.00) per calendar year.
- (2) For the sale of cereal malt beverages in original and unopened containers and not for consumption on the premises, with Sunday sales – Two Hundred Fifty Dollars (\$250.00) per calendar year.
- (3) For the sale of cereal malt beverages for consumption on the premises Five Hundred Dollars (\$500.00) per calendar year.

(Code 2006; History: Res. 1983-144, § 1; amended by Res. 2007-163)

Sec. 4-52. Exemption From K.S.A. 41-2702(d).

Shawnee County, Kansas is exempt from the provisions of K.S.A. 41-2702(d), and as may be amended or redesignated from time to time, which prescribes the fee for cereal malt beverage licenses for consumption on the premises within Shawnee County. (Code 2006; History: Charter Res. 1987-2, § 1)

Sec. 4-53. Exemption From K.S.A. 41-2702(g).

Shawnee County, Kansas is exempt from the provisions of K.S.A. 41-2702(g), and as may be amended or redesignated from time to time, which prescribes the fee for cereal malt beverage licenses to sell cereal malt beverages in original and unopened containers, and not for consumption on the premises within Shawnee County.

(Code 2006; History: Charter Res. 1987-2, § 2)

Sec. 4-54. Board Establishes Fee.

The Board shall set the fee for cereal malt beverage licenses for consumption on the premises within the County and the fee for cereal malt beverage licenses to sell cereal malt beverages in original and unopened containers, and not for consumption on the premises within Shawnee County.

(Code 2006; History: Charter Res. 1987-2, § 3)

Sec. 4-55. Fee Resolution.

The fee for cereal malt beverage licenses as set out in § 4-51 is in effect and shall remain in effect until such time as it may be amended or revised by the Board.

(Code 2006; History: Charter Res. 1987-2, § 4)

ARTICLE III. COUNTY PROPERTY

Sec. 4-81. Selling or Serving Alcoholic Liquor or Cereal Malt Beverages on County Property

No person shall sell or serve any alcoholic liquor or cereal malt beverage including liquor, whiskey, wine, or beer in an Shawnee County-owned Parks + Recreation building or on any other Shawnee County-owned Parks + Recreation property without written permission from the Director of Parks + Recreation.

No person shall sell or serve any alcoholic liquor or cereal malt beverage including liquor, whiskey, wine, or beer at any building or location on the Kansas Expocentre grounds without written permission from the Kansas Expocentre Manager.

No person shall sell or serve any alcoholic liquor or cereal malt beverage including liquor, whiskey, wine, or beer in an Shawnee County-owned building or on any other Shawnee County-owned property without written permission from the Board of County Commissioners.

Any person engaging in such activities must be properly licensed in accordance with Kansas Law.

(Code 2006; History: H.R. Res. 1994-14, amended by H.R. Res. 2010-6, amended by H.R. Res. 2011-4; amended by H.R. Res. 2019-1)

Sec. 4-82. Same; Alcoholic Liquor; Exceptions.

Alcoholic liquor and cereal malt beverages including liquor, whiskey, wine, or beer may possessed and consumed in accordance with Kansas Law upon the following premises owned by the County, which premises are also hereby declared exempt from the provisions of K.S.A. 41-719(d) and any amendments thereto by authority of K.S.A. 41-719(f):

- (1) Any building or location on the Kansas Expocentre grounds with written permission from the Kansas Expocentre Manager;
- (2) All property leased or lawfully occupied shelters including patios and decks adjoining said structures located in the Shawnee County Parks;
- (3) The Golf Courses; including the clubhouse buildings;
- (4) The Campground;
- (5) The Ski Club building;
- (6) The Yacht Club building;
- (7) The Rowing building;
- (8) The Lake Shawnee Event Center;
- (9) Old Prairie Town and adjacent courtyard and garden;
- (10) The spectator seating areas, and event hosting areas directly adjacent to Jerry Robertson Field at the Bettis Family Sports Complex.
- (11)Any Shawnee County Parks + Recreation parks, buildings or facility hosting an authorized special or regular event with written permission from the Shawnee County Parks + Recreation Director and a resolution approved by the Board of County Commissioners allowing patrons of the event to consume alcoholic liquor and cereal malt beverages.

No person shall possess or consume any alcoholic liquor or cereal malt beverages including liquor, whiskey, wine, or beer during Shawnee County Parks + Recreation youth events, games or tournaments.

(Code 2006; History: H.R. Res. 1994-14, § 2, amended by H.R. Res. 2010-6, amended by H.R. Res. 2011-4, § 2; amended by H.R. Res. 2019-1)

Sec. 4-84. Same; Containers.

Unless otherwise authorized by this article, alcoholic liquor and cereal malt beverages may be lawfully possessed in any County owned building or on any County owned property only in the original, unopened bottle, can, package or container, the seal of which has not been broken and from which the original cap, cork, tab or other means of closure has not been removed. Alcoholic liquor and cereal malt beverages in unsealed or open bottles, cans, packages or containers may be possessed by any law enforcement officer, prosecutor, judge or other court officer as evidence in any criminal or civil case.

(Code 2006; History: H.R. Res. 1994-14, § 4, amended by H.R. Res. 2010-6, § 4, amended by H.R. Res. 2011-4, § 3)

Sec. 4-85. Same; Violation; Penalty.

Any person who violates any provision of this article shall be subject to the following penalties:

- (1) First violation fine in the amount of One Hundred Dollars (\$100.00) upon conviction or plea of guilty;
- (2) Second violation within a twelve (12) month period fine in the amount of Two Hundred and Fifty Dollars (\$250.00) upon conviction or plea of guilty;
- (3) Third or subsequent violation within a twelve (12) month period fine in the amount of Five Hundred Dollars (\$500.00) upon conviction or plea of guilty.

A "violation" occurs pursuant to this article on the date of the incident described in the written citation issued by an officer authorized by law to enforce this article.

(Code 2006; History: H.R. Res. 1994-14, § 5, amended by H.R. Res. 2010-6, § 5, amended by H.R. Res. 2011-4, § 4)

Secs. 4-86-4-120. Reserved.

ARTICLE IV. SUNDAY SALES

Sec. 4-121. Sunday Sales Permitted To Certain Businesses.

All places of business in Shawnee County and outside the corporate limits of cities which are or will be licensed to sell cereal malt beverage for consumption on the premises and which derive not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises are permitted to sell cereal malt beverage for consumption on the licensed premises on Sundays.

(Code 2006; History: Res. 1987-109, § 1)

Sec. 4-122. Sunday Sales; Affidavit Required.

Businesses and any other legal entity which desire to conduct on premise sales of cereal malt beverages shall be responsible for complying with the following provision: The person responsible for signing the Application For License to Retail Cereal Malt Beverages shall be required to complete and sign, before the same official witnessing the Application For License to Retail Cereal Malt Beverages, an affidavit stating that 1) for the following year the business will derive not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises, and 2) sales of cereal malt beverages will be permitted on Sunday only for consumption on the premises. The affidavit is hereby incorporated by reference to this article.

(Code 2006; History: Res. 1987-109, § 2)

Secs. 4-123 - 4-150. Reserved.

ARTICLE V. SALE OF ALCOHOLIC LIQUOR AND CEREAL MALT BEVERAGES ON SUNDAY AND CERTAIN HOLIDAYS

Sec. 4-151. Sale of Alcoholic Liquor And Cereal Malt Beverages On Sunday And Certain Holidays.

- (A) Cereal Malt Beverages. The days of sale at retail of cereal malt beverages in the original package shall be expanded to allow such sale within the unincorporated area of the County on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 P.M.
- (B) *Alcoholic Liquors*. The days of sale at retail of alcoholic liquor in the original package shall be expanded to allow such sale within the unincorporated area of the County on any Sunday, except Easter, between the hours of 12:00 noon and 8:00 P.M. and on Memorial Day, Independence Day, and Labor Day.

(Code 2006; History: Res. 2005-119, §§1-2)

Secs. 4-152-4-190. Reserved.

ARTICLE VI. CLUB/DRINKING ESTABLISHMENT TAX

Sec. 4-191. Class A Club.

Each Class A club doing business in the unincorporated areas of Shawnee County, Kansas shall pay a biennial license tax of Two Hundred Dollars (\$200.00). Said tax shall be paid to the County Clerk and deposited in the County general fund. This tax shall be nonrefundable. Persons in violation shall be subject to a civil fine in the amount of One Thousand Dollars (\$1,000.00). In addition, any violation shall be reported to the Director of Alcoholic Beverage Control of the Kansas Department of Revenue.

(Code 2006; History: Res. 1990-205, § 1, amended by Res. 2012-6)

Sec. 4-192. Class B Club.

Each Class B club doing business in the unincorporated areas of Shawnee County, Kansas shall pay a biennial license tax of Five Hundred Dollars (\$500.00). Said tax shall be paid to the County Clerk and deposited in the County general fund. This tax shall be nonrefundable. Persons in violation shall be subject to a civil fine in the amount of One Thousand Dollars (\$1,000.00). In addition, any violation shall be reported to the Director of Alcoholic Beverage Control of the Kansas Department of Revenue.

(Code 2006; History: Res. 1990-205, § 2, amended by Res. 2012-6)

Sec. 4-193. Drinking Establishment.

Each drinking establishment doing business in the unincorporated areas of Shawnee County, Kansas shall pay a biennial license tax of Five Hundred Dollars (\$500.00). Said tax shall be paid to the County Clerk and deposited in the County general fund. This tax shall be nonrefundable. Persons in violation shall be subject to a civil fine in the amount of One Thousand Dollars (\$1,000.00). In addition, any violation shall be reported to the Director of Alcoholic Beverage Control of the Kansas Department of Revenue.

(Code 2006; History: Res. 1990-205, § 3, amended by Res. 2012-6)

Secs. 4-194 - 4-230. Reserved.

ARTICLE VII. DELINQUENT REAL ESTATE TAXES

Sec. 4-231. Cereal Malt Beverage License Prohibited; Delinquent Real Estate Taxes.

A business, individual or any other legal entity that desires to conduct sales of cereal malt beverages on its premises shall not be granted any such license if there are delinquent real estate taxes on said premises.

(Code 2006; History: H.R. Res. 1994-2, § 1)

Sec. 4-232. Definition.

For the purpose of this article, *premises* means the real estate described in the license application or any parcel that may include said real estate. (Code 2006; History: H.R. Res. 1994-2, § 2)

Secs. 4-233-4-250. Reserved.

CHAPTER 5. ANIMALS

Art. I. In General, §§ 5-1-5-50

Art. II. Animals At Large, §§ 5-51-5-60

Art. III. Dogs At Large, §§ 5-61 - 5-90

Art. IV. Exotic Animals, §§ 5-91-5-130

Art. V. Dangerous Animals, §§ 5-131-5-170

Art. VI. Diseased Animals, §§ 5-171 – 5-200

Art. VII. Law Enforcement Animals, §§ 5-201 – 5-230

Art. VIII. Euthanization Or Placement Of Animals, §§ 5-231 - 5-260

Art. IX. Leash Law, §§ 5-261 - 5-300

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ARTICLE I. IN GENERAL

Secs. 5-1-5-50. Reserved.

ARTICLE II. ANIMALS AT LARGE

Sec. 5-51. Prohibitions.

The following described animals are prohibited from running at large in unincorporated areas of Shawnee County: all domestic animals, other than cats and dogs. (Code 2010; History: H.R. Res. 2010-5, § 1)

Sec. 5-52. Definitions.

At large means the act of an animal which constitutes being off the property of the owner; and not being effectively physically restrained on a chain or leash or not being kept in a suitable fence or by another means of physical restraint from which the animal can escape. (Code 2010; History: H.R. Res. 2010-5, § 2)

Sec. 5-53. Confinement.

Pursuant to K.S.A. 29-101 et seq., all domestic animals, other than cats and dogs, shall be enclosed with a fence sufficiently close, composed of posts and rails, posts and palings, posts and planks or palisades, post and wire, rails alone, laid up in the manner commonly called a worm fence, or turf, with ditches on each side, of stone, or a hedge in existence on July 1, 1986, composed either of thorn or Osage orange. (Code 2010; History: H.R. Res. 2010-5, § 3)

Sec. 5-54. Penalties.

Any person who knowingly fails to take appropriate measures pursuant to K.S.A. 29-101 et seq. and/or any person who knowingly allows a domestic animal, other than cats and dogs, to be at large, shall be subject to the following penalties:

- (1) First violation written warning. A warning may be appealed within thirty (30) days of its issuance by delivering a written notice of appeal to the Board of County Commissioners.
- (2) Second violation within a twelve (12) month period fine in the amount of Five Hundred and No/100 (\$500.00) upon conviction or plea of guilty.
- (3)Third or subsequent violation within a twelve (12) month period fine in the amount of One Thousand and No/100 Dollars (\$1,000.00) upon conviction or plea or guilty.

A "violation" occurs pursuant to this Article on the date of the incident described in the written warning or citation issued by an officer authorized by law to enforce this Article. (Code 2010; History: H.R. Res. 2010-5, § 4)

ARTICLE III. DOGS AT LARGE

Sec. 5-61. Definitions.

- (A) *Animal shelter* means the Helping Hands Humane Society in Topeka, Kansas, or any other premises designated by the Board, for the purpose of impounding and caring for dogs held under authority of this article.
- (B) At large means that a dog is not confined on the property of its owner by building, fence, tether, leash or other appropriate means and is not under the immediate control of its owner or other competent person.
- (C) *Owner* means any person that owns, keeps or harbors a dog. (Code 2006; History: H.R. Res. 1984-7, § 1)

Sec. 5-62. Dog Regulations In Subdivisions.

- (A) Upon receipt of a petition certified by the County Clerk as having been signed by at least sixty percent (60%) of the real property occupants and/or owners in any platted subdivision located within the unincorporated areas of Shawnee County, the Board of County Commissioners of Shawnee County, Kansas shall set a date and time not more than thirty (30) calendar days in the future to conduct a public hearing to determine if the provisions of Section III, paragraph 1 of this Resolution, should be enforced within the boundaries of said platted subdivision. Said petitions shall be verified by the circulator that he/she personally saw each signature duly made to the petition. Any person who wishes to have their name withdrawn from said petition shall individually notify the Shawnee County Clerk in writing not less than seven (7) calendar days after the petition was received by the Shawnee County Clerk's Office.
- (B) The hearing of any petition received pursuant to § 5-62(A) shall be held at such time, date and place as the Board shall determine is sufficient to provide reasonable opportunity to be heard to any interested person. Notice of the hearing shall be published by the County Clerk once in the official County newspaper at least three (3) calendar days before the date set for the hearing.
- (C) At the hearing, the Board shall receive evidence and testimony from all interested persons concerning the need for further dog control in the affected platted subdivision. If the Board determines to enforce the provisions of § 5-63(A) within the subdivision, it will issue an order which shall take effect upon publication by the County Clerk once in the official County newspaper.

(Code 2012; History: H.R. Res. 1984-7, § 2; amended by H.R. Res. 2012-4)

Sec. 5-63. Prohibitions.

- (A) Upon the publication of an order pursuant to § 5-62(C), it shall be unlawful for any dog to be at large within the boundaries of the affected platted subdivision. The owner of any dog found to be at large within the boundaries of the affected platted subdivision will be held strictly liable therefor.
- (B) It shall be unlawful for any person to obstruct, hinder or prevent the impounding of any dog found at large contrary to the provisions of this article or to break open, damage or destroy the door, gate or enclosure of any impoundment area to take, or attempt to take therefrom, any dog impounded therein.

(C) It shall be unlawful for any person to keep or harbor any dog which frequently disturbs the peace or repose of any persons in the vicinity by long, continued barking, howling or other noise. The provisions of this article shall not apply to any authorized animal shelter or to any dog kennel that has obtained a special permit from the Board, pursuant to the County's zoning resolution.

(Code 2006; History: H.R. Res. 1984-7, § 3; amended by H.R. Res. 1987-12, § 1)

Sec. 5-64. Impoundment.

- (A) Any dog found at large in violation of the provisions of this article may be pursued, captured and taken into custody by animal control officers or deputies of the Shawnee County Sheriff's Office and impounded at the Helping Hands Humane Society or other animal shelter designated by the Board.
- (B) If the ownership of any impounded dog can be reasonably determined, the animal shelter or its designated agent shall promptly notify the owner of the impoundment of the dog by telephone or mail.
- (C) Impounded dogs shall be kept for a period of not less than seventy-two (72) hours unless sooner claimed by the owner. If any impounded dog is not redeemed as set forth in this article, the dog shall be deemed abandoned by operation of law and title thereto shall pass to the animal shelter. Thereafter, the animal shelter may keep, give, sell or humanely destroy such dogs in its own discretion.

(Code 2006; History: H.R. Res. 1984-7, § 4)

Sec. 5-65. Redemption.

- (A) The owner shall be entitled to resume possession of any impounded dog upon payment of the impoundment fees set forth herein, to the animal shelter.
- (B) The impoundment fee for each dog shall be Ten Dollars (\$10) for the first day and the additional sum of One Dollar (\$1) for each successive day of impoundment.
- (C) No owner shall be allowed to redeem any dog found to be rabid or found to have been bitten by a rabid animal unless such redemption is authorized by the Shawnee County Health Agency.
- (D) No owner shall be allowed to redeem any dog when, in the judgment of the animal shelter or the Shawnee County Health Agency, the dog should be destroyed for humane or public health reasons.

(Code 2006; History: H.R. Res. 1984-7, § 5)

Sec. 5-66. Penalties.

Any person who knowingly violates §§ 5-63(A), 5-63(B) or 5-63(C) shall be deemed guilty of a misdemeanor and, upon conviction or a plea of guilty therefor, may be fined a definite sum of money not exceeding Two Hundred Fifty Dollars (\$250).

(Code 2006; History: H.R. Res. 1984-7, § 6)

Secs. 5-67-5-90. Reserved.

ARTICLE IV. EXOTIC ANIMALS

Sec. 5-91. Definitions.

As used in this article:

- (1) *Domesticated* means bred for and adapted to use as a family pet capable of living within a household or to use as a product of animal husbandry generally accepted by the School of Agriculture at Kansas State University;
- (2) Owner means the person who owns, keeps, harbors or possesses an animal or specified animal; and
- (3) *Temporarily* means a period of less than three (3) weeks. (Code 2006; History: H.R. Res. 1993-5, § 1)

Sec. 5-92. Owning Certain Animals Prohibited.

It shall be unlawful to own, keep, harbor, or possess any animal which is not domesticated as defined in \S 5-91(1).

(Code 2006; History: H.R. Res. 1993-5, § 2)

Sec. 5-93. Exclusions.

The prohibition contained in § 5-92 shall not apply to the following animals:

- (1) Domestic dogs, other than those which are hybrid with a wild canine, said term *wild canine* includes but is not limited to wolves, covotes and foxes;
- (2) Domestic cats, other than those which are hybrid with a wild feline;
- (3) Domesticated rodents:
- (4) Domesticated European ferrets;
- (5) Rabbits;
- (6) Birds;
- (7) Nonvenomous snakes under eight (8) feet long and lizards;
- (8) Turtles;
- (9) Amphibians, other than those protected by State or Federal law;
- (10) Fish;
- (11) Invertebrates, other those protected by State or Federal law;
- (12) Llamas:
- (13) Horses, cows, buffalo, sheep, mules, donkeys, swine, or goats;
- (14) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian;
- (15) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department;
- (16) Any animal in the ownership of a person temporarily transporting such animal through the County, including but not limited to a circus, menagerie and/or animal exhibition;
- (17) Any animal in the ownership of a bona fide medical institution, accredited educational institution, recognized professional or scholar conducting scientific research who is in compliance with any applicable requirement from the Bureau of Disease Prevention and Control from the Kansas Department of Health and Environment (e.g., K.A.R. 28-1-14), or publicly owned zoological park or park system, or licensed game breeder licensed by the State of Kansas and/or the

- United States government if such licensed game breeder does not breed canine hybrids and/or feline hybrids;
- (18) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purposes of impounding, sheltering or caring for animals;
- (19) Ostrich; and/or

(20) Fallow deer and sika deer.

(Code 2006; History: H.R. Res. 1993-5, § 3)

Sec. 5-94. Grandfather Clause.

- (A) On or before Monday, December 6, 1993, persons who own, keep, harbor or possess any prohibited animal as defined in § 5-92, except those referred to in § 5-93, are exempted from the prohibitions contained herein, provided, however, such persons have complied with the permit requirements set forth in § 5-95. However, offspring of existing prohibited animals born after October 22, 1993 and gestation period will fall under § 5-92.
- (B) Persons under § 5-94(A) will not be allowed to obtain new prohibited animals after October 22, 1993.

(Code 2006; History: H.R. Res. 1993-5, § 4; amended by H.R. Res. 1993-7, §§ 1-2)

Sec. 5-95. Permit Required.

- (A) No person as described in § 5-94 shall own, keep or harbor any animal prohibited by this article without first obtaining a permit from the County Clerk.
- (B) Applications for exotic or captive wild animal permits by those grandfathered in shall be made to the County Clerk upon forms provided by the County Clerk and setting forth such information as necessary to properly implement the provisions of this article. Each application must contain, but shall not be limited to, the name of the owner, harborer, keeper or possessor of the animal, his or her street address, mailing address, and telephone number. Furthermore, applicants must submit proof of ownership or possession of such animal in Shawnee County on or before October 22, 1993, to the satisfaction of the County Clerk (e.g., veterinarian records, registration documents, affidavits, automatically dated cash register receipts with reference to animal). Such application forms shall be completed by the applicant and submitted to the County Clerk for review and approval. Payment of the permit fee shall accompany the application. The County Clerk shall have the Sheriff's Office review and approve the application if a confinement facility is required under § 5-95(F). The permit shall constitute consent by the applicant to any reasonable scheduled or unscheduled inspection of the animal and its shelter by the animal control officer or any State or County law enforcement officer.
 - (C) The permit fee shall be Fifty Dollars (\$50) per animal.
- (D) All persons and institutions listed must insure that all animals and animal quarters conform to all applicable rules or regulations promulgated under the authority of Federal statute enacted by the United States, or by any statute enacted by the State or by any rule or regulation promulgated by any agency or department as authorized by State statute. All animals shall be kept in a clean and sanitary condition and so maintained as to limit objectionable odors; and insure that all animals are maintained in quarters which are adequately constructed so as to prevent their escape.
- (E) All canine hybrids and feline hybrids shall be securely confined indoors or in a securely enclosed and locked pen or kennel. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used must be locked with a key or

combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two (2) feet. All structures erected to confine such animals must comply with all Shawnee County, Kansas zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. This article shall apply to any licensed animal breeder licensed by the State of Kansas and/or the United States government.

(F) All persons and institutions listed in §§ 5-93(14), 5-93(15), 5-93(16), 5-93(17), 5-93(18), and 5-94 must be properly licensed, if so required, by any rule or regulation promulgated under the authority of Federal statute enacted by the United States, or by any statute enacted by the State or by any rule or regulation promulgated by any agency or department as authorized by State statute.

(Code 2006; History: H.R. Res. 1993-5, § 5; amended by H.R. Res. 1993-7, §§ 3-4)

Sec. 5-96. Enforcement.

- (A) Confiscation. The County may bring an action to seek confiscation of a prohibited animal in the District Court. The District Court judge may order the immediate confiscation of the prohibited animal by the County Sheriff upon a finding that the animal poses an immediate danger to the public or itself. Upon conviction of a person for owning an animal prohibited by this article, the District Court judge shall order the County Sheriff to confiscate the animal. The Sheriff may delegate the actual confiscation to the Kansas Department of Parks and Wildlife or to any appropriate licensed animal rehabilitation or care facility. Any animal confiscated pursuant to this article, shall be transferred to an appropriate licensed animal rehabilitation or care facility. The District Court judge may order the animal released to the owner upon a showing that the animal will be transferred to an appropriate licensed animal rehabilitation or care facility or to a location outside the County where such animal may be legally kept. If the owner fails to make such a showing within fourteen (14) days of the confiscation of the animal, the court shall order the animal to be disposed of by the rehabilitation or care facility in such manner as the director of such facility sees fit. If the animal is sold by the facility, the proceeds of the sale shall be first used to pay all expenses incurred by the facility in confiscating, housing, caring for, and disposing of the animal; then for payment of any fines or court costs which remain unpaid; and then the balance shall be paid to the owner.
- (B) Criminal Penalty. Any person convicted of violating the provisions of this article shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), and upon any second or subsequent conviction shall be fined not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000). Each consecutive day's violation shall constitute a separate offense.

(Code 2006; History: H.R. Res. 1993-5, § 6)

Secs. 5-97-5-130. Reserved.

ARTICLE V. DANGEROUS ANIMALS

Sec. 5-131. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) At large means not confined in a manner consistent with the provisions of this article:

- (2) Dangerous animal means any animal that meets any of the following six criteria:
 - (i) Any animal that displays violent or aggressive behavior;
 - (ii) Any animal that endangers the safety of persons, livestock or domestic animals;
 - (iii) Any animal that cause injury to any person, livestock or domestic animal;
 - (iv) Any animal that attacks or attempts to attack any person, livestock or domestic animal;
 - (v) Any animal which by virtue of its breeding, training, characteristics or instincts, shows a propensity, tendency or disposition to:
 - (a) Display violent or aggressive behavior;
 - (b) Endanger the safety of persons, livestock or domestic animals;
 - (c) Cause injury to any person, livestock or domestic animal; or
 - (d) Attack or attempt to attack any person, livestock or domestic animal; and
 - (vi) Any animal for which a law enforcement or animal control officer has issued a written warning directing the owner to keep the animal in a kennel or pen due to behavior listed in this article, or which any judicial or administrative body has determined to pose a danger to persons, livestock or domestic animals;
- (3) *Domestic animal* or *livestock* includes any animal or fowl bred or raised in captivity which is the property of any person, and specifically excludes wild animals such as songbirds, squirrels, rabbits and deer;
- (4) Leash means a tether or restraint attached to the collar or harness of an animal with a metal clasp, with a breaking strength of at least three hundred (300) pounds including the clasp, and a length of no more than five (5) feet;
- (5) *Muzzle* means a device placed securely over an animal's head and mouth which prevents the animal from biting or removing it without human aid;
- (6) *Owner* as used herein, means any person who owns, keeps, possesses, harbors or has responsibility for the care and maintenance of a dangerous animal; and
- (7) *Person* means any natural person, corporation, partnership or other entity recognized in the law as a person.

(Code 2006; History: H.R. Res. 1999-9, § 1, amended by H.R. Res. 2011-8, § 1)

Sec. 5-132. Applicability.

Except as otherwise specifically provided, this article shall be applied to all unincorporated areas of Shawnee County.

(Code 2006; History: H.R. Res. 1999-9, § 2)

Sec. 5-133. Prohibitions.

(A) Any person who owns, keeps, controls, harbors or in any manner possesses any animal shall be strictly liable for violating this article if the animal attacks or attempts to attack any person, livestock or domestic animal.

- (B) Any person who owns, keeps, controls, harbors or in any manner possesses any animal shall be strictly liable for violating this article if the animal causes injury to any person, livestock or domestic animal.
- (C) Any person who owns, keeps, controls, harbors or in any manner possesses any dangerous animal as defined in this article shall be strictly liable for violating this article if the animal is at large as defined in this article. (Code 2006; History: H.R. Res. 2011-8, § 3)

Sec. 5-134. Confinement.

- (A) Any person who owns, keeps, controls, harbors or in any manner possesses any dangerous animal as defined in this article shall at all times maintain control over such animal in a manner hereafter stated:
 - (1) When any dangerous animal is not securely confined within a residence or other secure building or within a kennel or pen, or when not directly supervised on private property within a fenced yard or other secure enclosure, such animal shall be muzzled and restrained with a collar of sturdy construction and a leash not to exceed five (5) feet in length.
 - (2) Kennel/Pen Construction Standards.
 - (a) Any kennel or pen used to confine any dangerous animal shall be of sturdy construction, with sides and gates of wire or chain link construction with a minimum thickness of eleven and one-half (11.5) gauge. The floor or the perimeters thereof shall be constructed of concrete, masonry or like material and resistant to digging, settling, erosion and other forces which could reasonably or foreseeably cause the enclosure to become unable to contain the animal. The sides of the kennel shall be securely connected to the floor at regular intervals sufficient to prevent escape and the gate or gates shall be secured with a lock when the animal is unattended to avoid operation by children or other unauthorized individuals. Openings around a gate shall not allow an animal to escape the enclosure by crawling through or by the manipulation of hinges or latches.
 - (b) If sides and gate(s) of the kennel or pen do not exceed six (6) feet in height measured from the floor of the kennel or pen, the kennel shall be enclosed on the top by materials which meet the standards for side and gate construction. If within any kennel or pen there exists any object or structure which the dog can stand or jump on, and if the vertical distance from the top of the object or structure to the top of the kennel or pen is less than six (6) feet, the kennel or pen shall be enclosed on the top by materials which meet the standards for side and gate construction. All kennels and pens shall be regularly inspected and repaired to prevent escape due to deterioration, disrepair or damage.
 - (3) Commercial or Business Premises. If any dangerous animal is kept on any commercial or business premises for the purpose of preventing trespass, burglary, theft or other crimes, the following provisions shall be followed:
 - (a) During normal hours of operation, or when the business is open to the public, any dangerous animal shall be kept in a kennel or pen meeting the standards of construction contained in this section.
 - (b) When the commercial or business premises is closed to the public, any dangerous animal may freely roam the premises within a secure fenced enclosure. Such enclosure shall be constructed so as to preclude an animal

from escaping by clawing, digging, chewing, climbing, jumping or other behaviors which are reasonably expected from an animal, and shall be securely locked to prevent release of the animal by unauthorized persons. At regular intervals not to exceed twenty-five (25) feet around the perimeter of such enclosure shall be placed signs warning of the presence of the animal. Such signs shall be written in letters at least two (2) inches high, shall be brightly colored and clearly visible from all avenues of approach.

- (B) Regardless of any other provision of this section, any enclosure which allows an animal to escape through clawing, digging, chewing, climbing, jumping, pushing or other behaviors which are reasonably expected from such an animal, or which allows the animal to be released by unauthorized persons, shall constitute prima facie evidence that an enclosure was not secure and was in violation of this section.
- (C) Owners of animals covered by this article assume all responsibility for compliance with this article. This article shall not be construed to impose any liability upon the County of Shawnee, Kansas, its officers, employees or agents for inspecting or failure to inspect any animal enclosure, or for the escape or release of any animal from an animal enclosure. (Code 2006; History: H.R. Res. 1999-9, § 6, amended by H.R. Res. 2011-8, § 4)

Sec. 5-135. Impoundment And Capture.

- (A) Animals suspected in incidents involving injury to persons, livestock or other animals shall be quarantined as required by law. In any other case, any dangerous animal which is not confined as required herein may be captured and impounded at an appropriate location by any animal control or law enforcement officer. If at the time of capture, the owner is not present and cannot be located to claim the animal, the animal shall be impounded. Any and all fees, costs or expenses incurred in capturing or boarding the animal shall be the responsibility of the owner or owners of the animal and shall be paid before the impounded animal is released. Payment of any fee, cost or expense incurred when a dangerous animal is captured or impounded shall not release the owner or owners of such dog from prosecution under this article, or from any other civil or criminal liability. Any person may capture any dangerous animal which is found upon such person's property or public property when such person reasonably believes that such animal poses an imminent danger to any person, domestic animal or livestock and when the animal may be captured without risk of injury to persons or the animal. Any person capturing such an animal shall immediately notify and release the animal to an appropriate animal control or law enforcement agency. Any person who so captures such an animal does so at their own risk, and Shawnee County, its agents and employees assume no liability whatsoever for such actions.
- (B) The owner of an impounded dangerous animal shall be notified personally or by certified mail. Except as otherwise herein provided, if the owner of any animal impounded pursuant to this article does not claim the animal and pay any fees, costs or expenses due within five (5) days of notification or receipt or non-delivery of the certified letter, or if the ownership of the animal cannot be ascertained through reasonable effort within five (5) days of impoundment, the animal shall be destroyed.
- (C) Animals needed as evidence in a case filed under this article, or other civil or criminal proceedings shall not be released or destroyed except upon an order of the court. (Code 2006; History: H.R. Res. 1999-9, § 7, amended by H.R. Res. 2011-8, § 5)

Sec. 5-136. Penalties.

Violations of this article shall accrue to the owner or owners of a dangerous animal or animals, and not to the animal individually. Violations of this article shall be fined as set out below, except that when any incident which would have been a violation of this article would also constitute a more serious offense under the laws of the State of Kansas, the more serious offense shall be charged. If any person is convicted of any violation of this article the following fines and penalties shall be imposed:

- (1) For the first violation, if the violation results in no injury to a person, livestock or domestic animal, the owner or owners shall be fined One Hundred Dollars (\$100.00) and the court may order restitution to any victim;
- (2) For the first violation, if the violation results in injury to a person, livestock or a domestic animal, the owner or owners shall be fined Five Hundred Dollars (\$500.00) and the court may order restitution to any victim, and the court may order that the animal be destroyed;
- (3) For the second violation, if the violation results in no injury to a person, livestock or to a domestic animal, the owner or owners shall be fined Two Hundred Fifty Dollars (\$250.00), the court may order restitution to any victim, and the court may order that the animal be destroyed;
- (4) For the third or subsequent violation, if the violation results in no injury to a person, livestock or to a domestic animal, or for the second or subsequent violation if the violation results in any injury to a person, livestock or a domestic animal, the animal shall be destroyed, the owner shall be fined up to Two Thousand Dollars (\$2,000.00) and the court may order restitution to any victim.

(Code 2006; History: H.R. Res. 1999-9, § 8, amended by H.R. 2011-8, § 6)

Sec. 5-137. Miscellaneous Provisions.

- (A) Nothing in this article shall be construed to apply to animals owned and used by law enforcement agencies or any branch of the military, whether State or Federal.
- (B) No prosecution shall be brought pursuant to this article when an injury caused by a dangerous animal was sustained while the animal was preventing an act of violence, robbery, criminal trespass, theft or other crime against a person or property, or was apprehending any person engaged in committing such an act upon a premises owned by or under the control of the animal's owner, or when the animal so acting was present on the premises at the request of or with the permission of the person or persons in control of the premises.
- (C) It shall be a defense to an action brought pursuant to this article in which an animal has exhibited or displayed violent or aggressive behavior, caused injury to a person, livestock or a domestic animal, or attacked or attempted to attack a person, livestock or domestic animal, that such behavior was initiated by undue or malicious provocation of the animal by the victim or other party.

(Code 2006; History: H.R. Res. 1999-9, § 3, amended by H.R. Res. 2011-8, § 7)

Secs. 5-138-5-170. Reserved.

ARTICLE VI. DISEASED ANIMALS

Sec. 5-171. Rabies Vaccination.

(A) All persons holding, harboring, keeping, or owning any dog in areas located outside of any incorporated cities in Shawnee County shall have such dog vaccinated against rabies within seven (7) months of birth and shall thereafter have said dogs currently vaccinated at all times. Such dogs shall wear identification tags at all times indicating that there is a record of current rabies vaccination in Shawnee County.

- (B) Evidence of rabies vaccination may be exhibited by a tattoo or an indelible ink mark stating the date of vaccination, place of vaccination and an identification number.
- (C) Any dog found at large not wearing vaccination tags or evidence of vaccination may be taken into custody and impounded by the County Animal Control Officer. The dog shall be released upon proof of ownership and payment of the cost of taking and boarding of the dog. (Code 2006; History: H.R. Res. 1981-6, § 1)

Sec. 5-172. Penalty.

All persons knowingly violating any of the provisions of § 5-171 shall be punished by fine of not to exceed One Hundred Dollars (\$100). (Code 2006; History: H.R. Res. 1981-6, § 3)

Sec. 5-173. County Health Officer Duties.

It is the duty of the County Health Officer to take such action and make and enforce such rules and regulations as in the County Health Officer's discretion may be necessary to comply with Kansas State Laws and Regulations enacted to prevent the spread of diseases by animals which are infectious or contagious to humans within Shawnee County. (Code 2006; History: Res. 1997-2, § 1)

Sec. 5-174. Rabid Animals; Duty To Report; Killing/Removal Restricted; Surrender.

- (A) It is the duty of every person in Shawnee County to report promptly to the County Health Officer:
 - (1) Any animal which bites a person;
 - (2) Any rabid animal; or
 - (3) Any animal suspected of being rabid.
- (B) The Board restricts the killing or removing of certain animals as follows: No person shall kill or cause to be killed any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, nor remove any such animal from Shawnee County, without first obtaining written permission from the County Health Officer.
- (C) The Board requires the surrender of the carcass of any dead animal exposed to rabies upon demand by the County Health Officer. (Code 2006; History: Res. 1997-3, §§ 1-3)

Secs. 5-175-5-200. Reserved.

ARTICLE VII. LAW ENFORCEMENT ANIMALS

Sec. 5-201. Cruelty To Law Enforcement Animals.

- (A) Any animals used by the Sheriff's Office, whether they are owned, leased, rented, or borrowed, and which are trained for the performance of law enforcement duties, shall be commissioned as members of the Sheriff's Office.
- (B) All animals commissioned as members of the Sheriff's Office whether on or off duty, shall be protected against cruelty, as defined in K.S.A. 21-4310(a)(1), and amendments thereto, and violations to this statute will be prosecuted according to same.
- (C) It shall be unlawful to interfere with or meddle with any animals commissioned as members of the Sheriff's Office.

- (D) It shall also be unlawful to attempt to interfere with the Sheriff's deputies' handling or riding such animals in such a manner as to inhibit, restrict or deprive the Sheriff's deputies of control of the animals.
- (E) Enforcement of this section will be by the Sheriff's Office. (Code 2006; History: H.R. Res. 1995-4, §§ 1-6)

Sec. 5-202. Law Enforcement Dogs.

- (A) It shall be unlawful for any person to willfully and maliciously harass, taunt, torment, tease, or frighten any dog used by the Sheriff's Office in the performance of the functions or duties of such Sheriff's Office, or to interfere with or meddle with any such dog used by the Sheriff's Office or any member thereof in the performance of the functions or duties of said Sheriff's Office or such officer or member.
- (B) It shall be unlawful for any person to willfully and maliciously torture, mutilate, injure, disable, poison, or kill any dog used by the Sheriff's Office in the performance of the functions or duties of such department or any member thereof in the performance of any of the functions or duties of the Sheriff's Office or such officer or member.
- (C) Any person who violates any provision of this article shall be deemed guilty of a Class B misdemeanor crime, and upon conviction or a plea of guilty therefore, may be fined a definite sum of money not exceeding One Thousand Dollars (\$1,000). (Code 2006; History: H.R. Res. 1981-10, §§ 1-2)

Secs. 5-203-5-230. Reserved.

ARTICLE VIII. EUTHANIZATION OR PLACEMENT OF ANIMALS

Sec. 5-231. Euthanization Or Placement Of Animals.

- (A) The following procedures shall apply if someone is charged with a violation of K.S.A. 21-4310 (cruelty to animals) and the animal shelter petitions the Shawnee County District Court to allow placement or euthanization of the animals:
 - (1) The owner or custodian of the animal or animals has been charged with a violation of K.S.A. 21-4310; and
 - (2) The Helping Hands Humane Society has taken or been given custody of the animal or animals who are the subject of such charges; and
 - (3) One of the following conditions exist:
 - (a) Notice has been given or a reasonable attempt has been made to notify the owner or custodian of the animal or animals, said notice or attempt being made at least twenty (20) days prior to the filing of the petition for placement or euthanization, and the owner or custodian is not known or reasonably ascertainable after twenty (20) days after the animal is taken into custody; or
 - (b) The owner or custodian of the animal or animals has not filed a renewable cash or performance bond with the County Clerk in an amount equal to not less than the cost of care and treatment of the animal for thirty (30) days.
- (B) If the conditions of §§ 5-231(1), 5-231(2) and 5-231(3) of this article have been met, the animal shelter may initiate and file a petition with the Shawnee County District Court, wherein the Court is asked to determine whether the animal may be placed for adoption or euthanized.

(Code 2006; History: Res. 2002-210, §§ 1-2)

ARTICLE IX. LEASH LAW

Sec. 5-261. Leash Law.

- (A) It is in the public's health, safety and welfare interests to enact and prescribe regulations for the control of dogs within the following subdivisions:
 - (1) Daisy Brown Martin Subdivision (See H.R. Res. 1992-5);
 - (2) Erickson Lots Subdivision (See H.R. Res. 1994-6);
 - (3) Forest Hills Subdivision (See H.R. Res. 1988-8);
 - (4) Gardner Estates Subdivision (See H.R. Res. 2003-3);
 - (5) Getty Subdivision (See H.R. Res. 2001-11);
 - (6) Graybeal Subdivision (See H.R. Res. 1985-15);
 - (7) Graybeal Subdivision No. 3 (See H.R. Res. 1985-15);
 - (8) Indian Hills Subdivision (See H.R. Res. 2005-10);
 - (9) Indian Hills Subdivision No. 2 (See H.R. Res. 2005-11);
 - (10) Indian Hills Subdivision No. 3 (See H.R. Res. 2005-12);
 - (11) Indian Hills Subdivision No. 5 (See H.R. Res. 2005-13);
 - (12) Indian Valley Estates Subdivision (See H.R. Res. 1988-6);
 - (13) Jackson Heights Subdivision (See H.R. Res. 2010-8);
 - (14) Jackson Heights Subdivision No. 2 (See H.R. Res. 2010-9);
 - (15) Kansas Electric Coop Subdivision (See H.R. Res. 2005-16);
 - (16) Lakewood Estates Subdivision (See H.R. Res. 1984-15);
 - (17) Mission Hills Subdivision (See H.R. Res. 1986-1);
 - (18) Mission Park Subdivision (See H.R. Res. 1992-13);
 - (19) Montara Subdivision (See H.R. Res. 1984-11);
 - (20) Montara North Subdivision (See H.R. Res. 1984-11);
 - (21) North Hills Subdivision No. 3 (See H.R. Res. 2012-1);
 - (22) Patterson Subdivision (See H.R. Res. 1991-5);
 - (23) Pleasant Ridge Subdivision (See H.R. Res. 1992-8);
 - (24) Pleasant Ridge Subdivision No. 2; (See H.R. Res. 1992-9);
 - (25) Pleasant Ridge Subdivision No. 3 (See H.R. Res. 1992-10);
 - (26) Shawnee Acres First Addition (See H.R. Res. 1990-2);
 - (27) Shawnee Meadows Subdivision and partial replat Shawnee Meadows Subdivision (See H.R. Res. 1990-11);
 - (28) Sherwood Estates Subdivision (See H.R. Res. 1990-9);
 - (29) Sherwood Estates Subdivision Nos. 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 17, 24, 27 and 37 (See H.R. Res. 1990-7);

- (30) Sherwood Estates Subdivision Nos. 14, 18, 19, 20, 21, 22, 25, 26, 30, 35 and Sherwood Estates Subdivision Nos. 53 and 55 (formerly Sherwood Estates Subdivision No. 31) (See H.R. Res. 1990-9);
- (31) Shiloh Ridge Estates Subdivision (See H.R. Res. 2011-3);
- (32) Town of Kingston known as Wakarusa (See H.R. Res. 1989-9);
- (33) Urban Hills Subdivision No. 2 (See H.R. Res. 1992-4);
- (34) Urban Hills Subdivision No. 4 (See H.R. Res. 1990-4);
- (35) Urban Hills Subdivision No. 14 (See H.R. Res. 2014-3);
- (36) Urban Hills Subdivision No. 15 (See H.R. Res. 2014-4);
- (37) Urban Hills Subdivision No. 16 (See H.R. Res. 2014-5);
- (38) Urban Hills Subdivision No. 17 (See H.R. Res. 2014-6);
- (39) Walnut View Subdivision No. 1 (See H.R. Res. 1992-2); and
- (40) Woodgate Subdivision (See H.R. Res. 1991-1)
- (B) It shall be unlawful for any dog to be at large within the platted boundaries of the subdivisions as set forth in \S 5-261, as prohibited by the provisions of \S 5-53(A) (H.R. Res. 1984- 7, \S III, \P 1 as amended by H.R. Res. 1987-12). The owner of any dog found to be at large within the platted boundaries of the subdivisions set forth in \S 5-261 will be held strictly liable therefor.
- (C) Any person found to be in violation of § 5-53(A) (H.R. Res. 1984-7, § III, ¶ 1 as amended by H.R. Res. 1987-12), shall be deemed guilty of a Class C misdemeanor and, upon conviction or a plea of guilty therefore, may be fined a definite sum of money not to exceed Two Hundred Fifty Dollars (\$250).

(Code 2006; History: H.R. Res. 1984-11, §§ 1-3; amended by H.R. Res. 1984-15, §§ 1-3; amended by H.R. Res. 1985-16, §§ 1-3; amended by H.R. Res. 1985-16, §§ 1-3; amended by H.R. Res. 1986-1, §§ 1-3; amended by H.R. Res. 1988-6, §§ 1-3; amended by H.R. Res. 1988-8, §§ 1-3; amended by H.R. Res. 1989-9, §§ 1-3; amended by H.R. Res. 1990-2, §§ 1-3; amended by H.R. Res. 1990-7, §§ 1-3; amended by H.R. Res. 1990-9, §§ 1-3; amended by H.R. Res. 1990-11, §§ 1-3; amended by H.R. Res. 1991-1, §§ 1-3; amended by H.R. Res. 1992-4, §§ 1-3; amended by H.R. Res. 1992-5, §§ 1-3; amended by H.R. Res. 1992-8, §§ 1-3; amended by H.R. Res. 1992-13, §§ 1-3; amended by H.R. Res. 1992-10, §§ 1-3; amended by H.R. Res. 1992-13, §§ 1-3; amended by H.R. Res. 1994-6, §§ 1-3; amended by H.R. Res. 1999-2, §§ 1-3; amended by H.R. Res. 2001-11, §§ 1-3; amended by H.R. Res. 2003-3, §§ 1-3)

Secs. 5-262-5-300. Reserved.

CHAPTER 6. BUILDINGS AND CONSTRUCTION

- Art. I. In General, §§ 6-1 6-50
- Art. II. Building Permits, §§ 6-51-6-100
- Art. III. Construction Contractors, §§ 6-101 6-130
- Art. IV. Construction Or Excavation Near Flood Protection Works, §§ 6-131 6-170
- Art. V. Smoke Detectors, §§ 6-171 6-220

ARTICLE I. IN GENERAL

Secs. 6-1-6-50. Reserved.

ARTICLE II. BUILDING PERMITS

Sec. 6-51. Adoption of the Shawnee County Building Permit Procedures

The Board hereby adopts the updated Shawnee County Building Permit Procedures (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street] or the Shawnee County Planning Department [1515 NW Saline Street]).

(Code 2007; History: H.R. 2006-12; amended H.R. Res. 2010-12)

Secs. 6-52-6-100. Reserved.

ARTICLE III. CONSTRUCTION CONTRACTORS

Sec. 6-101. Definition.

Construction includes all types of work done on a particular building or work at the site thereof, including without limitation, altering, remodeling, installation on the site of the work of items fabricated off-site, painting and decorating, the transporting of materials and supplies to or from the building, or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work by persons employed by the contractor or subcontractor.

(Code 2006; History: H.R. Res. 1993-1, § 1)

Sec. 6-102. Per Diem Wage Rate.

(Code 2006; History: H.R. Res. 1993-1, § 2, repealed by H.R. Res. 2013-4)

Secs. 6-103 - 6-130. Reserved.

ARTICLE IV. CONSTRUCTION OR EXCAVATION NEAR FLOOD PROTECTION WORKS

Sec. 6-131. Prohibited Construction Or Excavation; Plan To Be Submitted.

No construction or excavation or other works shall be made or commenced within one thousand (1,000) feet landward or riverward of the center line of any flood protection works, defined as including levees, floodwalls and appurtenances and such further distance as may be determined necessary by the County Engineer under certain circumstances then existing, that may impair or endanger the proposed function of any such flood protection works; provided, that any plan or proposal for such construction or excavation shall be submitted to the County Engineer for examination and determination as to the probability of any impairment or endangerment to such flood protection works by the proposed construction or excavation.

(Code 2006; History: H.R. Res. 1978-13, § 1)

Sec. 6-132. Permit.

If the County Engineer shall determine, upon good authority, that the proposed construction or excavation referred to in § 6-131 shall be detrimental or will impair or endanger the function of any flood protection works, permission for such construction or excavation shall be denied. However, where flood protection works by such proposed construction or excavation may occur, a permit for such construction or excavation shall be issued by the County Engineer after the applicant has fulfilled the prerequisite requirements of all the applicable rules, resolutions of Shawnee County, and statutes of the State of Kansas. Once a permit has been issued, all such construction or excavation is to proceed under the supervision of the County Engineer.

(Code 2006; History: H.R. Res. 1978-13, § 2)

Sec. 6-133. Conditional Permit.

The County Engineer may issue, within sound discretion and upon good authority, a restricted or conditional permit for such proposed construction or excavation. (Code 2006; History: H.R. Res. 1978-13, § 3)

Sec. 6-134. Compliance Prerequisite To Building Permit.

The County Engineer and the Zoning Administrator may withhold the issuance of a building permit until compliance is achieved with this article.

(Code 2006; History: H.R. Res. 1978-13, § 4)

Sec. 6-135. Appeal To Board.

Any person, firm or corporation feeling aggrieved by the determination of the County Engineer under the conditions and terms of this article may appeal in writing to the Board within ten (10) days of such determination by the County Engineer. The Board, after a public hearing, shall have authority to affirm, reverse or modify the determination.

(Code 2006; History: H.R. Res. 1978-13, § 5)

Sec. 6-136. Penalty.

Any person, firm or corporation found guilty of a violation of this article shall be fined a sum of not less than Five Hundred Dollars (\$500) nor more than One Thousand Dollars (\$1,000) and in addition thereto, shall restore to original condition any area involved in the violation.

(Code 2006; History: H.R. Res. 1978-13, § 6)

Secs. 6-137 - 6-170. Reserved.

ARTICLE V. SMOKE DETECTORS

Sec. 6-171. Definition.

Smoke detector means a device which detects visible or invisible particles of combustion. All residential occupancies, new and existing, shall have a U.L. approved smoke detectors. (Code 2006; History: H.R. Res. 1994-3, § 1.0)

Sec. 6-172. Smoke Detectors; New Dwellings/Additions; Detector Locations.

(A) All smoke detectors installed in new dwellings or additions to existing dwellings shall be U.L. approved one hundred ten (110) volt smoke detectors with a battery back-up installed in accordance with the approved manufacturer's instructions.

- (B) When alterations, repairs or additions requiring a permit occur, or when one (1) or more sleeping rooms are added or created in existing dwellings, the new construction portion of the dwelling shall be provided with one hundred ten (110) volt smoke detectors in accordance with § 6-173, and the remainder of the existing dwelling shall be provided with battery powered smoke detectors in accordance with § 6-174.
- (C) Smoke detectors shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each separate sleeping area. Where bedrooms are on an upper level, the detector shall be placed directly above the stairway. In dwellings with split levels, a detector need only be installed on the upper level, except when there is a door between levels a detector is required to be installed on each level. Dwellings having a stairway which opens from the basement shall have a detector installed in the basement. The smoke detector shall be installed at the top of the stairway on the ceiling which opens from the basement. Such detector shall be connected to a sounding device or other detector to provide an alarm which will be audible in all sleeping areas.
 - (D) At least one (1) smoke detector shall be installed on each level of a dwelling.
- (E) When activated, required detectors shall provide an alarm which shall be clearly audible in all sleeping areas over background noise levels with all intervening doors closed.
- (F) A smoke detector mounted on a wall shall not be mounted more than twelve (12) inches below the ceiling or closer than four (4) inches to the ceiling. A smoke detector mounted on the ceiling shall not be closer than four (4) inches from the wall.
- (G) Smoke detectors located in rooms with ceiling slopes greater than one (1) foot rise per eight (8) feet horizontally shall be located at the high side of the room.
- (H) Smoke detectors installed at the head of the stairway shall be so located as to assure that smoke rising in the stairwell cannot be prevented from reaching the detector by an intervening door or obstruction.

(Code 2006; History: H.R. Res. 1994-3, § 2.0)

Sec. 6-173. Power Supply For Smoke Detectors In New Construction.

- (A) Smoke detectors shall receive their primary power source from the building wiring when such wiring is served from a commercial source.
- (B) Wiring shall be permanent and without a disconnecting switch other than those required for over-current protection.
- (C) All smoke detectors within individual dwelling units shall be interconnected, so when one (1) detector is activated, all detectors within that unit will sound an alarm. (Code 2006; History: H.R. Res. 1994-3, § 3.0)

Sec. 6-174. Power Supply For Smoke Detectors In Existing Dwellings.

- (A) Existing dwellings may use battery powered smoke detectors, as long as the detectors conform to location requirements provided in § 6-172.
- (B) Any smoke detector found to be defective or inoperable shall be replaced with a fully operational smoke detector.

(Code 2006; History: H.R. Res. 1994-3, § 4.0)

Sec. 6-175. Smoke Detector Requirements For The Deaf Or Hearing Impaired.

(A) Where a dwelling is occupied by a person who is deaf or hearing impaired, a U.L. approved smoke detector for the hearing impaired shall be provided.

- (B) When activated, the smoke detector shall provide a light signal sufficient to warn the deaf or hearing impaired individual(s).
- (C) The owner must provide U.L. approved smoke detection for the deaf or hearing impaired upon written request from the occupant.
- (D) The owner or authorized agent, may require a refundable deposit for smoke detection for the deaf or hearing impaired, not to exceed the value of the smoke detector. (Code 2006; History: H.R. Res. 1994-3, § 5.0)

Sec. 6-176. Landlord Responsibility.

- (A) It shall be the responsibility of the landlord or his/her authorized agent to provide and install U.L. approved smoke detectors in full operating condition, in every new and existing residential occupancy.
- (B) The landlord or authorized agent shall be responsible for repair or replacement of smoke detectors in seven (7) days upon written notification from the tenant, of detector malfunction or defective operation.
- (C) Upon tenant's possession of a dwelling, the landlord or authorized agent shall test the smoke detector to verify that it is in good working order.
- (D) If battery powered smoke detectors are in use, the battery must be of full charge and smoke detector fully operable.
- (E) The landlord or authorized agent shall provide to the tenant written instructions on proper use, maintenance, and testing of smoke detector(s) installed in the occupancy, in accordance with approved manufacturer's instructions. (Code 2006; History: H.R Res. 1994-3, § 6.0)

Sec. 6-177. Tenant Responsibility.

- (A) Tenants of residential occupancies shall be responsible for regular maintenance and testing of smoke detectors, following the written instructions provided by the landlord.
- (B) If battery powered smoke detectors are in use, maintenance shall include replacement of batteries.
- (C) In the event a tenant finds a smoke detector to be malfunctioning or inoperable, he/she shall notify in writing the landlord or authorized agent of such malfunction or non-operation.
- (D) Neither tenant nor landlord shall remove or render a required smoke detector inoperable.
- (E) A tenant shall make entry to the residence available to the landlord or authorized agent upon notification for repair or replacement of smoke detectors. (Code 2006; History: H.R. Res. 1994-3, § 7.0)

Sec. 6-178. Violations.

- (A) Any person, firm, partnership, corporation or association failing to install or maintain in operating condition, as required by this article, a required smoke detector, shall be in violation of this article. Anyone violating this article shall be issued a violation warning and allowed thirty (30) days to comply.
- (B) Failure to install or maintain smoke detectors in operating condition shall result in the structure or noncomplying portion of the structure being deemed uninhabitable.

(C) Tampering with, removing, destroying, disconnecting, or removing the batteries from any required smoke detector, except in the course of inspection, maintenance, or replacement of the detector, shall be in violation of this article and punishable by the penalties provided herein.

(Code 2006; History: H.R. Res. 1994-3, § 8.0)

Sec. 6-179. Enforcement.

The enforcement of this article shall be carried out by the County Zoning Administrator and/or local fire protection officials.

(Code 2006; History: H.R. Res. 1994-3, § 9.0)

Sec. 6-180. Penalty.

Pursuant to K.S.A. 19-101d, and amendments thereto, any person, individual, partnership, corporation or association who violates any of the provision of this article may be charged with a Class C misdemeanor, and upon conviction, shall be punished by a fine not to exceed Five Hundred Dollars (\$500). Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder.

(Code 2006; History: H.R. Res. 1994-3, § 10.0)

Secs. 6-181-6-220. Reserved.

CHAPTER 7. BUSINESS REGULATIONS

- Art. I. In General, §§ 7-1 7-50
- Art. II. Solicitors, Canvassers, Peddlers, §§ 7-51 7-80
- Art. III. Tobacco And Novelty Paraphernalia Retail License Act, §§ 7-81 7-130
- Art. IV. Bath And Massage Businesses, §§ 7-131 7-180
- Art. V. Astrology, Clairvoyance, Fortunetelling, §§ 7-181 7-220
- Art. VI. Commercial Entertainment Events, §§ 7-221 7-260
- Art. VII. Temporary Sales Of Fireworks, §§ 7-261 7-300
- Art. VIII. Temporary Haunted House Businesses, §§ 7-301 7-350
- Art. IX. Shawnee County Child Care Licensing Regulations, §§ 7-351 7-400
- Art. X. Pawnbrokers And Precious Metal Dealers, §§ 7-401 7-450
- Art. XI. 911 Tax, $\S\S7-451 7-480$
- Art. XII. Home Use Occupation Permits, §§ 7-481 7-530
- Art. XIII. Scrap Metal Dealers, §§ 7-531 7-550
- Art. XIV. Towing, §§ 7-551 7-580

ARTICLE I. IN GENERAL

Secs. 7-1-7-50. Reserved.

ARTICLE II. SOLICITORS, CANVASSERS, PEDDLERS

Secs. 7-51-7-80. Reserved.

State law reference: K.S.A. 19-2205 *et seq.*, Peddlers outside cities; annual taxes; exemptions; K.S.A. 19-2231 *et seq.*, Transient Merchant Licensing Act; K.S.A. 79-1434 *et seq.*, Transient Merchants Tax Act.

ARTICLE III. TOBACCO AND NOVELTY PARAPHERNALIA RETAIL LICENSE ACT

Sec. 7-81. Definitions.

- (A) Tobacco Paraphernalia and/or Novelty Items means any item(s) used, designed, marketed, or intended for use of tobacco. These items are objects used, intended for use, or designed for introducing tobacco into the human body, such as:
 - (1) Tobacco smoking pipes consisting of metal, wood, acrylic, glass, stone, plastic or ceramic with or without screens;
 - (2) Tobacco rolling papers;
 - (3) Tobacco/cigarette rollers; and
 - (4) Tobacco wraps/blunt wraps (flavored or unflavored).

- (B) *Person* means an individual, firm, partnership, corporation, joint venture, or other association of persons.
- (C) County means The Board of County Commissioners. (Code 2006; History: H.R. Res. 2006-6, § 1)

Sec. 7-82. Regulation.

- (A) *License Required*. From and after the effective date of this resolution, no person shall sell or otherwise dispense tobacco paraphernalia and/or novelty items via retail without first applying for and securing a license for each premises such person desires to operate within the unincorporated area of the County.
- (B) *Initial Application for License*. Any person desiring to license a premises for the sale of tobacco paraphernalia and/or novelty items shall first make application at the Office of the County Clerk and submit an application fee of Five Hundred and No/100 Dollars (\$500). Each such license shall be effective for one (1) calendar year from the date of issuance. The application shall be completed by submitting the following information:
 - (1) The name, address, and telephone number of the applicant and length of time the applicant has resided in the County;
 - (2) The name and address of the owner of the property upon which the premises is located (if different from the applicant);
 - (3) The name, address, and telephone number of the location of the premises desired to be licensed; and
 - (4) A sworn statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age, and that he or she has not within the last five (5) years immediately preceding the date of application been convicted of a felony or any crime involving moral turpitude, alcoholic beverages, or any controlled substance including laws pertaining to the operation or attempted operation of a motor vehicle while under the influence of intoxicating liquor or drugs.
- (C) Issuance of License. Within thirty (30) days of receiving the application, the County Clerk shall notify the applicant as to whether the license has been granted or rejected. In the event a license is rejected, the County Clerk shall refund any license fee paid and advise the applicant in writing of the reasons for such action within fifteen (15) days of said denial.
- (D) Annual Reapplication. Any person desiring to renew a license issued pursuant to this section shall make reapplication at the Office of the County Clerk not more than thirty (30) days prior to the expiration of an existing license. Each such reapplication shall be accompanied by a Five Hundred and No/100 Dollars (\$500) license fee. The reapplication shall be verified and made upon the same form as an application.
- (E) *Transfer of License*. A license issued pursuant to this section shall not be transferable to any other person.
- (F) Receipt, Issuance, and Display of License. The County Clerk shall issue to the license holder a receipt showing that the license application fees have been paid and that such payment shall be the payment in full for the term of the license as shown by the certified copy of the license as authorized by the County Clerk. The receipt shall show the expiration date of the license. The license shall be prominently displayed at the licensee's premises.
- (G) Revocation of License. The County may revoke a license for any of the following reasons:

- (1) False or misleading information or data was given on any application or material facts were omitted from any application;
- (2) The fee required to be paid by this section is not paid in full; and/or
- (3) Any person is convicted of any crime involving the sale or distribution of illegal drugs on the licensed premises.

No license may be revoked unless the County has notified the license holder in writing of their right to request a hearing in front of the Board of County Commissioners.

(H) *Sale to Minors Prohibited*. No person shall sell tobacco paraphernalia and/or novelty items to a minor who is not accompanied by a parent or legal guardian. (Code 2006; History: H.R. Res. 2006-6, § 2)

Sec. 7-83. Enforcement.

- (A) *Penalty for Violation*. Violation of any provision of this Article shall be enforced by the appropriate Law Enforcement Agency in a manner consistent with that Law Enforcement Agency's policy for misdemeanor offenses. If any person is convicted of any violation of this Article, the following fines and penalties shall be imposed:
 - (1) For the first violation, a fine in the amount of Five Hundred and No/100 Dollars (\$500);
 - (2) For the second violation, a fine in the amount of Seven Hundred Fifty and No/100 Dollars (\$750); and
 - (3) For the third or any subsequent violation, a fine in the amount of One Thousand and No/100 Dollars (\$1,000).
- (B) In addition to fines as set forth above, the County may seek, in a civil action, a declaratory judgment and/or an injunction, or other appropriate relief against another person for committing any act or practice that violates this Article. (Code 2006; History: H.R. Res. 2006-6, § 3)

Sec. 7-84. Other Provisions.

- (A) Distribution of Fees/Fines Collected. All license fees collected pursuant to this Article shall be transferred annually by the County to the Third Judicial District for drug treatment and operational costs of the drug court program. Any fines collected for violations of this resolution shall be retained by the County to defray the costs of enforcement and administration of the licensing process.
- (B) *Invalidity of Part*. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Article or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof.

(Code 2006; History: H.R. Res. 2006-6, § 4)

Secs. 7-85-7-130. Reserved.

ARTICLE IV. BATH AND MASSAGE BUSINESSES

Sec. 7-131. Findings And Purpose.

(A) The Board finds:

- (1) That heterogeneous masturbatory and oral sex services are being provided for a consideration by massage businesses in Shawnee County;
- (2) That offering and providing such services creates conditions that generate prostitution and other crimes;
- (3) That employees of massage parlors have been convicted of prostitution occurring in adult massage parlors and other places in Shawnee County;
- (4) That the nature of a bath business is such that it is subject to the same abuses as a massage business; and
- (5) That the continued unregulated operation of bath businesses and massage businesses would be detrimental to the general welfare, health, and safety of the citizens of Shawnee County.
- (B) It is the purpose of this article to promote and secure the general welfare, health, and safety of the citizens of Shawnee County.

(Code 2006; History: H.R. Res. 1978-10, § 1)

Sec. 7-132. Definitions.

Unless otherwise clearly indicated by the context, as used in this article:

- (1) *Attendant* means any person who administers any service of a bath business or massage business;
- (2) *Bath business* means the business of offering or providing for a consideration any service of baths of any kind, including all forms and methods of hydrotherapy;
- (3) Bathhouse means a fixed and certain place where a bath business is operated;
- (4) Board means the Shawnee County Board of Commissioners;
- (5) Customer means any person who receives any service of a bath business or massage business;
- (6) *Employees* means any person employed in any capacity by the operator of a bath business or massage business;
- (7) Health Agency means the Shawnee County Health Agency.
- (8) *License* means the license issued by the Board of County Commissioners to operate a bath business or massage business;
- (9) Massage business means the business of offering or providing for consideration any service of massage or body manipulation, including (1) exercise, (2) heat or light treatments, (3) all forms and methods of physiotherapy, and (4) manual or other forms of contact massage or manipulation of any part of the human body;
- (10) Massage parlor means a fixed and certain place where a massage business is operated;
- (11) Offering and offer includes any form of communication by any medium;
- (12) Operator means the person to whom a license is issued;
- (13) *Permit* means the permit issued by the Board of County Commissioners to an attendant; and
- (14) *Person* means any individual, corporation, partnership, association, firm, joint venture, company or other organization of any kind.

(Code 2006; History: H.R. Res. 1978-10, § 2)

Sec. 7-133. Bath/Massage Business License.

- (A) No person shall operate a bath business or massage business without a valid license issued by the Board.
- (B) A license may be issued only for one (1) bathhouse or massage parlor located at a fixed and certain place. Any person who desires to operate more than one (1) bathhouse or massage parlor must have a license for each bathhouse or massage parlor.
- (C) All services of a bath business or massage business must be rendered in a bathhouse or massage parlor.
- (D) No license or interest in a license may be transferred to any person. (Code 2006; History: H.R. Res. 1978-10, § 3)

Sec. 7-134. Bath/Massage Business License Application.

- (A) Any person desiring to secure a license shall make application to the Board. The application shall be filed in quadruplicate with and dated by the County Clerk. A copy of the application shall be distributed promptly by the County Clerk to the Sheriff's Office, to the Health Agency, and to the applicant.
- (B) The application for a license shall be upon a form prepared by the Health Agency. It shall contain such information and data, given under oath or affirmation, as may be required by the Board or Health Agency, including the following:
 - (1) If the applicant is an individual:
 - (a) The applicant's name, address, age, date of birth, marital status, sex, and present and previous occupations for the past five (5) years;
 - (b) The address of the bathhouse or massage parlor to be operated by the applicant;
 - (c) The name of the owner of the premises and the names of all persons having a legal or equitable interest in the premises upon which the bathhouse or massage parlor is to be located;
 - (d) The length of time the applicant has been a resident of Shawnee County immediately preceding the date of the application; and
 - (e) A statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age and that he/she has not been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application.
 - (2) If the applicant is a corporation:
 - (a) The name of the corporation and the date and state of incorporation;
 - (b) The name and address of the registered agent;
 - (c) The name, address, age and date of birth of each officer and director of the corporation;
 - (d) The name, address, age and date of birth of each stockholder who owns or controls in any manner or to any degree five percent (5%) or more of the common stock of the corporation;
 - (e) The name, address, age and date of birth of any person having any financial interest in the corporation;

- (f) The address of the bathhouse or massage parlor to be operated by the applicant;
- (g) The name of the owner of the premises and all persons having a legal or equitable interest in the premises upon which the bathhouse or massage parlor is to be located;
- (h) The length of time any of the officers or directors have been a resident of Shawnee County immediately preceding the date of the application; and
- (i) A statement that the officers and directors are citizens of the United States and not less than twenty-one (21) years of age and that none of them or any stockholder required to be named under § 7-134(B)(2)(d) have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
 - (a) The name, address, age, and date of birth of every person having a financial interest, direct or indirect, in the partnership, venture, or other type of organization and a statement describing the nature of that financial interest;
 - (b) The address of the bathhouse or massage parlor to be operated by the applicant;
 - (c) The name of the owner of the premises and all persons having a legal or equitable interest in the premises upon which the bathhouse or massage parlor is to be located;
 - (d) The length of time any person having a substantial financial interest in the partnership, venture, or other type of organization has been a resident of Shawnee County immediately preceding the date of the application; and
 - (e) A statement that all persons having a financial interest in the partnership, venture, or other type of organization are citizens of the United States and not less than twenty-one (21) years of age and that no such person has been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application.

(Code 2006; History: H.R. Res. 1978-10, § 4)

Sec. 7-135. Bath/Massage Business License Standards.

- (A) To receive a license to operate a bath business or massage business, an applicant must meet the following standards:
 - (1) If the applicant is an individual:
 - (a) The applicant must be a citizen of the United States and at least twenty-one (21) years of age;
 - (b) The applicant must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application;
 - (c) The applicant must have been a resident of Shawnee County continuously for thirty (30) days immediately preceding the date of the application; and
 - (d) The applicant must be a person of good moral character.

- (2) If the applicant is a corporation:
 - (a) All officers and directors of the corporation must be citizens of the United States, at least twenty-one (21) years of age, and persons of good moral character;
 - (b) All officers, directors and stockholders required to be named under § 7-134(B)(2)(d) must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application; and
 - (c) At least one (1) officer or director must have been a resident of Shawnee County continuously for thirty (30) days immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture or any other type of organization where two (2) or more persons have a financial interest:
 - (a) All persons having a financial interest in the partnership venture, or other type of organization must be citizens of the United States, at least twenty-one (21) years of age, and persons of good moral character;
 - (b) All persons having a financial interest in the partnership, venture, or other type of organization must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application; and
 - (c) At least one (1) person having a substantial financial interest in the partnership, venture or other type of organization must have been a resident of Shawnee County continuously for thirty (30) days immediately preceding the date of the application.
- (B) No license shall be issued unless the Sheriff's Office has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the County Clerk not later than ten (10) days after the date of the application. The County Clerk shall maintain the report of the Sheriff's Office as a confidential record and not disclose it to any person except the members of the Board, the applicant, and such other persons as the Board may designate.

(Code 2006; History: H.R. Res. 1978-10, § 5)

Sec. 7-136. Attendant Permit.

No person shall be an attendant without a valid permit issued by the Board. (Code 2006; History: H.R. Res. 1978-10, § 6)

Sec. 7-137. Attendant Permit Application.

- (A) Any person desiring to secure a permit shall make application to the Board. The application shall be filed in quadruplicate with and dated by the County Clerk. A copy of the application shall be distributed promptly by the County Clerk to the Sheriff's Office, to the Health Agency and to the applicant.
- (B) The application for permit shall be upon a form prepared by the Health Agency. It shall contain such information and data, given under oath or affirmation, as may be required by the Board or the Health Agency, including the following:
 - (1) The applicant's name, address, age, date of birth, marital status, sex, and present and previous occupations for the past five (5) years;

- (2) The length of time the applicant has been a resident of Shawnee County immediately preceding the date of the application;
- (3) A statement that the applicant is a lawful resident of the United States and not less than eighteen (18) years of age and that the applicant has not been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years preceding the date of the application;
- (4) A complete statement of the applicant's educational history, including all schools attended, dates of graduation, and degrees if any; and
- (5) Any education, training and experience the applicant may have had qualifying him/her to administer to services of a bath business or massage business.

(Code 2006; History: H.R. Res. 1978-10, § 7)

Sec. 7-138. Attendant Permit Standards.

- (A) To receive a permit as an attendant, an applicant must meet the following standards:
 - (1) The applicant must be at least eighteen (18) years of age and a lawful resident of the United States;
 - (2) The applicant must have been a resident of Shawnee County continuously for at least thirty (30) days immediately preceding the date of the application;
 - (3) The applicant must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five (5) years immediately preceding the date of the application;
 - (4) The applicant must be a person of good moral character;
 - (5) The applicant must possess a proficiency certificate issued by the Health Agency. This certificate shall be issued if either:
 - (a) The applicant has completed satisfactorily not less than one hundred fifty (150) hours of training approved by the Health Agency in all relevant areas of knowledge and practice, including:
 - (i) Human anatomy;
 - (ii) Physiology;
 - (iii) Massage and manipulation and the dangers of these techniques in relation to benign and malignant tumors, ingestion of drugs and reactions, arthritis and related diseases, internal and external injuries, and other injury and disease states;
 - (iv) The application of oils, powders, anesthesia, and mechanical equipment in relation to differences in skin conditions, allergies, individual reactions and the inherent dangers in using the aforementioned and their derivatives; or
 - (b) The applicant has demonstrated satisfactorily to the Health Agency his/her proficiency in all relevant areas of knowledge and practice, including those delineated in § 7-138(A)(5)(a);
 - (6) The applicant must obtain a health certificate issued by a licensed medical doctor certifying that the applicant is free of communicable diseases and infections and is in suitable health to perform such an occupation and must furnish it to the Health Agency within five (5) days after the date of the application for permit; and

- (7) The applicant must submit to such physical examinations and laboratory tests by licensed medical doctors and recognized laboratories as the Health Agency deems necessary. The cost of such examinations and tests shall be paid by the applicant and the results of such examinations and tests shall be filed with the Health Agency.
- (B) No permit shall be issued until the Sheriff's Office has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the County Clerk not later than ten (10) days after the date of the application. The County Clerk shall maintain the report of the Sheriff's Office as a confidential record and shall not disclose it to any person except members of the Board, the Health Agency, the applicant, and such other persons as the Board may designate.
- (C) No permit shall be issued until the Health Agency has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the County Clerk not later than ten (10) days after the date of the application. The County Clerk shall maintain the report of the Health Agency as a confidential record and shall not disclose it to any person except members of the Board, the Sheriff's Office, the applicant, and any such other persons as the Board may designate. (Code 2006; History: H.R. Res. 1978-10, § 8)

Sec. 7-139. Fees.

- (A) A license fee of Five Hundred Dollars (\$500) shall be submitted with the application for a license. If the application is denied, one half (1/2) of the fee shall be returned.
- (B) A permit fee of One Hundred Dollars (\$100) shall be submitted with the application for a permit. If the application is denied, one half (1/2) of the fee shall be returned. (Code 2006; History: H.R. Res. 1978-10, § 9)

Sec. 7-140. Display Of License Or Permit.

- (A) The license shall be displayed in a conspicuous public place in the bathhouse or massage parlor.
- (B) The permit shall be displayed by an attendant upon request of a customer, any authorized employee of the Health Agency, the Sheriff or any Deputy Sheriff, or any other person designated by the Board.

(Code 2006; History: H.R. Res. 1978-10, § 10)

Sec. 7-141. Renewal Of License Or Permit.

- (A) All licenses expire on December 31 of the year of issuance and must be renewed before operation is allowed in the following calendar year. Any operator desiring to renew a license shall make application to the Board. The application for renewal must be filed not later than thirty (30) days before the license expires. The application for renewal shall be filed in quadruplicate with and dated by the County Clerk. A copy of the application for renewal shall be distributed promptly by the County Clerk to the Sheriff's Office, to the Health Agency, and to the operator. The application for renewal shall be upon a form prepared by the Health Agency and shall contain such information and data, given under oath or affirmation, as may be required by the Board or the Health Agency.
- (B) A license renewal fee of Five Hundred Dollars (\$500) shall be submitted with the application for renewal. If the application is denied, one half (1/2) of the fee shall be returned.
- (C) If the Sheriff's Office or the Health Agency is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the County Clerk not later than ten (10) days after the date of the application for renewal. If any report is filed

by the Sheriff's Office or the Health Agency, the County Clerk shall maintain that report as a confidential record and shall not disclose it to any person except a member of the Board, the operator, and such other persons as the Board may designate.

- (D) All permits expire on December 31 of the year of issuance and must be renewed before administration is allowed in the following calendar year. Any attendant desiring to renew a permit shall make application to the Board. The application for renewal must be filed no later than thirty (30) days before the permit expires. The application for renewal shall be filed in quadruplicate with and dated by the County Clerk. A copy of the application for renewal shall be distributed promptly by the County Clerk to the Sheriff's Office, to the Health Agency, and to the attendant. The application for renewal shall be upon a form prepared by the Health Agency and shall contain such information and data, given under oath or affirmation, as may be required by the Board or the Health Agency.
- (E) A permit renewal fee of Fifty Dollars (\$50) shall be submitted with the application for renewal. If the application is denied, one half (1/2) of the fee shall be returned.
- (F) If the Sheriff's Office or the Health Agency is aware of any information bearing on the attendant's qualifications, that information shall be filed in writing with the County Clerk not later than ten (10) days after the date of the application for renewal. If any report is filed by the Sheriff's Office or the Health Agency, the County Clerk shall maintain that report as a confidential record and shall not disclose it to any person except a member of the Board, the attendant, and such other persons as the Board may designate. (Code 2006; History: H.R. Res. 1978-10, § 11)

Sec. 7-142. Revocation Of License Or Permit.

- (A) The Board shall revoke a license or permit for any of the following reasons:
 - (1) False information or data was given on any application or material facts were omitted from any application;
 - (2) The operator or attendant or any employee of the operator violates any provision of this article or any rule or regulation made by the Board or by the Health Agency;
 - (3) The operator or attendant becomes ineligible to obtain a license or permit;
 - (4) Any cost of fee required to be paid by this article is not paid;
 - (5) An operator employs as an attendant any person who does not have a permit;
 - (6) An attendant refuses or neglects to submit to physical examination or laboratory test within five (5) days after being requested to do so in writing by the Health Agency; or
 - (7) Any intoxicating liquor or cereal malt beverage is served or consumed in the premises of the bathhouse or massage parlor.
- (B) Before a license or permit may be revoked for any reason listed in § 7-142(A), the operator or attendant is entitled to a hearing before the Board on five (5) days written notice.
- (C) The transfer of a license or any interest in a license shall automatically and immediately revoke the license. The transfer of any interest in a non-individual operator shall automatically and immediately revoke the license held by the operator.
- (D) The transfer of a license or any interest in a license or the transfer of any interest in a non-individual operator shall be reported in writing by the operator to the Chairman of the Board within twenty-four (24) hours after such transfer.

(E) Any operator or attendant whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of the revocation. No location or premises for which a license has been issued shall be used as a bathhouse or massage parlor for two (2) years from the date of revocation of the license.

(Code 2006; History: H.R. Res. 1978-10, § 12)

Sec. 7-143. Sanitary Requirements.

All bathhouses and massage parlors must comply strictly with the following sanitary requirements:

- (1) All surfaces of floors, walls, ceilings, and equipment must be easily cleaned;
- (2) All tables, lounges, and chairs used in the treatment of customers must be covered with a fresh, sanitary, disposable liner or cover or with a cloth sheet or cover which has not been previously used for a different customer since laundering;
- (3) Towels, robes, bandages, pads, or other articles which come into contact with any part of the customer's body must be laundered or cleaned and sterilized after each use and before being again used by a different customer;
- (4) All articles designated in § 7-143(3) must be stored prior to use in a sanitary, dust-proof bin, basket or receptacle;
- (5) Lavatory and toilet facilities must be provided. Where customers of both sexes are accommodated, separate toilet facilities and rooms shall be provided. Adequate and convenient hand washing facilities, including hot and cold running water, soap and towels shall be provided in the working area; and
- (6) Attendants must be free at all times from communicable diseases and infections. Attendants shall submit to physical examinations and laboratory tests as may be required from time to time by the Health Agency. The cost of such examinations and tests shall be paid by the attendant and the results of such examinations and tests shall be filed with the Health Agency.

(Code 2006; History: H.R. Res. 1978-10, § 13)

Sec. 7-144. Hours Of Operation.

No bathhouse or massage parlor shall be open earlier than 8:00 o'clock A.M. or later than 11:00 o'clock P.M. All bathhouses and massage parlors shall be open to inspections at all times by the Health Agency, the Sheriff's Office, and such other persons as the Board may designate.

(Code 2006; History: H.R. Res. 1978-10, § 14)

Sec. 7-145. Responsibilities Of Operator.

- (A) The operator shall maintain a register of all employees, showing the name, address, age, birth date, sex, and duties of each employee and such other information as may be required by the Board or the Health Agency.
- (B) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator, if such act or omission occurs either with the authorization, knowledge or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if he/she committed the act or caused the omission.

(C) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for the purposes of determining whether the operator's license shall be revoked or renewed. (Code 2006; History: H.R. Res. 1978-10, § 15)

Sec. 7-146. Prohibitions And Unlawful Sexual Acts.

- (A) No operator, attendant or employee shall permit to be performed, offer to perform, or perform oral or anal copulation with a customer or manual or other contact stimulation of the genitalia of a customer.
- (B) No operator, attendant or employee shall permit to be performed, offer to perform, or perform on a customer any service of a bath business or massage business with the intent to arouse or gratify the sexual desires of the operator, attendant, employee or customer. (Code 2006; History: H.R. Res. 1978-10, § 16)

Sec. 7-147. Penalties And Prosecutions.

- (A) Any person who violates §§ 7-133(A), 7-136, 7-142(D), or 7-146 shall be fined a definite sum not exceeding One Thousand Dollars (\$1,000).
- (B) All prosecutions for violation of §§ 7-133, 7-136, 7-144, 7-145, or 7-146 shall be in the name of the Board.

(Code 2006; History: H.R. Res. 1978-10, § 17; H.R. Res. 1979-7)

Sec. 7-148. Exemptions.

- (A) The following persons are exempted from the provisions of this article:
 - (1) Persons licensed under the laws of the State of Kansas to practice any of the healing arts as defined by K.S.A. 65-2802, as amended, podiatry as defined by K.S.A. 65-2001, as amended, or physical therapy as defined by K.S.A. 65-2901, as amended, while engaged in their licensed practice, and all persons working under the supervision and control of such licensed persons while engaged in their practice;
 - (2) Persons employed by a licensed *medical care facility* as defined by K.S.A. 65-425, as amended, while engaged in their usual duties for the facility;
 - (3) Persons employed by a licensed *adult care home* as defined by K.S.A.39-923, as amended, while engaged in their usual duties for the home;
 - (4) A person licensed under the laws of the State of Kansas as a professional nurse or practical nurse while engaged in the practice of nursing as defined by K.S.A. 65-1113, as amended;
 - (5) A person certified under the laws of the State of Kansas as a barber while engaged in *barbering* as defined by K.S.A. 65-1809, as amended;
 - (6) A person certified under the laws of the State of Kansas as a *cosmetologist* or *apprentice* while engaged in the practice of cosmetology as defined by K.S.A. 65-1902; as amended;
 - (7) Employees of schools supported primarily by taxation, of schools exempt from payment of property taxes, of certified *proprietary schools* as defined by K.S.A 72-4919(a), as amended, and of private colleges and universities described by K.S.A. 72-4920(f), as amended, while engaged in their usual duties for the school;

- (8) Bona fide charitable organizations exempt from income tax under 26 U.S.C. § 501(c)(3), as amended; and
- (9) A person who is a card carrying member in good standing with the American Massage and Therapy Association while engaged in the practice of massage therapy as recognized by that association.
- (B) No provision of this article shall be construed to impair, impede or interfere with the powers and jurisdiction of the Kansas State Department of Health and Environment or the Kansas State Board of Healing Arts.

(Code 2006; History: H.R. Res. 1978-10, § 18; amended by H.R. Res. 1982-7, § 1)

Secs. 7-149 - 7-180. Reserved.

ARTICLE V. ASTROLOGY, CLAIRVOYANCE, FORTUNETELLING

Sec. 7-181. Prohibited.

It shall be unlawful for any person to practice astrology, palmistry, clairvoyance, fortunetelling, mind reading and phrenology or to profess the ability or to advertise the ability or to hold themselves out to do the same within the limits of Shawnee County, Kansas; except in any theatrical performance when said astrologist, palmist, clairvoyant, fortuneteller, mind reader or phrenologist is used for entertainment purposes only, and the regular admission is charged therefore.

(Code 2006; History: H.R. Res. 1978-6)

Secs. 7-182 - 7-220. Reserved.

ARTICLE VI. COMMERCIAL ENTERTAINMENT EVENTS

Sec. 7-221. Prohibited.

No person, organization, corporation or other entity shall conduct, operate, manage, or participate in the administration or management of a commercial entertainment event. (Code 2006; History: H.R. Res. 1994-9, § 1)

Sec. 7-222. Defined.

Commercial entertainment event is defined as a special event or activity, for which there is a charge or donation requested for admission, which consists of public display or presentation of musical entertainment as its primary purpose, upon private property and which takes place within or outside of any structure.

(Code 2006; History: H.R. Res. 1994-9, § 2)

Sec. 7-223. No Conflict.

Nothing in this article shall be construed to conflict with any other zoning regulation currently in effect.

(Code 2006; History: H.R. Res. 1994-9, § 3)

ARTICLE VII. TEMPORARY SALES OF FIREWORKS

Sec. 7-261. General Standards Regulating The Temporary Sales Of Fireworks.

Except within the corporate limits of any city located in Shawnee County, the Board may authorize and permit the temporary sales of fireworks in Shawnee County, Kansas, without regard to the Land Use Regulations and District in which it is located. Approval of temporary sales locations and operations shall be determined on the basis of compliance with the following safety standards:

- (1) The sales of fireworks, including the dates such sales are allowed, shall be from June 27th to July 5th, in accordance with the Kansas Fireworks Regulations as administered by the State Fire Marshall, State of Kansas, and other applicable laws of the State of Kansas, including the Kansas Retailers' Sales Tax Act.
- (2) The location and entrance of the temporary stand, tent, or its operation shall not create any hazard relating to the movement or circulation of traffic or pedestrians. In no instance shall said temporary stand, tent, or its operation, excluding any public parking area, be located less than fifty (50) feet from the edge of right of way of any public road or street.
- (3) The location of the temporary stand, tent, or its operation shall be at least fifty (50) feet from any dwelling or other structure on-site, including any other fireworks stands, and at least ten (10) feet from any adjoining property line. No temporary sales of fireworks shall be allowed within an existing permanent structure already occupied by another use.
- (4) Off street parking shall be provided at a ratio of one (1) space per two hundred (200) square feet of space occupied by the temporary stand, tent, or its operation, but in no instance less than five (5) spaces, at or near the location of the operation.
- (5) A person eighteen (18) years of age or older shall be present to supervise the operation of the stand at all times.
- (6) Hours of Operation: Fireworks sales shall be restricted to the hours of 8:00 a.m. to midnight.
- (7) Solid Waste Disposal: The location of the temporary stand, tent or its operation shall be maintained, in a clean, clutter free environment, and free of blowing trash. The applicant shall provide at the time of application their method for the proper disposal of waste.
- (8) Fireworks intended for sale may not be stored for a period of more than thirty (30) days at any location unless the area is zoned I-1 or I-2 Districts.
- (9) The Sheriff and Planning Department shall periodically inspect such operations for compliance with the above-stated standards. The Sheriff and Zoning Administrator shall have the authority to close any stand operating in violation of this article, or in violation of any other license or permit required by law.

(Code 2006; History: H.R. Res. 2003-7, rescinded by H.R. Res. 2006-11, § I)

Sec. 7-262. Procedure For Making Application for Temporary Sales of Fireworks.

(1) Applications for each fireworks sales location shall be filed on or before May 1st by 5:00 p.m. with the Shawnee County Zoning Administrator, on forms prepared by that office.

Each application shall be signed by the property owner and applicant; provide a contact name and phone number(s); shall be accompanied by a permit fee of Five Hundred and No/100 Dollars (\$500.00); and, include a detailed Site Plan. Applications received after said date shall be returned and no action shall be taken on them.

- (2) The site plan shall be legible and shall indicate:
 - a) The number and location of off-street parking spaces at the stand (minimum of 5 parking spaces and a handicap space required);
 - b) The location of fire extinguishers, water barrel and/or water hose(s) as required by K.A.R. 22-6-4 and amendments;
 - c) The distance from the fireworks stand to all roads and/or streets (minimum 50 feet from the edge of right-of-way is required);
 - d) The distance from the fireworks stand to all property lines (minimum of 10 feet required);
 - e) The distances from the fireworks stand to all structures on-site, including other fireworks stands (minimum of 50 feet required); and
 - f) The entrance location.
- (3) The County Zoning Administrator shall submit each application to the County Sheriff's Office and the County Engineer for review and recommendation.
- (4) By no later than June 1st, the County Zoning Administrator shall submit his/her recommendation on each application, together with the report and recommendation of the County Sheriff's Office and the County Engineer, to the Board for its consideration and action.
- (5) Applicants may re-apply for alternate locations as often as time allows, if the Zoning Administrator disapproved their application for noncompliance on or before the May 1st filing deadline. When an application has been properly filed on or before May 1st, but is disapproved after that date, the applicant may re-apply for no more than one (1) alternate site within five (5) days of the date the original application was disapproved. In such cases, the County Zoning Administrator, the County Engineer, and the County Sheriff's Office shall submit their respective reports and recommendations to the Board within five (5) days of the date the application for said alternate site was filed.
- (6) If an application is not approved by the Board, up to fifty (50) percent of the permit fee may be refunded by the Board upon written request.

(Code 2006; History: H.R. Res. 2003-7, rescinded by H.R. Res. 2006-11, § II)

Sec. 7-263. Prohibited Locations.

As a matter of public safety, due to the unusual volume of traffic in and around the Lake Shawnee area about the 4th of July each year, the Board has determined that no fireworks permits shall be issued for any location along either side of any road abutting Lake Shawnee property.

(Code 2006; History: H.R. Res. 2003-7, § III)

Sec. 7-264. Waivers.

The County Zoning Administrator shall have the authority to waive strict adherence to setback distances or parking requirements outlined in § 7-261 after an investigation of the circumstances of a particular application and shall make a report of said investigation in his/her recommendation to the Board.

(Code 2006; History: H.R. Res. 2003-7, rescinded by H.R. Res. 2006-11, § IV)

Sec. 7-265. Penalties.

Any person who violates any provision of § 7-261 shall be deemed guilty of a misdemeanor crime, and upon conviction or a plea of guilty therefore, may be fined a definite sum of money, not exceeding One Thousand and No/100 Dollars (\$1,000.00) or confined in the County Jail for a definite term not exceeding six (6) months, or both. In addition the County Zoning Administrator may immediately revoke any fireworks permit issued for a site that violates any provision of § 7-261.

(Code 2006; History: H.R. Res. 2003-7, rescinded by H.R. Res. 2006-11, § V)

Secs. 7-266-7-300. Reserved.

ARTICLE VIII. TEMPORARY HAUNTED HOUSE BUSINESSES

Sec. 7-301. Location Of Temporary Haunted House Businesses.

Except within the corporate limits of any city located in Shawnee County, the Board may authorize and permit the temporary operation of haunted house businesses in Shawnee County in accordance with the provisions of this article. Approval of temporary haunted house locations and operations shall be determined on the basis of compliance with the provisions of this article.

(Code 2006; History: H.R. Res. 1999-5, § 1; amended by H.R. Res. 2005-8, § 1)

Sec. 7-302. Definitions.

For the purpose of this article, the term *haunted house* means any indoor or outdoor structure or facility used for the gathering together of persons during the Halloween season for the purpose of scaring, thrilling, entertainment, or amusement.

(Code 2006; History: H.R. Res. 1999-5, § 2; amended by H.R. Res. 2005-8, § 2)

Sec. 7-303. Operational Requirements.

Operation of a haunted house shall conform to the following requirements:

- (1) The proposed structure shall be on property zoned "C-4" (Commercial), "I-1" (Light Industrial), or "I-2" (Heavy Industrial) districts. Properties located in other zoning districts must obtain a Conditional Use Permit in accordance with Section 25.01 of the Shawnee County Zoning Regulations.
- (2) The applicant must comply with minimum fire department and building safety recommendations, as well as all applicable local, state, and federal laws.
- (3) Suitable arrangements for restroom facilities and sanitary sewage disposal must be provided as determined by the County Health Agency.
- (4) Suitable parking must be available as determined by the County Planning and Public Works Departments to accommodate the anticipated volume of vehicles patronizing the site.

- (5) The property and structure shall be maintained in a clean and sanitary manner by the owner or operator.
- (6) The audience of any haunted house must be orderly at all times and it shall be unlawful for any person attending such haunted house to create a disturbance in the audience.
- (7) Amplified sound equipment operated inside or outside of the haunted house structure or facility shall not be audible at a distance of more than fifty (50) feet from the structure or facility, or at the property line of an adjoining residential property.
- (8) Haunted houses may be open to the public from September 1 through November 1 of any calendar year. Haunted houses shall not be open earlier than 9:00 A.M. nor remain open later than midnight.

(Code 2006; History: H.R. Res. 1999-5, § 3; amended by H.R. Res. 2005-8, § 3)

Sec. 7-304. Permit Required.

- (A) It shall be unlawful to conduct or operate a haunted house that is open to the public, whether or not an admittance fee is charged, without having first secured a permit.
- (B) Failure to obtain a permit and continued operation of a haunted house after notification from the County Zoning Administrator may result in legal action against the owner and/or operator of the haunted house in accordance with Section 7-308. (Code 2006; History: H.R. Res. 1999-5, § 4; *amended by* H.R. Res. 2005-8, § 4)

Sec. 7-305. Application.

- (A) Application for a haunted house permit for any calendar year shall be made no later than October 1 of that year to the Shawnee County Planning Department. The application letter shall contain the following information:
 - (1) Applicant's name, address, and phone number;
 - (2) Building owner's name, address, and phone number;
 - (3) Proposed location of the haunted house;
 - (4) Written consent of the building owner;
 - (5) Dates and hours of operation;
 - (6) Number of personnel to be present when open for business;
 - (7) Name and telephone number for persons having on-site supervisory responsibility while open;
 - (8) A hold-harmless agreement executed between the County, applicant, and owner;
 - (9) Verification of public liability insurance with a minimum single occurrence coverage of Three Hundred Thousand Dollars (\$300,000);
 - (10) Floor plan of the proposed use of the structure;
 - (11) Sketch of the property, including parking and restroom facilities; and
 - (12) Payment of a non-refundable fee of Five Hundred Dollars (\$500).

(B) Applications received after October 1 of any calendar year shall be returned and no action shall be taken on them. Applicants are advised to submit applications as early as practical to allow for the application to be reviewed by the appropriate departments and entities. Applicants are further advised that the approval of the application will be substantially delayed, and additional fees will be incurred, when a Conditional Use Permit is required pursuant to Section 7-303(1).

(Code 2006; History: H.R. Res. 1999-5, § 5; amended by H.R. Res. 2005-8, § 5)

Sec. 7-306. Issuance.

Upon receipt and review of the application, the County Zoning Administrator shall forward the application to the appropriate County Public Works Department, County Sheriff's Department, County Health Agency, applicable Fire District, and township for review. Following review and response, the Zoning Administrator shall forward the application to the Board of County Commissioners for final determination. The Zoning Administrator may recommend conditions of approval or disapproval based upon the response of the different review entities and the requirements of this article. The County Commission may approve, approve subject to conditions, or disapprove the application based on stated reasons.

(Code 2006; History: H.R. Res. 1999-5, § 6; amended by H.R. Res. 2005-8, § 6)

Sec. 7-307. Revocation.

The Board specifically retains the right to revoke a haunted house permit any time it deems such revocation to be in the best interest of the public safety or where the permittee has failed to comply with applicable requirements.

(Code 2006; History: H.R. Res. 1999-5, § 7; amended by H.R. Res. 2005-8, § 7)

Sec. 7-308. Penalties.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor, and upon conviction or a plea of guilty thereto may be fined a definite sum of money not exceeding Five Hundred Dollars (\$500), confined in the County jail for a definite term not exceeding one (1) month, or both.

(Code 2006; History: H.R. Res. 1999-5, § 8; amended by H.R. Res. 2005-8, § 8)

Secs. 7-309-7-350. Reserved.

ARTICLE IX. SHAWNEE COUNTY CHILD CARE LICENSING REGULATIONS

Sec. 7-351. Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

- (a) Administrative agency means the entity authorized to implement and enforce the provisions of this article. The administrative agency for Shawnee County is designated as the Shawnee County Health Agency;
- (b) Administrative rules means those rules contained in this article which prescribe general procedures to be followed in the administration the collection of fees and in providing the childcare certificate by the county;
- (c) *Approved* means acceptable to the administrative agency based on its review of information submitted and determination that minimum state childcare licensing standards have been met:

- (d) Authorized representative means any person who is designated by the administrative agency to administer this article;
- (e) Board of County Commissioners means The Board of County Commissioners of the County of Shawnee, Kansas;
- (f) *Childcare services* means out-of-home care of non-related children as defined by the Kansas Department of Health and Environment (KDHE);
- (g) *Hearing officer* means an individual, appointed by the administrative agency, to hear appeals from decisions relating to the administration of this article (K.S.A. 19-3701);
 - (h) K.A.R. means the Kansas Administrative Regulations;
- (i) *KDHE-requested compliance check* means any on-site visit made to a childcare facility by SCHA childcare licensing surveyors as requested in writing by KDHE through a Request for Survey for checking compliance:
 - (j) K.S.A. means the Kansas Statutes Annotated;
- (k) *Person* means an individual, corporation, partnership, association, state or political subdivision thereof, federal or state agency, municipality, commission, interstate body, or other legal entity recognized by law as the subject of rights and duties;
- (l) *Premises* means any lot or tract of land and all buildings, structures, or facilities located thereon where Childcare services are provided;

(Code 2006; History: H.R. Res. 1999-7, § 1; superseded by H.R. Res. 2011-7, § 1)

Sec. 7-352. Purpose.

The Board finds that is in the best interest of the health, safety and welfare of the public to increase the protections afforded by state statutes and regulations governing the operations of childcare service providers via the operation of the Shawnee County Health Agency's childcare licensing program.

(Code 2006; History: H.R. Res. 1999-7, § 2; superseded by H.R. Res. 2011-7, § 2)

Sec. 7-353. Applicability.

This Article shall apply to all persons providing child care services in Shawnee County, Kansas.

(Code 2011; H.R. Res. 2011-7, § 3)

Sec. 7-354. Certificate Required.

No person shall conduct, carry on or perform any business or activity identified in this Article without first having obtained a valid certificate as required by this Article. (Code 2006; History: H.R. Res. 1999-7, § 3; *superseded by* H.R. Res. 2011-7, § 4)

Sec. 7-355. Applications for Certificate.

Every person required by this article to obtain a certificate shall make application for such certification to the administrative agency. (Code 2011; H.R. Res. 2011-7, § 5)

Sec. 7-356. Standards for Issuance of Certificate.

After receipt of an application for KDHE licensing as required by this article or an investigation of unregulated care, the administrative agency shall begin such investigation as deemed necessary to determine whether the certificate should be issued or denied, and shall issue or deny the certificate within thirty (30) days of the date on which all information, fees, and/or access are provided to the administrative agency.

A certificate will be issued to persons who:

- Satisfactorily complete the requirements imposed by K.S.A. 65-501 and other applicable state laws;
- (b) Satisfactorily complete the requirements imposed by K. A. R. 28-4-700, 28-4-576, K.A.R. 28-4-92, K.A.R. 28-4-113, K.A.R. 28-4-420 and other of applicable state regulations and amendments thereto:
- (c) Satisfactorily complete the requirements imposed by these County regulations. (Code 2011; H.R. Res. 2011-7, § 6)

Sec. 7-357. Duration of Certificate.

Certificates shall be valid for a period of twelve (12) months from the date of initial issuance. The initial issuance date for these certificates will be January 1, 2012. KDHElicensed facilities with renewal dates between January and March 2012 must submit an application and fees to the administrative agency by January 1, 2012. Licensed facilities with other renewal dates from April to December, 2012 will receive a temporary initial certificate by January 1, 2012. A full certificate will be issued to these facilities on their KDHE renewal date based on the schedule in Section 7-358 below.

(Code 2011; H.R. Res. 2011-7, § 7)

Sec. 7-358. Renewal of Certificate.

Before renewal certificates are sent, payment and application must be submitted to the administrative agency based on the renewal inspection dates on the KDHE child care license:

- (a) For January to March renewals the submission date is November 15th;
- (b) For April to June renewals the submission date is March 15th;
- (c) For July to September renewals the submission date is June 15th; and
- (d) For October to December renewals the submission date is September 15th. (Code 2011; H.R. Res. 2011-7, § 8)

Sec. 7-359. Denial of Certificate.

If the certificate is denied, the administrative agency shall send the applicant a written notice and state the reasons for the rejection.

(Code 2011; H.R. Res. 2011-7, § 9)

Sec. 7-360. Non-transferability.

No certificate required by this article shall be transferable nor shall any fees required and paid therefore be refundable, unless approved by the administrator of the administrative

(Code 2011; H.R. Res. 2011-7, § 10)

Sec. 7-361. Revocation.

The administrative agency may, in writing, suspend or revoke a certificate issued under this article whenever the certificate is issued in error, contrary to law, or on the basis of incorrect information provided by the applicant or for noncompliance with this article.

(Code 2011; H.R. Res. 2011-7, § 11)

Sec. 7-362. Fee Schedule.

The fee schedule for the certificate required under this article shall be assessed annually as follows:

- (a) Licensed Daycare Homes and Licensed Group Daycare Homes (\$60 base fee plus \$4/child as stated on the licensed capacity of the facility);
- (b) Child Care Center, School-Age Program and Preschool facilities (\$100 base fee plus \$4/child as stated on the licensed capacity of the facility);
 - (c) Drop-in Program facilities (\$200);
 - (e) Required child care licensing orientation class (\$20); and
- (f) KDHE-requested compliance checks (\$50 for first visit; \$100 for second visit; \$200 for third visit; \$300 from fourth visit on.

Fees collected pursuant to this Section will be utilized to help offset the actual costs of operating the Shawnee County Health Agency's childcare licensing program. (Code 2006; History: H.R. Res. 1999-7, § 3; *superseded by* H.R. Res. 2011-7, § 12)

Sec. 7-363. Double Fee for Unauthorized Practices.

Any person who shall commence any activity for which a certificate is required by this article without first having obtained the certificate shall, if subsequently allowed to obtain a certificate, pay double the permit fee fixed by this article for such activity. (Code 2011; H.R. Res. 2011-7, § 13)

Sec. 7-364. Supplemental to State and Federal Regulations.

The certificate and all fees, conditions and regulations imposed under this article shall be supplemental to and in addition to any permits, licenses, fees, or regulations imposed or required by any other law, including those administered by KDHE. (Code 2011; H.R. Res. 2011-7, § 14)

Sec. 7-365. Administrative Powers and Procedures; Right of Entry.

Representatives of the administrative agency shall have the power and authority to inspect premises where Childcare services are provided for compliance with this article. If voluntary consent is not provided for entry onto the premises, an administrative search warrant may be sought from a court of appropriate jurisdiction.

(Code 2006; History: H.R. Res. 1999-7, § 7; superseded by H.R. Res. 2011-7, § 15)

Sec. 7-366. Record Keeping.

A written record of all official actions taken on applications for certificates required by this article shall be kept on file with the administrative agency for a period of five (5) years. (Code 2011; H.R. Res. 2011-7, § 16)

Sec. 7-367. Notice of Violations.

When the administrative agency determines that there has been a violation of any provision of this article, notice of such violation shall be issued to the person responsible. The notice shall:

- (a) Be in writing;
- (b) Include a statement of why the notice is being issued;
- (c) Allow a reasonable period of time remedy for performance of any work required by the notice; and
 - (d) Be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy has been sent by certified mail to the last known address of the person providing child care services. (Code 2006; History: H.R. Res. 1999-7, § 8; *superseded by* H.R. Res. 2011-7, § 17)

Sec. 7-368. Administrative Hearing.

Any person aggrieved by any notice or order issued by the administrative agency under the provisions of this article may request, and shall be granted, a hearing on the matter before a Hearing Officer, provided such person shall file with the administrative agency, within ten (10) working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The Hearing Officer shall be appointed by the Health Officer. The filing of the request for a hearing shall operate as a stay of the notice. Upon receipt of such petition, the administrative agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten (10) working days after the date on which the petition was filed; provided, that upon request of the petitioner, the administrative agency may postpone the hearing for a reasonable time beyond such ten (10) day period, when in the administrative agency's judgment the petitioner has submitted justifiable reason for such postponement.

(Code 2011; H.R. Res. 2011-7, § 18)

Sec. 7-369. Report of Hearing.

Within ten (10) working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the administrative agency. The findings shall include a recommendation that the order be sustained, modified or withdrawn. Upon the receipt of the report of the Hearing Officer, the administrative agency shall consider the report and issue an order confirming, modifying, or withdrawing the notice or order, and shall notify the petitioner by certified mail to the last known address of the owner or agent. Notes of the proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the administrative agency. Proceedings of hearings will not be transcribed by the administrative agency. Any transcription services must be procured at the sole cost of the person requesting the transcription.

(Code 2011; H.R. Res. 2011-7, § 19)

Sec. 7-370. Sanctions for Violation.

The County Counselor may file legal actions as necessary to enforce the provisions of this Article. The Counselor may ask the Court to enjoin violations of this Article. In addition, any person who violates this resolution shall be subject to the following monetary penalties:

- (a) First violation fine in the amount of One Hundred and No/100 Dollars (\$100.00)
- (b) Second violation within a twelve (12) month period fine in the amount of Two Hundred and Fifty and No/100 Dollars (\$250.00)
- (c) Third or subsequent violation within a twelve (12) month period fine in the amount of Five Hundred and No/100 Dollars (\$500.00).

A "violation" occurs pursuant to this Article on the date of the incident described in the written notice of violation.

(Code 2011; H.R. Res. 2011-7, § 20)

ARTICLE X. PAWNBROKERS AND PRECIOUS METAL DEALERS

Secs. 7-401 - 7-450. Reserved.

State law reference: K.S.A. 16-701 *et seq.*, Regulation of pawnbrokers and precious metal dealers.

ARTICLE XI. 911 TAX

Sec. 7-451. Emergency Telephone Tax Levied; Tax Imposition; Tax Amount.

- (A) The definitions contained in K.S.A. 12-5301 are hereby expressly adopted and incorporated herein by reference.
- (B) An emergency telephone tax of seventy-five cents (\$.75) is hereby levied upon the amount received from tariff rate exchange access lines or their equivalent in Shawnee County, Kansas, pursuant to K.S.A. 12-5301 et seq. The proceeds of the tax shall be utilized to pay for: (1) the monthly recurring charges billed by the service supplier for the emergency telephone tax, (2) initial installation, service establishment, nonrecurring start-up charges billed by the service supplier for the emergency telephone service, (3) charges for capital improvements and equipment or other physical enhancements to the emergency telephone system, or (4) any combination thereof.
- (C) The tax imposed by this article shall be imposed only upon the amount received from the tariff rate exchange access lines or their equivalent. No such tax shall be imposed upon more than one hundred (100) exchange access facilities or their equivalent per person per location.
- (D) For the calendar year 2012, there shall be imposed a tax in the amount of seventy-five cents (\$.75) upon the amount received from the tariff rate exchange access lines or their equivalent. The duty to collect the tax specified in this paragraph shall commence as of the expiration of the protest period specified in paragraph 6 below.
- (E) This Resolution was published once in the official County newspaper on August 15, 2011 and shall take effect sixty-one (61) days thereafter, on October 15, 2011, unless within sixty (60) days after such publication, by October 14, 2011, there may be filed with the Shawnee County Election Commissioner a petition signed by not less than five percent (5%) of the registered voters of the County requesting that the question of the installation and operation of emergency telephone service and imposition of a tax therefore be submitted to qualified voters of the County at the next primary or general election of Shawnee County officers following by not less than sixty (60) days the certification of such petition.

(Code 2006; History: Res. 2004-113, §§ 1-4; amended by Res. 2005-208, §§ 1-4; rescinded by Res. 2006-219 §§ 1-4; amended by Res. 2007-184 §§ 4-6; amended by Res. 2010-104 § 4-6; amended by Res. 2011-125 § 4-6)

ARTICLE XII. HOME USE OCCUPATION PERMITS

Sec. 7-481. Home Use Occupation Permits.

- (A) Any dwelling in the unincorporated areas of Shawnee County, Kansas which is allowed by the Zoning Regulations of Shawnee County, Kansas to be used for home occupations shall apply for and be granted a permit before commencing such use.
- (B) Any party desiring a home occupation permit shall file an initial application for such permit with the Shawnee County Planning Department on the appropriate form provided and shall file an application for renewal thereof within one (1) year of the initial application or any subsequent renewal application for each year said home occupation permit is desired.
- (C) Upon filing an application for a home occupation permit or renewal thereof, the applicant shall pay Fifty Dollars (\$50) as an initial application fee or Ten Dollars (\$10) as an annual renewal fee.

(Code 2006; History: Res. 1992-2, §§ 1-3)

Secs. 7-482-7-530. Reserved.

ARTICLE XIII. SCRAP METAL DEALERS

Sec. 7-531. Purpose.

- (A) The 2011 Kansas Legislature enacted comprehensive legislation providing for the registration and regulation of scrap metal dealers.
- (B) The Board deems it necessary and advisable to prescribe application forms for scrap metal dealers and the procedures for processing such applications and renewals thereof. (Code 2012; History: Res. 2012-5)

Sec. 7-532. Registration Required.

No business located in the unincorporated area of Shawnee County shall purchase any regulated scrap metal as defined by K.S.A. 50-6,109(c) without having first registered each place of business as provided herein.

(Code 2012; History: Res. 2012-5, § 1)

Sec. 7-533. Application Process.

- (A) Any person or entity desiring to operate as a scrap metal dealer as defined by K.S.A. 50-6,109(a) shall complete and submit an application for each place of business located in the unincorporated area of Shawnee County to the Shawnee County Clerk along with a non-refundable \$400.00 application fee for each such place of business. Application forms shall be proscribed and furnished by the Shawnee County Clerk.
- (B) Pursuant to K.S.A. 50-6,112a, within ten (10) days of the receipt of any application or renewal thereof, the Shawnee County Clerk shall forward a copy of the same to the clerk of the township and the Shawnee County Sheriff for review and a criminal history check.
- (C) If the review and criminal history check demonstrates that the applicant is qualified under K.S.A. 50-6,112b to operate as a scrap metal dealer, the County Clerk shall

issue a registration to the applicant. Such registration shall be issued for a period of ten (10) years. If the application fails to satisfy the requirements of K.S.A. 50-6,112b, no registration shall be issued and written notice thereof shall be provided to the applicant.

(D) If an original registration is accepted, the Board of County Commissioners shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal, which shall be in addition to the \$400.00 application fee provided by 7-533(A), shall be \$50.00. (Code 2012; History: Res. 2012-5, §§ 2-5)

Secs. 7-534 - 7-550. Reserved.

ARTICLE XIV: TOWING

Sec. 7-551. Non-Preference Tows/Motorist Assists

- (A) It is declared to be of vital importance to the safety of the traveling public to remove and/or assist abandoned or disabled vehicles found on public streets. Solicitation of tows at the scene of an accident can cause unnecessary traffic congestion and unsafe conditions and towing vehicles from public roads is a matter affecting public safety.
- (B) The practice of towing, removing, and storing of vehicles requires uniformity, efficiency, dependability, and consistency.
- (C) Any person desiring to perform non-preference towing operations within Shawnee County shall enter into a Tow Service Provider Contract and comply with the provisions of this Article.
- (D) Any person desiring to perform tow services at the request of law enforcement officials and who meets the requirements of all other provisions of this Article and enters into a Non-Preference Tow Service Provider contract shall be eligible to be placed on the Non-Preference County Contract Tow Rotation List and be called on a rotation basis.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-552. Towing Vehicles/Motorists Assists.

- (A) Law enforcement officials may cause any vehicle to be immediately towed or provided a motorist assist service call under any of the following circumstances, from Non-Preference Tow Service Provider without the prior consent or authorization of the owner or operator of the vehicle:
 - (1) when a vehicle upon a public road or public property is so disabled or unsafe as a result of an accident or otherwise poses a danger to public health, safety or welfare, and the owner or operator of the vehicle is unable or refuses to provide for its custody or removal; or
 - (2) When the person in charge of a vehicle has been arrested or otherwise taken into custody or detained for all alleged offense; or
 - (3) Any other reason authorized by applicable law, or
 - (4) Requested by an owner or authorized representation of an owner of a vehicle.

Sec. 7-553. Non-Preference County Contract Tow Rotation List.

- (A) The Shawnee County Emergency Communications Center shall maintain a list of authorized tow service providers to be used in providing non-preference rotation tow services for the County.
 - (1) When a tow or service call is needed, the law enforcement officer will communicate the need for a tow or service call to the dispatcher on duty. On receiving this communication, the dispatcher shall, as a general rule, contact the next authorized tow service provider on the List to respond to the call and that authorized tow service provider shall then be moved to the bottom of the List. On each succeeding communication, the next two provider on the List is generally assigned. In the event an authorized tow service cannot be reached by the dispatcher or cannot provide the requested service within the timeframe required, that provider shall forfeit its turn and be moved to the bottom of the List and the dispatcher shall call the next succeeding provider on the List. If a provider at the top of the List is dispatched and the dispatch does not result in a vehicle tow or service call due to no fault of the provider, the provider shall be moved back to the top of the List. The dispatcher shall keep a continuous rotation of each authorized tow service provider on the List.
 - (2) The List provided for in this Article may be used for tows and service calls that are initiated by law enforcement officers of other jurisdictions within the County if the governing body of that jurisdiction specifically requests the Sheriff's Office to use such List for its tows or service calls, in which case, the provisions of this Article and the Tow Service Provider Contract shall apply to such tows and service calls.
 - (3) Placement on the List shall be by contract date. In the event there are multiple tow service providers owner or operated by the same person or person or legal entities, that person or persons or legal entities shall receive one placement on the Non-Preference County Contract Tow Rotation List for all companies owned or operated.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-554. Towing Service Provider Contract Required.

- (A) Each provider seeking placement on the List and designation as an authorized tow service provider to perform non-preference tow services shall enter into a Tow Service Provider Contract with the County. The Sheriff's Office is designated as the county agency authorized to execute, monitor and regulate any contract. Each contract shall generally be for one (1) calendar year with automatic renewals.
- (B) The contract may be terminated by either party resulting in removal from the List by providing thirty (30) calendar days advance written notice to the other party. (Code 2015; H.R.Res. No. 2015-2)

Sec. 7-555. Contract Tow Requirements.

The following requirements shall be met by any provider desiring placement on the List:

1. exclusive of state recognized holidays, each authorized tow service provider shall have a representative available (by phone or at the premises where a towed vehicle is stored from 8:00 a.m. to 5:30 p.m. Monday through Friday to release any towed

vehicle within one hour of the owner's or authorized representative's request. No additional charge shall be assessed for releasing a vehicle during these days and hours. During other times, the provider shall have a representative available by phone and able to meet the owner or authorized representative of an owner at the premises where the towed vehicle is stored or kept for releasing a vehicle within a reasonable time from request. For a vehicle released during these other times, the authorized tow service provider may not assess a fee in excess of the maximum charges provided for in Section 7-546 of this Article.

- 2. Each authorized tow service provider shall conspicuously post a sign at the front of its business stating the business name and a telephone number where information can be obtained about any vehicle towed or stored by the business. If an authorized tow service provider's phone number changes, the provider shall provide the Sheriff's Office with the new number before the change becomes effective.
- 3. Each provider towing vehicles must contain permanent signage on such vehicles that contain the provider's business name, address and contact number.
- 4. Each provider shall have drivers and wrecker services available to respond to tow requests on a twenty-four (24) hour per day, seven (7) days a week basis.
- 5. Each provider must provide a business card to the owner, or authorized agent of the owner, of the vehicle towed, to the extent the owner or authorized representative of the owner is able to receive such business card.
- 6. Each provider must notify the Shawnee County Emergency Communications Center within two (2) hours of a tow of the location of such vehicle towed if such vehicle is not stored on the lot as indicated in the Tow Service Provider Agreement.
- 7. Each provider shall clean up accident debris including but not limited to dirt, broken glass, metal, and other car pieces associated with the vehicle being towed, including but not limited to the use of oil dry or a similar product to clean up any fluid spills unless otherwise directed by an official overseeing or having jurisdiction of the accident.
- 8. Each provider must have properly zoned adequate storage facilities within the County. Outside storage areas shall be fenced, with at least six (6) foot high chain link or similar security fence and shall be adequately secured.
- 9. Each authorized tow service provider must have available storage area which is totally enclosed within a building for the protection and security of vehicles with broken windows and valuable property left in vehicles.
- 10. Each provider must agree to handle and tow abandoned vehicles in addition to tow requests received for damaged or disabled vehicles.
- 11. Each provider must agree to handle and tow abandoned vehicles in addition to tow requests received for damaged or disabled vehicles.

A certificate of insurance naming The Board of County Commissioners of Shawnee County, Kansas and the Shawnee County Sheriff's Office as additional insured parties in the minimum amounts as specified herein. All insurance must be with an insurance company with a minimum BEST rating of A-VIII and licensed to do business in the

State of Kansas. The provider shall ensure any and all approved subcontractors meet the minimum insurance requirements.

The certificates and endorsements for each insurance policy are to be signed by a proper person authorized by that insurer to bind coverage on its behalf. Insurance company and tow service provider must also notify the County and the Sheriff ten (10) days in advance of any cancellation or change in the insurance contract. The certificates and endorsements are to be received and approved by the Sheriff and his or her designee before any tow service commences. Renewal of expiring certificates shall be furnished to the County Clerk and to the Sheriff thirty (30) days prior to expiration.

The following minimum coverage is required of each tow service provider:

A. Worker's Compensation Applicable State Statutory

B. Employer's Liability \$500,000.00

C. Liability Insurance:

The form of insurance shall be by a comprehensive General Liability and Comprehensive Automobile Liability indemnifying the public generally against damages arising out of the operation of the wrecker services.

Bodily Injury

Each Occurrence \$500,000.00 Aggregate \$1,000,000.00

Property Damage

Each Occurrence \$100,000.00 Aggregate \$100,000.00

Personal Injury

Each person aggregate \$500,000.00 General Aggregate \$1,000,000.00

Automobile Liability-Owned, Non-owned and Hired

Bodily Injury Each Person \$500,000.00 Bodily Insurance Each Occurrence \$500,000.00

- D. Garage keeper's minimum liability policy covering fire, theft or damage to or loss of property while in tow or otherwise in the care, custody or control of the authorized tow operator. Such policy or policies of insurance shall be in an amount of at least \$100,000.00 for each individual claim up to a maximum aggregate limit of \$200,000.00 per occurrence.
- E. On-hook liability insurance in an amount of at least \$100,000.00
- 12. Each provider must agree to indemnify and hold harmless the County, its officers, employees, and agents and The Sheriff's Office, its agents and employees from and against all claims, damages, losses, and expenses arising out of any tows performed pursuant to a tow service provider contract under Worker's Compensation Act, disability benefits acts or other employee benefit acts.

- 13. Each provider must have in place a security background process wherein all employees, who will have personal contact with the public, are screened for a determination of safety risk to the public. The screening results are to be submitted to the Sheriff or his or her designee at the time of application for a tow service provider contract and upon request by the Sheriff's Office.
- 14. Each provider must enter into and sign a non-transferable Tow Service Provider Contract with the Sheriff or his or her designee, including the Contractual Provisions Attachment, Form DA-146a and amendments thereto.
- 15. Each provider must provide the Sheriff's Office with proof that it has a valid certificate of public service issued from the Kansas Corporation Commission.
- 16. The criteria and requirements set forth is this Subsection 1 through 16 of this Section shall not apply when the owner or operator of the vehicle to be towed requests services from a specific tow service provider and the vehicle is towed by that provider. (Code 2015; H.R.Res. No. 2015-2)

Sec. 7-556. Notice to Owner of Towed Vehicle.

Whenever any vehicle is towed pursuant to the provisions of Section 7-353 of this Article, as amended, the provider shall comply with all notice provisions as outlined in K.S.A. 8-1102 through 8-1108, and amendments thereto.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-557. Release of Towed Vehicle.

Unless the vehicle is being held or seized as evidence, all vehicles towed pursuant to the provisions of this Article shall be released to the owner or authorized representative by the provider upon satisfaction of the provisions as outlined in K.S.A. 8-1102 through 8-1108, and amendment thereto, except fees and charges shall not exceed those provided for in Section 7-546 of this Article, as amended.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-558. Sale of Vehicle.

A provider may proceed to dispose of towed vehicles, or to foreclose any possessory lien created operation of law, in the manner provided by K.S.A. 8-1101 et seq., unless a hold has been requested for a particular vehicle by the Sheriff's Office or other law enforcement agency.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-559. Access To And Sale Of Personal Property.

Any owner or authorized representative of an owner of a vehicle towed pursuant to this Article shall have access within one (1) hour of said request, to medically needed property upon proof of ownership for up to forty-eight hours and such personal property shall be released to said owner or authorized representative of an owner within one (1) hour of the owner or authorized representative's request; except, however, if it is being held or seized as evidence. Access and retrieval of personal property after fee shall be released within one (1) hour of said request from the owner or authorized representative; except, however if it is being held or seized as evidence. Each authorized tow service provider waives any possessory lien; to the extent it even has one in any such person property. The provider shall not charge any additional fee for the retrieval of personal property during the hours and days specified in Section 7-546 of this Article. For personal property released during other times, the

authorized tow service provider may not assess a charge in excess of the maximum fee provided for in Section 7-546 of this Article.

Personal property may not be held or seized as evidence and not retrieved by an owner of the vehicle or authorized representative of the owner within thirty (30) days of the date of the tow may be sold by the provider in accordance with K.S.A. 8-1101 et seq., to satisfy the towing fee and storage fees incurred as a result of a tow authorized by these provisions. (Code 2015; H.R.Res. No. 2015-2)

Sec. 7-560. Suspension or Revocation of Approval and Authorization; Grounds.

- 1. Suspension or Revocation. The Sheriff or his or her designee may order that the approval and authority of a provider be suspended or revoked. Such notification shall be in writing and shall be effective upon delivery to the provider. Any such suspension shall temporarily remove the tow service provider from the List and shall be effective a minimum of sixty (60) calendar days after any noted deficiency is corrected, with the period of suspension in excess of (60) calendar days to be determined by the Sheriff or his or her designee. A revocation shall remove the provider from the List for a period of one (1) year and shall terminate the contract with the provider. A revoked provider may be reinstated after one (1) year after entering into a new contract but only upon terms and conditions that lead the Sheriff or his or her designee to conclude that whatever problems or deficiencies had existed are permanently remedied. Such suspension or revocation may be based upon good case, including but not limited to any one or more of the following:
 - A. The provider was placed on the List and obtained its contract by fraudulent conduct or false statements.
 - B. The provider has failed to comply with the provisions of this Article;
 - C. The provider violated the fee and charge schedule by an overcharge;
 - D. The provider has consistently refused to respond to requests for services from the Shawnee County Emergency Communications Center, the Sheriff's Office, or other law enforcement agency or has consistently failed to answer telephone calls from them at the telephone number supplied by the provider;
 - E. The provider has responded to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicited wrecker or towing business, and;
 - F. The Sheriff's Office is not satisfied with the general services of the owner and/or employees of the tow service provider or with the cooperation it has received from such tow service provider or other justifiable cause.
- 2. Appeal. Such suspension or revocation shall be written notice to the provider and shall contain the reasons for the suspension or revocation. The provider may appeal such decision to the Sheriff or his or her designee by filing notice with the Sheriff's Office within ten (10) calendar days of the notice or suspension or revocation. The Sheriff or his or her designee shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation.

3. <u>No Vested Rights.</u> Nothing in this Article, the County's designation as an authorized provider or the Sheriff Office's entering into a contract with any provider, shall confer any vested property rights upon the provider to continue as a provider, to remain on the County List, or to tow any vehicle for the County.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-561. Solicitation Prohibited.

No provider who is on the List or said provider employee, driver or contractor shall stop, stand or park a tow truck at or near the scene of an accident or at or near a disabled vehicle within the County for the purpose of soliciting an agreement for towing services, unless such provider, employee, driver or contractor has been called to the scene by the Shawnee County Emergency Communications Center, the Sheriff's Office, another law enforcement agency, or by the owner or authorized representative of an owner of an involved vehicle. (Code 2015; H.R.Res. No. 2015-2)

Sec. 7-562. Maximum Tow, Storage, and Other Related Fees.

- 1. Charges for towing, storage and other related services in connection with any vehicle tow pursuant to the List or otherwise towed without the prior consent or authorization of the owner or operator of the vehicle shall not exceed the maximum fees and charges that the Board of County Commissioners adopts by resolution, as amended, and in effect from time to time. These charges are the sole and exclusive charges that may be legally imposed for such towing, storage and other related services and it shall be unlawful to charge fees in addition to or in excess of such maximum fees and charges. All other charges not identified in this Article or by resolution are expressly prohibited, including, without limitation fuel surcharges, gate fees or other similar unauthorized fees to retrieve vehicles or remove person property.
- 2. These fees include clean up of all accident debris, including but not limited to the use of oil dry or a similar product to clean up any fluid spills.
- 3. A provider or other tow operator may charge a full day's storage fee for any portion of a day the vehicle is stored; provided, further than no fee shall be charged for any additional day if the vehicle is stored for the additional day as a result of the provider's failure to release the vehicle to the owner or authorized representative as required of authorized providers in this Article.
- 4. A provider may not limit payment of the towing and storing fees or motorist assist fees to cash only. A tow service must offer services and fees to be paid by credit card, debit card or traveler's check.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-563. Maximum Charges.

The maximum authorized charges for towing, storage and other related services with respect to a vehicle having a licensed gross weight of 18,000 pounds or less towed by a provider or towed by any provider without the prior consent of the owner or operator of the vehicle, are as follow:

1. For towing, from pick-up to delivery point, including the use of wheel lifts, rollback and flatbed, a maximum charge of:

- A. \$100.00 for vehicle having a licensed weight 12,000 pounds or less, plus \$3.00 per mile.
- B. \$250.00 for trucks and other vehicles having a licensed gross weight of less than 18,000 pounds or having more than 4 wheels on the ground, plus \$4.00 per mile, but see subsection 12 below for trucks and other vehicles having licensed gross weight of more than 18,000 pounds.

Subject to subsection 12 below, this charge includes clean up of all accident debris and spills, including but not limited to the use and removal of floor-dry or similar products to clean up any fluids.

- 2. For storage of a vehicle, a maximum charge of: \$30.00 per calendar day. Daily charges shall be determined for any portion of a calendar day the vehicle is stored, beginning at the time the vehicle is first placed in the storage lot; provided further that the tow company may only assess a storage charge for days that there is reasonable access to personnel who may respond to release the vehicle.
- 3. Exclusive of state recognized holidays, no additional charge shall be assessed for releasing a vehicle between the hours of 8:00am to 5:30 pm, Monday through Friday. For releasing a vehicle during other times, a maximum charge of \$35.00.
- 4. For dolly use in towing a vehicle, a maximum charge of \$50.00. This charge is in addition to the basic tow service charge. A dolly charge cannot be assessed unless a dolly is necessary and actually used to tow the vehicle.
- 5. For winching only when necessary for recovery, a maximum charge of: \$150.00 per hour, prorated by each one-quarter (1/4) hour. This charge includes labor necessary to operate the winch but is in addition to the basic tow service charge.
- 6. For extraordinary labor for winching and securing the vehicle in excess of thirty (30) minutes, a maximum charge of: \$72.00 per hour, prorated by each one-quarter (1/4) hour. Extraordinary labor may only be charged for non-customary labor necessary for removal of the vehicle or mechanically necessary to prepare the vehicle for towing, any such charge shall be described in detail on the report. No additional charge may be assessed for the first thirty (30) minutes of extraordinary labor.
- 7. A tow company may assess reasonable additional charges for extraordinary situations that necessarily and actually require more than one wrecker. The charge for an additional wrecker shall not exceed the maximum charges provided for in this resolution for the first wrecker.
- 8. For waiting of standby time after the wrecked has been at the scene for thirty (30) minutes, a maximum charge of: \$72.00 per hour, prorated by each one-quarter (1/4) hour. No additional charge may be assessed for the first thirty (30) minutes of wait or standby time.
- 9. For a motorist assist involving delivery of fuel, tire changes, unlocks, jump starts, and other services commonly associated with motorist assist, a maximum charge of \$60.00 plus mileage provided above; provided however, that the tow company may charge for materials, such as fuel, delivered.

- 10. If the owner or other authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, and such person is capable of safely operating the vehicle, and such vehicle is functional, the vehicle shall, upon request of such person, be disconnected from the towing or removal apparatus. That person shall be permitted to remove the vehicle without interference upon the payment of a reasonable charge of not more than \$60.00, plus mileage, provided above, and no other charge shall be assessed.
- 11. For accidents requiring fluid clean up, a maximum charge of \$25.00 for labor and \$5.00 for floor-dry or similar products to clean up any fluid spills. For extraordinary labor in the cleanup of accident debris and spills in excess of thirty (30) minutes, a maximum charge of \$72.00 per hour, prorated by each one-quarter (1/4) hour. Extraordinary labor may only be charged for non-customary labor necessarily and actually incurred for removal of accident debris and fluids, and any charge shall be described in detail on the report. No additional charge may be assessed for the first thirty (30) minutes of extraordinary labor.
- 12. The maximum charges contained in this Article shall not apply to trucks and other vehicles having a licensed gross weight of more than 18,000 pounds.
- 13. Each tow company shall provide to each owner or authorized representative an itemized bill indicating the amount for each service provided.
- 14. Additional fees may not be charged based on environmental conditions, such as snow or ice or for time of day. Neither the County not the requesting law enforcement agency shall be responsible for unpaid towing charges for such contract tows except as agreed to in writing by law enforcement or other County officials.

(Code 2015; H.R.Res. No. 2015-2)

Sec. 7-564. Penalty.

- 1. Anyone who directly or indirectly violates any provision of this Article shall incur a civil penalty of \$250.00 and shall be removed from the List for a period of six (6) months.
- 2. Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the County, including but not limited to damages for any failure to comply with the provisions of a contract.

(Code 2015; H.R.Res. No. 2015-2)

Secs. 7-565-7-580. Reserved.

CHAPTER 8. CODE ENFORCEMENT AND FINE SCHEDULE

Art. I. In General, §§ 8-1 - 8-50

Art. II. Enforcement, §§ 8-51-8-90

Art. III. Enforcement Officers, §§ 8-91-8-140

Art. IV. General Penalty And Fine Schedule, §§ 8-141 – 8-200

ARTICLE I. IN GENERAL

Secs. 8-1-8-50. Reserved.

ARTICLE II. ENFORCEMENT

Sec. 8-51. Enforcement.

- (A) The Board shall have the power to enforce all resolutions and provisions of this Code passed pursuant to County home rule powers, as designated by K.S.A. 19-101, and amendments thereto.
- (B) Prosecution of any such violation shall be commenced in Shawnee County District Court and shall be conducted in the manner provided by law for the prosecution of misdemeanor violations of State laws, and in accordance with the Kansas Code for the Enforcement of County Codes and Resolutions, K.S.A. 19-4701, *et seq*.
- (C) Any action commenced in district court for the enforcement of this Code, wherein a person may be subject to detention or arrest or wherein an accused person, if found guilty, would or might be deprived of such person's liberty, shall be conducted in the manner provided by law for the prosecution of misdemeanor violations of State laws under the Kansas Code of Criminal Procedure.

(Code 2006; K.S.A. 19-101d)

Secs. 8-52 - 8-90. Reserved.

ARTICLE III. ENFORCEMENT OFFICERS

Sec. 8-91. Enforcement Officers.

- (A) The Shawnee County Zoning Administrator is appointed as a Shawnee County Code Enforcement Officer with all of the powers and duties of a Code Enforcement Officer set forth in the Code For The Enforcement of County Codes and Resolutions, K.S.A. 19-4701 *et seq*.
- (B) The Shawnee County Environmental Health Specialist II is appointed as a Shawnee County Code Enforcement Officer with all of the powers and duties of a Code Enforcement Officer set forth in the Code For The Enforcement of County Codes and Resolutions, K.S.A. 19-4701 *et seq*.

- (C) The Shawnee County Refuse Director is appointed as a Shawnee County Code Enforcement Officer with all of the powers and duties of a Code Enforcement Officer set forth in the Code For The Enforcement of County Codes and Resolutions, K.S.A. 19-4701 *et seq*.
- (D) Shawnee County Planning Department Director is appointed as a Shawnee County Code Enforcement Officer with all of the powers and duties of a Code Enforcement Officer set forth in the Code For The Enforcement of County Codes and Resolutions, K.S.A. 19-4701 *et seq*.
- (E) All Code Enforcement Officers designated by the Board, now designated, or designated in the future, possess all powers and duties as set forth in the Code For the Enforcement Of County Codes and Resolutions, and the power and authority to seek from the Shawnee County District Court administrative search warrants.
- (F) All Code Enforcement Officers shall have the power and authority to seek subpoenas from the Shawnee County District Court.
- (G) Should any court declare any section, clause or provision of this article to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this article. (Code 2006; History: Res. 2001-190, §§ 1, 3; amended by Res. 2003-86, §§ 2-5; amended by Res. 2004-172, § 2

Secs. 8-92 - 8-140. Reserved.

ARTICLE IV. GENERAL PENALTY AND FINE SCHEDULE

Sec. 8-141. 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 article:

- (1) A fine of not more than One Thousand Dollars (\$1,000); or
- (2) Imprisonment in jail for not more than one hundred seventy-nine (179) days; or
- (3) Revocation or suspension of a license, permit or franchise; or
- (4) Abatement by injunctive or other equitable relief; or
- (5) Combination of (1) through (4) not to exceed (1) through (4) above. (Code 2006)

Sec. 8-142. Fine Schedule.

- (A) The following is a schedule of fines for the violation of the applicable home rule resolution:
 - (1) Unlawful direct dialing (Chapter 3, Articles III and IV). Fine: One Thousand Dollars (\$1,000);
 - (2) Smoke detector required (Chapter 6, Article V). Fine: Five Hundred Dollars (\$500);
 - (3) Unlawful picketing (Chapter 24, Article III). Fine: One Thousand Dollars (\$1,000);
 - (4) Failure to vaccinate dog (Chapter 5, Article V). Fine: Fifty Dollars (\$50);
 - (5) Dangerous animal violation (Chapter 5, Article IV). Fine:

- (a) First conviction:
 - (i) No injuries to person, domestic animal or livestock, One Hundred Dollars (\$100);
 - (ii) If injuries to person, domestic animal or livestock, Five Hundred Dollars (\$500);
- (b) Second conviction:
 - (i) No injuries to person, domestic animal or livestock, Two Hundred Fifty Dollars (\$250);
 - (ii) If injuries to person, domestic animal or livestock, Two Thousand Dollars (\$2,000);
- (c) Third conviction or subsequent conviction, regardless of injuries, Two Thousand Dollars (\$2,000).
- (6) Dogs at large (Chapter 5, Article II). Fine: Fifty Dollars (\$50);
- (7) Unauthorized dumping (§ 28-67). Fine: One Thousand Dollars (\$1,000);
- (8) Park rules violation (Chapter 21). Fine: First conviction, Fifty Dollars (\$50); Second conviction, One Hundred Dollars (\$100); Third conviction, Five Hundred Dollars (\$500).
- (9) Unlawful consumption of alcohol on County property (Chapter 4, Article III). Fine: Fifty Dollars (\$50).
- (10) Weight restrictions on roads (§ 26-82). Fine: First conviction, Two Hundred Fifty Dollars (\$250); Second conviction, Five Hundred Dollars (\$500); Third conviction, One Thousand Dollars (\$1,000). Cumulative fines apply in any two-(2) year period.
- (B) This section shall be liberally construed to give the Board the broadest authority allowed by law; any word, phrase, sentence, or section found to be invalid or unconstitutional shall be severed from this section.

(Code 2006; History: H.R. Res. 2003-9, §§ 1-2. Note: See K.S.A. 19-101d.)

CHAPTER 9. COUNCILS, COMMITTEES AND BOARDS

Art. I. In General, §§ 9-1 - 9-50Art. II. Shawnee County Advocacy Council on Aging, §§ 9-51 – 9-90 III. Shawnee County Ambulance Advisory Board, §§ 9-91 – 9-120 Art. IV. Reserved, §§ 9-121 - 9-160Art. V. Civil Service Board, §§ 9-161 — 9-190 Art. Art. VI. Community Action Board, §§ 9-191 – 9-220 Art. VII. Community Corrections Advisory Board, §§ 9-221 — 9-250 VIII. Drug-Alcohol Advisory Council, §§ 9-251 — 9-270 Art. IX. Kansas Expocentre Advisory Board, §§ 9-271 – 9-300 Art. Art. X. Local Emergency Planning Committee, §§ 9-301 — 9-330 Art. XI. Local Environmental Protection Program Committee, §§ 9-331 – 9-360 XII. Federally Qualified Health Center Board, §§ 9-361 — 9-390 Art. Art. XIII. Reserved, §§ 9-391 - 9-420XIV. Shawnee County Health Insurance Committee, §§ 9-421 Art. XV. Shawnee County Health Insurance & Wellness Committee, §§ 9-422 - 9-490 Art. Art. XVI. Shawnee County Juvenile Corrections Advisory Board, §§ 9-491 – 9-520 Art. XVII. Shawnee County Solid Waste Committee, §§ 9-521 – 9-550 Art. XVIII. Third Judicial District Nominating Commission, §§ 9-551 – 9-580 Art. XIX. Topeka-Shawnee County Landmarks Commission, §§ 9-581 – 9-650 XX. Topeka-Shawnee County Public Library Board, §§ 9-651 – 9-680 Art. Art. XXI. Shawnee County Wellness Committee, §§ 9-681 Art. XXII. Shawnee County Investment Oversight Committee, §§ 9-682 – 9-700 Art. XXIII. Shawnee County Audit Committee, §§ 9-701 - 9-725 Art. XXIV. Shawnee County ERP Oversight Committee, §§ 9-726 - 9-730 Art. XXV. Shawnee County Mainframe Transition Committee, §§ 9-731 – 9-740 Art. XXVI. Shawnee County Tax System Committee, §§ 9-741 - 9-760 Art.XXVII. Shawnee County Payroll Committee, §§ 9-761 – 9-780 Art.XXVIII. Shawnee County Security Council, §§ 9-781 - 9-800 Art. XXIX. Shawnee County Public Building Commission, §§ 9-801 - 9-850

ARTICLE I. IN GENERAL

Art. XXX. Greater Topeka Youth Partnership Commission, §§ 9-851 – 9-900

Secs. 9-1-9-50. Reserved.

ARTICLE II. SHAWNEE COUNTY ADVOCACY COUNCIL ON AGING

Sec. 9-51. Name.

The organization shall be known as the Shawnee County Advocacy Council on Aging. (Code 2006; History: Res. 1995-23, Art. I)

Sec. 9-52. Purposes.

(A) The Council shall serve as the official advisory group to the Board of County Commissioners as stipulated in Resolution 1982-62, dated May 5, 1982.

- (B) The Council shall serve as an advocate for older citizens of Shawnee County by maintaining awareness and familiarity with agencies serving older citizens; by identifying unmet needs of those citizens; and helping to provide necessary services on a County-wide basis.
- (C) The Council shall disseminate information regarding the availability of funds in the Shawnee County Service Program for the Elderly; solicit and evaluate program proposals and make recommendations to the Board of County Commissioners regarding requests for those funds.
- (D) The Council shall provide periodic assessments of funded programs to assure compliance with the approved service plan.
- (E) The Council shall promote public awareness of needs and existing services on a continuing basis.
- (F) The Council shall assist in County planning for meeting aging service needs through cooperative efforts of agencies and organizations serving older citizens. (Code 2006; History: Res. 1995-23, Art. II)

Sec. 9-53. Membership.

- (A) Definition. Membership on the Council shall be of two (2) types, (1) members, and (2) associate members. Members shall be appointed by the Board of County Commissioners. Members may not be on the board of directors or any other governing board or the staff of any agency which receives funding of any kind from the Council. Associate memberships may be conferred by the Council. Associate members may participate in the discussion before the Council and may serve on committees. Associate members may not make or second motions and may not vote. Current members who do not meet the requirements of this article may finish out their terms, but are not eligible for reappointment.
- (B) Number. There shall not be more than twenty (20) members and not more than five (5) associates on the Council.
- (C) Qualifications. Members and associates shall be residents of Shawnee County, Kansas.
- (D) Terms and Tenure. The duration of a term of office on the Council shall be three (3) years. Each term is renewable twice, limiting members and associates to a maximum of three (3) consecutive terms. Former members may apply for Council vacancies and associates may be reappointed after a period of one (1) year has elapsed from the termination of their second consecutive term.
- (E) Unexpired Terms. Members appointed to fill unexpired terms shall be eligible to serve an additional three (3) consecutive terms if the appointment to the unexpired term was for a duration of twelve (12) months or less. If the member was appointed to an unexpired term greater than one (1) year in duration, such appointee will be deemed to have served a complete term and be eligible for reappointment to only two (2) additional terms.
- (F) Composition of the Council. At least one-half (1/2) of the Council members shall be ages sixty (60) or over. Ethnic population and geographic areas of the County shall be represented in the nomination of members.

(Code 2006; History: Res. 1995-23, Art. III, §§ 1-3, § 5; amended by Res. 1997-142; amended by Res. 2002-267, § 1)

Sec. 9-54. Officers.

(A) Titles. The Council shall have a Chair, a Vice-Chair and a Secretary. The Vice-Chair shall serve as Chair-elect and shall serve as Chair at the end of the Chair's term.

- (B) Terms and Election. Officers of the Council shall be selected for a one (1) year term at the regular December meeting. Each officer may serve in the same position for no more than two (2) successive terms. Terms of office will begin at the January meeting of the Council.
- (C) Qualifications. Officers of the Council shall be members of the Council. (Code 2006; History: Res. 1995-23, Art. IV; §§ 1-3)

Sec. 9-55. Duties Of Officers.

- (A) Chair. The Chair shall preside over the meetings of the Council and shall direct the assembly and distribution of the meeting agenda and minutes. The Chair shall be an *ex officio* member of all committees. The Chair shall make all committee appointments among the members and associates.
- (B) Vice-Chair. The Vice-Chair shall discharge the duties of the Chair in the absence of the Chair or when designated by the Chair. The Vice-Chair shall chair the Grant Review Committee, convene the Bylaws Committee when necessary and shall be an *ex officio* member of all other standing committees.
- (C) Secretary. The Secretary shall be responsible for the roll and minutes of the meeting, which shall be sent to the membership with the meeting notice and agenda for the next meeting.

(Code 2006; History: Res. 1995-23, Art. V; §§ 1-3)

Sec. 9-56. Committees.

- (A) Standing Committees. The Standing Committees of the Council shall be the Executive Committee, the Nominations Committee, the Grant Review Committee, the Advocacy Committee, and the Community Studies Committee.
 - (1) Executive Committee. The Executive Committee shall consist of the officers of the Council. The Executive Committee shall represent the Council before governing bodies and to the public. It shall act on behalf of the Council during times between Council meetings.
 - (2) Nominations Committee. The Nominations Committee shall solicit nominations for officers of the Council at the regular November meeting and make its recommendations at the December meeting. The Nominations Committee shall review applications for membership on the Council and recommend nominees to the Council for each vacancy.
 - (3) Grant Review Committee. The Grant Review Committee shall review applications for Service Program for the Elderly funds and interview all applicants for such funds. The Committee will make recommendations for allocation of funding to the Council. This Committee shall be composed of members only.
 - (4) Advocacy Committee. The Advocacy Committee shall advise the Council on public policy issues affecting older citizens and make recommendations regarding courses of action or solutions.
 - (5) Community Studies Committee. The Community Studies Committee shall review aging services and aging service needs in Shawnee County. The Community Studies Committee shall identify problems, analyze resources available to address the problems and recommend courses of action or solutions.
 - (B) Ad Hoc Committees. The Council may establish ad hoc committees as necessary.

(C) Participation. Each member shall be required to accept an appointment to at least one (1) committee. The Chair shall appoint each member and associate to at least one (1) committee.

(Code 2006; History: Res. 1995-23, Art. VI; §§ 1-3)

Sec. 9-57. Meetings.

- (A) Regular Meetings. The Council shall meet monthly at a date, time and location determined by the Council.
- (B) Special Meetings. Special meetings may be called by the Chair. Notice of the special meeting must be provided to members at least ten (10) working days before the meeting date.
- (C) Quorum. A quorum for any regular or special meeting shall consist of a majority of members of the Council.
- (D) Absences. Unexcused absences from three (3) consecutive meetings by a member or associate shall be construed as resignation from the Council. Members and associates must provide the Council advance notice in order to be excused. (Code 2006; History: Res. 1995-23, Art. VII; §§ 1-4)

Sec. 9-58. Revisions.

- (A) Procedure. This article may be revised by a two-thirds (2/3) vote of the members and approval by the Board of County Commissioners.
- (B) Notification. Written notice of the proposed revisions must be submitted to members not less than ten (10) days before the meeting at which the changes are to be considered. (Code 2006; History: Res. 1995-23, Art. VIII, §§ 1-2)

Sec. 9-59. Conduct Of Meetings.

Any procedural issues not addressed in this article shall be governed by ROBERT'S RULES OF ORDER, newly revised.

(Code 2006; History: Res. 1995-23, Art. IX)

Secs. 9-60-9-90. Reserved.

ARTICLE III. SHAWNEE COUNTY AMBULANCE ADVISORY BOARD

Note: See also Section 15-202. Ambulance Advisory Board Established.

Sec. 9-91. Membership.

A. The Ambulance Advisory Board shall consist of the following:

- i. One member from Stormont Vail Hospital, preferably someone with knowledge of or experience in providing emergency medical service. The CEO or other management personnel from Stormont Vail Hospital shall be invited to recommend a person for this position.
- ii. One member from St. Francis Hospital, preferably someone with knowledge of or experience in providing emergency medical service. The CEO or other management personnel from St. Francis Hospital shall be invited to recommend a person for this position.

- iii. One member from the Topeka Fire Department. The Topeka Fire Chief shall be invited to recommend a person for this position.
- iv. One member from the Rural Fire Chiefs. The Rural Fire Chiefs shall be invited to nominate a representative by majority vote.
- v. Two members from the public. These persons will preferably have some knowledge in the areas of emergency medical service, administration of ambulance service, or other related areas. No person may serve in this position if such person is employed by AMR or the Topeka Fire Department or if such person is employed or volunteers for any of the County's Rural Fire Departments.
- vi. One member shall be the Director of the Shawnee County Emergency Management Department or his or her designee. This member shall not vote except to break a tie.
- B. Members of the Ambulance Advisory Board shall be appointed by and serve at the pleasure of the Board of County Commissioners. The Board of County Commissioners may interview prospective appointees prior to appointment.
- C. All members shall be residents of Shawnee County.
- D. Term Limits. Every Advisory Board member shall be appointed for a three (3) year term. Each member may serve a maximum of two (2) terms. The terms shall be staggered. For the first members appointed after this resolution is enacted, the members from the Topeka Fire Department and the Rural Fire Chiefs shall serve one (1) year terms, the members from the public shall serve two (2) year terms and the hospital members shall serve three (3) year terms. Thereafter, all members shall serve three (3) year terms. These term limits shall not apply to the position filled by the Shawnee County Emergency Management Director or his or her designee.

(Code 2006; History: Res. 2002-44, § 1, rescinded by Res. 2012-59)

Sec. 9-92. Scope Of Authority; Quorum; Clerical Support; Meetings.

The scope of authority of the Ambulance Advisory Board is advisory to the Board of County Commissioners on issues relating to the provision of ambulance service in Shawnee County. A quorum of the Advisory Board will be four (4) members. The Shawnee County Emergency Management Department shall provide clerical support to the Advisory Board as necessary for the taking of minutes of its meetings. Meetings shall be held at least once every other month, but the Advisory Board may meet as often as deemed necessary to accomplish its purpose.

The Advisory Board may request the attendance of the County Counselor or the County Finance Director or his or her designees at its meetings upon sufficient notice to these departments.

(Code 2006; History: Res. 2002-44, § 2, rescinded by Res. 2012-59, § 2, 3)

Sec. 9-93. Recommendations.

The Board of County Commissioners may, from time to time, solicit the recommendations of the Ambulance Advisory Board with respect to any matter that affects the provision of ambulance services within Shawnee County, Kansas. Any formal recommendation by the Ambulance Advisory Board to the Board of County Commissioners shall be on motion passed by a majority of a quorum.

(Code 2006; History: Res. 2002-44, § 3, rescinded by Res. 2012-59, § 4)

Sec. 9-94. Ambulance Contract Compliance.

One of the functions of the Ambulance Advisory Board is to assist the Shawnee County Emergency Management Department with ambulance contract compliance. The Shawnee County Emergency Management Department is hereby authorized to provide all data, records and reports relating to the provision of ambulance service in Shawnee County to the Ambulance Advisory Board. Upon completion of each monthly review report by the Shawnee County Emergency Management Department, such report shall be made available at the next meeting of the Ambulance Advisory Board. If the Ambulance Advisory Board deems it necessary to have additional information from the ambulance provider to perform its duties pursuant to this article, it may request the County Counselor to assist it in obtaining the records from the provider. Nothing in this article shall be construed to allow the Ambulance Advisory Board access to confidential or proprietary records.

(Code 2006; History: Res. 2002-44, § 4, rescinded by Res. 2012-59, § 5)

Sec. 9-95. Long Range Planning.

In the interest of assuring that Shawnee County is providing adequate and appropriate ambulance service for its citizens, the Board of County Commissioners requests the Ambulance Advisory Board to perform long range planning in the area of ambulance service. This may include recommendations to the Board of County Commissioners on such issues as whether ambulance service should be provided by the government or by private enterprise; whether to request proposals for ambulance service in the future; government subsidy issues; what type and scope of service should be provided; the quality of the continuum of care for patients and any other issue that the Ambulance Advisory Board determines should be discussed regarding the future provision of ambulance service in Shawnee County, Kansas. (Code 2006; History: Res. 2002-44, § 5, rescinded by Res. 2012-59, § 6)

Sec. 9-96. Unsolicited Recommendations.

The Ambulance Advisory Board shall have the authority to make unsolicited recommendations to the Board of County Commissioners with respect to any matter that affects the provision of ambulance services within Shawnee County, Kansas. (Code 2006; History: Res. 2002-44, § 6, rescinded by Res. 2012-59, § 7)

Sec. 9-97. Presentment Of Issues To Ambulance Advisory Board.

On all ambulance service related issues, the ambulance service provider shall present the issues to the Ambulance Advisory Board first for its recommendation before coming before the Board of County Commissioners. This requirement shall include all rate and subsidy issues. The ambulance service provider is strongly encouraged to present any proposed operational change to the Ambulance Advisory Board before the change is made. (Code 2006; History: Res. 2002-44, § 7, rescinded by Res. 2012-59, § 8)

Sec. 9-98. Authority Prohibited.

Neither the Ambulance Advisory Board nor its members shall have the authority, jointly or severally, to contract, tax, or otherwise take any action which would in any way bind the Board of County Commissioners of the County of Shawnee, Kansas. (Code 2006; History: Res. 2002-44, § 8, rescinded by Res. 2012-59, § 9)

Secs. 9-99-9-120. Reserved.

ARTICLE IV. RESERVED

Secs. 9-121 - 9-160. Reserved.

ARTICLE V. CIVIL SERVICE BOARD

Sec. 9-161. Civil Service Board.

- (A) There is hereby created a civil service system for law enforcement officers employed by the Shawnee County Sheriff's Office pursuant to K.S.A. 19-4303 *et seq.*, subject to the modification contained in § 9-161(B).
- (B) The Civil Service Board created hereunder shall operate pursuant to K.S.A. 19-4303 *et seq.*, except:
 - (1) The Civil Service Board shall have no responsibilities or authority with regard to the hiring of new officers. In accord with same, no reference to hiring or the powers, duties or responsibilities related to hiring in K.S.A. 19-4303 *et seq.* shall have any force or effect. The hiring process established in § 10-201 (Shawnee County Personnel Rules and Regulations) and administered by the County Department of Human Resources shall apply to the hiring of any new officer by the Shawnee County Sheriff's Office; and
 - (2) The Civil Service Board shall consist of three (3) members. One (1) member shall be appointed by each Commissioner of Shawnee County from his or her respective commission district to serve during the term of office of the appointing Commissioner; any vacancy on the Civil Service Board shall be filled in the same manner. In accord with same, no reference to the number, appointment, terms, or etc. of the members of the Civil Service Board in K.S.A. 19-4303 et seq. shall have any force or effect.

(Code 2006; History: Charter Res. 2003-4, §§ 1-2)

Sec. 9-162. Adoption of Civil Service Rules and Regulations.

The Board of County Commissioners hereby adopts the Shawnee County Civil Service Board Rules and Regulations as approved by the Shawnee County Civil Service Board on September 28, 2018, for all officers (contract and non-contract) employed by the Shawnee County Sheriff's Office. Any and all Shawnee County Civil Service Board Rules and Regulations in effect before September 28, 2018, are hereby rescinded.

(Code 2008; History: Res. 2008-32, amended by Res. 2018-53)

ARTICLE VI. COMMUNITY ACTION BOARD

Sec. 9-191. Established.

The Community Action Board is a private non-profit organization serving the low income population in Shawnee County. It is involved in outreach activities, commodity deliveries, medical equipment and supply loan projects, homestead and food sales tax returns, and transportation services. This board oversees the budget and programs to assure compliance with local, state and federal regulations and to assure that services are provided where needed without duplication. The board is composed of thirty (30) members from private, public and low income populations. Appointments are made by each Board of County Commissioner and appointees serve until they resign or until the Commissioner who appointed he or she is no longer in office. The at-large appointment is for two (2) years. (Code 2006)

Secs. 9-192-9-220. Reserved.

ARTICLE VII. COMMUNITY CORRECTIONS ADVISORY BOARD

Sec. 9-221. Established.

A Community Corrections Advisory Board is hereby established to formulate a comprehensive plan for the development, implementation and operation of correctional services in the County pursuant to the "Community Corrections Act." (Code 2006; History: Res. 1978-130; K.S.A. 75-5290 *et seq.*, Community Corrections Act)

Secs. 9-222 - 9-250. Reserved.

ARTICLE VIII. DRUG-ALCOHOL ADVISORY COUNCIL

Sec. 9-251. Council Designated As Official Planning Group.

The Shawnee Community Mental Health Corporation's Alcoholism-Drug Advisory Council is hereby designated as the official planning group for alcohol and drug problems; in reviewing, commenting, and making recommendations and all other decisions in alcohol and drug program planning and development. The Council's recommendations will be forwarded to the County Commission for final approval. If approved, the recommendations will then be co-signed by the Chair of the Advisory Council and the Chair of the County Commission. The recommendations will then be presented to the state authority as the official decision of the County Commissioners.

(Code 2006; History: Res. 1978-90)

Secs. 9-252 - 9-270. Reserved.

ARTICLE IX. KANSAS EXPOCENTRE ADVISORY BOARD

Sec. 9-271. Established.

A Kansas Expocentre Advisory Board, hereinafter referred to as the "Advisory Board," shall be established. Said Advisory Board shall be comprised of ten (10) citizens of Shawnee

County, eight (8) of whom shall not be elected County or City officials and are citizens of recognized agricultural, business, or managerial abilities who shall be appointed as follows:

- (1) The Chair of the Board of County Commissioners, or such Commissioner as appointed by a majority vote of the Board of County Commissioners;
- (2) The Mayor of the City of Topeka or the Mayor's designee shall serve at the pleasure of the Board of County Commissioners;
- (3) Seven (7) persons shall be appointed by the Board of County Commissioners; and
- (4) The President of Visit Topeka, Inc., or a designee, shall serve as a voting member of the Advisory Board.

(Code 2006; History: Res. 1989-217, Art. II, § 2.1; amended by Res. 1989-231, § 1; amended by Res. 1991-155, § 1; amended by Res. 1991-165, § 1; amended by Res. 1993-112, § 1)

Sec. 9-272. Appointments.

All successive appointments to the Advisory Board shall be for three (3) year terms of office. Vacancies shall be filled as they occur for the unexpired term of office by the party which appointed the member whose position has been vacated. No member of the Advisory Board may serve more than two (2) consecutive terms of whatever duration. (Code 2006; History: Res. 1989-217, Art. II, § 2.2)

Sec. 9-273. Meetings.

- (A) The Advisory Board shall meet monthly and at such other times as the Chair of the Advisory Board determines it to be necessary. At its first meeting and thereafter at its first meeting in January of each succeeding year, the Advisory Board shall elect from among its members a Chair who shall preside at all meetings of the Advisory Board, a Vice-Chair who shall preside in the absence of the Chair. The Advisory Board shall appoint a Secretary who shall keep the minutes of all meetings of the Advisory Board and maintain all records of the Advisory Board.
- (B) No meetings of the Advisory Board shall be held except upon a quorum of at least six (6) members nor shall any Advisory Board business be conducted except upon authority of a vote of a majority of all members present.

(Code 2006; History: Res. 1989-217, Art. II, §§ 2.3-2.4)

Sec. 9-274. Salary And Reimbursements.

The members of the Advisory Board shall not receive any salary for their services but may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as directed by the Advisory Board.

(Code 2006; History: Res. 1989-217, Art. II, § 2.5)

Sec. 9-275. Removal.

Members of the Advisory Board appointed by each County Commissioner may be removed from said Advisory Board at any time upon a unanimous vote of the Board of County Commissioners.

(Code 2006; History: Res. 1989-217, Art. II, § 2.6)

Sec. 9-276. Duties.

The Advisory Board shall serve in an advisory capacity to the Board of County Commissioners and the Director of the County Parks and Recreation Department by making recommendations on those matters that are referred to it by the Board of County Commissioners or the Director of the County Parks and Recreation Department.

(Code 2006; History: Res. 1989-217, Art. III; amended by Res. 1990-115, § 2; amended by Res. 1991-155; § 2)

Secs. 9-277-9-300. Reserved.

ARTICLE X. LOCAL EMERGENCY PLANNING COMMITTEE

Secs. 9-301 - 9-330. Reserved.

See 42 U.S.C. § 11001, Superfund Amendments and Reauthorization Act of 1986; K.S.A. 65-5701 et seq., Kansas Emergency Planning and Community Right-To-Know Act.

ARTICLE XI. LOCAL ENVIRONMENTAL PROTECTION PROGRAM COMMITTEE

Sec. 9-331. Established.

A Local Environmental Protection Program Committee is hereby established. (Code 2006; History: Res. 1996-197, § 1)

Sec. 9-332. Appointments.

The Local Environmental Protection Program Committee shall be appointed by the Board of County Commissioners and shall include one (1) member from each of the following departments: City of Topeka Public Works, County Public Works, County Health Agency, Natural Resource Conservation Service, and the Board of County Commissioners. In addition, there shall be up to two (2) septic system installers who are active in that business. The Board of County Commissioners also may appoint any other person it may desire to have serve on the committee.

(Code 2006; History: Res. 1996-197, § 2)

Sec. 9-333. Duties.

The Local Environmental Protection Program Committee is charged with the following duties and responsibilities:

- (1) Continue and enhance the Local Environmental Protection Program;
- (2) In order to better protect the public health and environment, prepare and present to the Board of County Commissioners an environmental code to standardize sanitation regulations throughout the County;
- (3) Schedule and attend regular meetings to guide and coordinate Local Environmental Protection Program activities;
- (4) Become a source of information for the citizens of Shawnee County concerning the environmental code and the regulation of domestic sewage discharge and private water wells; and
- (5) Inform and make recommendations to the Board of County Commissioners concerning these environmental issues.

(Code 2006; History: Res. 1996-197, § 3)

ARTICLE XII. FEDERALLY QUALIFIED HEALTH CENTER BOARD

Sec. 9-361. Health Agency; Federally Qualified Health Center Board.

- (A) The Federal Qualified Health Center (FQHC) clinics for which the County receives federal funds and reimbursement will be governed by the Federally Qualified Health Center Board (FQHC Board) which is hereby created.
- (B) The FQHC Board shall consist of eleven (11) members, the selection of whom will be according to the bylaws adopted by the FQHC Board and shall comply with all federal requirements as to composition.
- (C) The FQHC Board shall provide for at least one (1) member from the Board of County Commissioners and shall allow the County Commission to make one (1) additional appointment.
- (D) The scope of the FQHC Board's authority shall be set forth in a separate agreement between the FQHC Board and the Board of County Commissioners and shall comply with all federal requirements.

(Code 2006; History: H.R. Res. 2003-5, §§ 1-4)

Secs. 9-362-9-390. Reserved.

ARTICLE XIII. RESERVED

Secs. 9-391 - 9-420. Reserved.

ARTICLE XIV. SHAWNEE COUNTY HEALTH INSURANCE COMMITTEE

Sec. 9-421. Consolidated.

The functions of the Shawnee County Health Insurance Committee and the Shawnee County Wellness Committee are hereby combined into the Shawnee County Health Insurance and Wellness Committee.

(Code 2006; History: Res. 1995-185, Res. 2001-210, consolidated by Res. 2016-9)

ARTICLE XV. SHAWNEE COUNTY HEALTH INSURANCE AND WELLNESS COMMITTEE

Sec. 9-422. Committee Composition.

The County Health Insurance and Wellness Committee shall be composed of the following individuals: Financial Administrator, County Counselor, Director of Human Resources, Payroll Officers, one (1) County employee from each Union (Teamsters, AFSCME, Communication Workers of America, and FOP), one (1) employee representing the classified employees, and one (1) employee representing the unclassified employees. The Board of Shawnee County Commissioners shall appoint the classified and unclassified employee each year after receiving a recommendation from the Director of Human Resources. Each Union shall notify the Director of Human Resources of its designee prior to September 1 of each year.

(Code 2016; History: Res. 2016-9)

Sec. 9-423. Cafeteria Plan; Health Insurance Core Committee.

A recommendation regarding other aspects of the County cafeteria plan not related to health insurance shall be the responsibility of a core committee composed of the Director of Human Resources, the County Counselor, and the Financial Administrator. This shall also include recommending to the Board the percentage of coverage to be paid by the County toward cafeteria plan benefits.

(Code 2016; History: Res. 2016-9)

Secs. 9-424-9-490. Reserved.

ARTICLE XVI. SHAWNEE COUNTY JUVENILE CORRECTIONS ADVISORY BOARD

Secs. 9-491-9-520. Reserved.

See K.S.A. 75-7038 et seq., Grants to counties for juvenile community correctional services.

ARTICLE XVII. SHAWNEE COUNTY SOLID WASTE COMMITTEE

Secs. 9-521 - 9-550. Reserved.

See K.S.A. 65-3405 et seq., Solid waste management plan required, solid waste management committee, composition, duties of committee, contents of plan. (Code 2006; History: Res. 2019-14)

ARTICLE XVIII. THIRD JUDICIAL DISTRICT NOMINATING COMMISSION

Secs. 9-551 - 9-580. Reserved.

See K.S.A. 20-2903 et seq., District judicial nominating commission; establishment; composition; chairperson, appointment, duties; purpose of commission.

ARTICLE XIX. TOPEKA-SHAWNEE COUNTY LANDMARKS COMMISSION

Sec. 9-581. Declaration Of Policy.

The City Council and County Commissioners find and declare as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic resources is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic resources will:

- (1) Protect, enhance and perpetuate historic, distinctive and important elements of the City and County's cultural, social, economic, political, archaeological and architectural history;
- (2) Safeguard the City and County's historic and cultural heritage as embodied and reflected in such historic resources;
- (3) Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the City and County;
- (4) Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- (5) Foster civic pride in the beauty and noble accomplishments of the past;

- (6) Protect and enhance the City and County's attractions to tourists and visitors and provide support and stimulus to business and industry; and
- (7) Promote the use and adaptive reuse of historic resources for the culture, education, enjoyment and economic welfare of the City and County's citizens and visitors.

(Code 2006; History: Res. 1998-206, § 1)

Sec. 9-582. Definitions.

As used in this article, the following words, terms and phrases shall have the meanings set out below:

- (1) Appurtenances and environmental setting is the parcel, as of the date of "Historic District" or "Historic Landmark" designation, on which is located a historic resource. Appurtenances and environmental setting includes walkways and driveways (whether paved or not), fences, gateways, open space and waterways. Interiors of structures are included only when a historic resource is designated a historic landmark and the owner consents to the addition of the interior of the structure.
- (2) Certificate of appropriateness is the approval given by the Landmarks Commission for projects impacting historic landmarks and resources within historic districts.
- (3) Demolition shall mean any and all activity that requires a demolition permit.
- (4) Demolition by neglect is the failure to provide ordinary and necessary maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.
- (5) Design criteria is the standard used for issuing a certificate of appropriateness. The criteria shall be based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based upon criteria of the Secretary of Interior's Standards as recommended by the Landmarks Commission and approved by the respective jurisdiction. Examples illustrating said standards shall be made available by the preservation staff.
- (6) Historic District is a group of residential historic resources, consisting of three (3) or more principal use residential structures or a residentially zoned tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the city, county, state, or nation which is so designated by the City Council or County Commission. Historic district includes all state and national registered residential districts, provided the owner(s) of record consents in writing to the inclusion.
- (7) Historic Landmark is a historic resource that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the City or County governing bodies determine shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. Historic landmark may also include the interior of a structure with written consent from the owner(s) of record. Historic landmark includes all state and national registered structures, provided the owner(s) of record consents in writing to the inclusion.

- (8) *Historic Resource* is a site, land area, building, structure or object, including appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a site, land area, building, structure, or object with potential importance or value.
- (9) Overlay Zoning means any zoning that functions in addition to the existing land use zoning, as in the case of historic landmark or residential historic district zoning.
- (10) *Permit* means authorization whether by administrative action or actions by the governing body and includes a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, or swimming pool permit which is issued by the Development Coordination Office or Shawnee County Planning Department.
- (11) *Preservation staff* means personnel assigned to provide staff services for the Landmarks Commission.
- (12) *Project Classification*. For the purpose of the certificate of appropriateness review procedure, proposed work involving a historic landmark or resource within a historic district shall be classified as major or minor.
 - (a) Major projects include:
 - (i) Any undertaking requiring a permit on a national or state register property or historic landmark unless determined minor by the preservation staff; or a structure within a national or state register district; unless determined minor by preservation staff;
 - (ii) Any demolition permit or moving permit for any structure listed as a historic landmark or historic resource within a historic district listed in the Preservation Plan adopted by the City Council or Board of County Commissioners.
 - (b) Minor project. For the purpose of certificate of appropriateness review, a minor project is any project requiring a permit on a historic landmark or property within a historic district, or, state or national register property that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing.
- (13) Preservation Plan. A document developed, adopted and implemented by the Landmarks Commission that identifies trends affecting and impacting historic resources and provides guidance for their preservation. The preservation plan will include a list of all historic resources, historic landmarks and historic districts within Topeka and unincorporated Shawnee County. The preservation plan will be a component of the Comprehensive Plan for the City and County.
- (14) Preservation Program. The overall program administered by the Landmarks Commission that involves the implementation of the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in Topeka and Shawnee County.
- (15) Residential. For purposes of historic preservation zoning designation, residential shall mean: "RA-1", "RR-1", "R-1" through "R-4", and "M-1" through "M-4" zoning classifications.

(16) *Uniform Code for Building Conservation*. A national code adopted by the City of Topeka that provides for more flexible code review for older and historic properties.

(Code 2006; History: Res. 1998-206, § 2)

Sec. 9-583. Landmarks Commission Established.

There is created and established a commission to be known as the "Topeka-Shawnee County Landmarks Commission" of the City of Topeka and Shawnee County, Kansas. The Topeka-Shawnee County Landmarks Commission will hereafter be called the "Landmarks Commission."

- (1) Scope Of Duties. The duties of the Landmarks Commission are to advise the City Council or County Commissioners on historic resources and to safeguard the architectural and cultural heritage of the community through the preservation of historic landmarks and historic districts. The Landmarks Commission may carry out these duties through the identification, documentation and designation of historic resources; development and implementation of a historic preservation plan; administration of ordinances/resolutions governing the designation, alteration and removal of historic resources, assistance with educational programs, economic development and tourism, and coordination of public and private historic preservation activities.
- (2) Members. The Landmarks Commission shall be composed of nine (9) members. Five (5) members shall be appointed by the Mayor with approval of the City Council and four (4) members shall be appointed by the Board of County Commissioners. The Landmarks Commission membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the Landmarks Commission shall be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas. A minimum of four (4) members shall be preservation related professionals.
- (3) Terms. The initial terms of office shall be as follows:

One (1) year term
Two (2) year terms
Three (3) members
Three (3) members
Three (3) members

Thereafter, all terms shall be for a three (3) year period commencing on January 1 and terminating on December 31, three (3) years hence; however, members shall serve until their successor has been appointed.

- (4) Officers. The Landmarks Commission shall elect a chairperson and one (1) vice-chairperson from its members.
- (5) Meetings. The Landmarks Commission shall meet at least once each month, with additional meetings upon call by the chairperson or upon petition of a majority of the members. All meetings shall be open to the public and notification shall be given in the official newspaper and to those who request notification. Unless otherwise required herein, five (5) members present constitute a quorum for the transaction of business.
- (6) *Ex Officio* Members. The following may sit on the Landmarks Commission as *ex officio* members:

- (a) The director or designee of the Development Coordination Office;
- (b) The director or designee of the Shawnee County Planning Department; or
- (c) The director or designee of the City of Topeka Planning Department.
- (7) Jurisdiction. This article shall apply to the City of Topeka and the unincorporated areas of Shawnee County. It shall apply within other cities of Shawnee County when approved by the governing bodies of such cities.
- (8) Committees and Subcommittees. The Landmarks Commission may establish through its bylaws such committees, including a Design Review Committee, as deemed necessary or convenient to carry out the various functions and duties of the Landmarks Commission. Such committees or subcommittees may be made up of part or all of the members of the Landmarks Commission and may include members outside the Landmarks Commission and may meet upon such schedule and for such purposes as established by the Landmarks Commission.
- (9) Staff of The Landmarks Commission. The Landmarks Commission shall receive such staff support as directed by the City and County administration.

(Code 2006; History: Res. 1998-206, § 3)

Sec. 9-584. Historic Landmark Designation.

The City Council or Board of County Commissioners may designate certain historic resources as historic landmarks or historic districts. Historic resources located within the City shall be designated by the City Council and historic resources located outside the City shall be designated by the Board of County Commissioners. Such designation shall be in addition to any other zoning designation established in the respective Zoning Regulations of the City of Topeka and Shawnee County, Kansas and be known as historic overlay zoning. An official register of all historic designations in the City of Topeka and unincorporated Shawnee County shall be created, maintained and filed for public information and use in the offices of the City Clerk and County Clerk.

(Code 2006; History: Res. 1998-206, § 4)

Sec. 9-585. Historic Landmark Designation Criteria.

- (A) In the designation of buildings, structures and objects as historic landmarks certain criteria must be met. These properties must be fifty (50) years or older. In addition, the property must meet one (1) or more of the following criteria:
 - (1) Is associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
 - (2) Is associated with a significant person or group of persons in the history of the city, county, state or nation;
 - (3) Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction;
 - (4) Yields or is likely to yield information important in prehistory or history; or
 - (5) Possesses integrity of location, design, setting, materials and workmanship.
- (B) Properties less than fifty (50) years old may be eligible for designation provided they are of extreme historical significance. All other criteria listed herein shall apply. (Code 2006; History: Res. 1998-206, § 5)

Sec. 9-586. Historic District Designation Criteria.

- (A) In the designation of buildings, structures and objects as residential historic districts certain criteria must be met. The historic resources within the historic district must be located on residentially zoned property and must be fifty (50) or more years old. In addition, the historic resources must meet one (1) or more of the following criteria:
 - (1) Are associated with events that have made a significant contribution to the broad pattern of history of the city, county, state or nation;
 - (2) Are associated with a significant person or group of persons in the history of the city, county, state or nation;
 - (3) Embody distinctive characteristics of a type, period, method of construction; represent the work of a master builder/architect; possess high artistic values; or represent a distinguishable entity whose components may lack individual distinction;
 - (4) Yield or are likely to yield information in prehistory or history; or
 - (5) Possess integrity of location, design, settings, materials and workmanship.
- (B) The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one (1) or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one (1) or more of the above criteria, provided that at least seventy-five percent (75%) of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Landmarks Commission.

(Code 2006; History: Res. 1998-206, § 6)

Sec. 9-587. Nomination.

- (A) The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Landmarks Commission. Copies of the nomination form shall be retained by the City Clerk, County Clerk and the respective Planning Departments for the City of Topeka and unincorporated Shawnee County. The nomination form shall include:
 - (1) A description of the specific historic resource nominated as a historic landmark or a list of specific residential historic resources located within the proposed district boundaries and a description of the particular importance or value of each such historic resource, such description to include the following:
 - (a) Approximate date of construction, and dates of major alterations, if known;
 - (b) Builder and/or architect, if known;
 - (c) Architectural style;
 - (d) Primary building materials;
 - (e) Current owner of record; and
 - (f) Legal description of each property;
 - (2) A map showing the boundaries of the proposed historic district and the location of each structure of importance or value identified by a number or letter designation;
 - (3) Sufficient photographs of each historic resource proposed as a historic landmark or historic resources listed within the historic district;

- (4) Written consent to the nomination by all of the owners of record of the proposed historic landmark. In the event of a contract sale, both the owner of record and the party or parties holding an equitable interest in the property must consent to the nomination; and
- (5) For a residential historic district, sixty-five percent (65%) of the owners of record within the proposed residential historic district must provide written consent. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the nomination.
- (B) Applications to increase the boundaries of a residential historic district may be made if one (1) or more of the following conditions are met:
 - (1) When additional residential historic resources which relate to the historic district are requested for inclusion; or
 - (2) When facts previously undisclosed to or unknown by the Landmarks Commission are revealed which indicate that a particular residential building or site is possessed of special architectural, archaeological, or cultural character, or economic viability to the district.
- (C) Applications to reduce the boundaries of a residential historic district may be made when one (1) or more of the following conditions have been met:
 - (1) When it can be shown that a particular residential building, structure, site, object or land area has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district; or
- (2) When it can be shown that no physical, historical, architectural, archaeological or cultural degradation will result from exclusion of property from the district. (Code 2006; History: Res. 1998-206, § 7)

Sec. 9-588. Historic District Exemptions.

Upon approval of a residential historic district by the appropriate governing body, property owners located within the district may elect to exempt their property from the requirements of the historic district by providing written notice of the self-exemption to the preservation staff. In the event of a contract sale of real property, both the owner of record and party or parties holding an equitable interest in the property must consent to the exemption. The property shall automatically convert to the historic overlay zoning district upon sale of the property, including a contract sale.

(Code 2006; History: Res. 1998-206, § 8)

Sec. 9-589. Landmarks Commission Functions.

The Landmarks Commission shall have the following functions:

- (1) The Landmarks Commission shall familiarize itself with the historic resources within the community and those which may be eligible for designation as historic landmarks or residential historic districts and shall administer the identification documentation and designation of such historic landmarks and historic districts, and shall present verification of significance to the City or County Planning Department, the City Council or County Commissioners.
- (2) The Landmarks Commission, using the criteria identified herein, shall determine whether certain buildings, structures, land areas, and interiors (only for historic landmarks and with owner consent) should be designated as historic landmarks or historic districts.

- (3) The Landmarks Commission shall administer certificate of appropriateness review according to design criteria as defined to determine whether to grant or deny approval of proposed undertakings.
- (4) The Landmarks Commission shall review and comment on projects which may be determined to pose a threat to an archaeological site as designated by the Kansas State Historical Office.
- (5) The Landmarks Commission may suggest sources of funds for preservation and restoration activities for acquisition, to include federal, state, municipal, private and foundation sources.
- (6) The Landmarks Commission may recommend incentives for preservation.
- (7) If the Landmarks Commission finds that certain historic resources cannot be preserved without acquisition, the Landmarks Commission may recommend to the City Council and County Commissioners that the fee or a lesser interest in the property be acquired by gift, or purchase, using funds or facilities available for preservation or restoration.
- (8) The Landmarks Commission shall annually review the status of designated historic landmarks and residential historic districts and include in the Landmarks Commission minutes a report of such review.
- (9) The Landmarks Commission shall make and adopt a historic preservation plan and review and update the plan as needed. The plan may include a list of historic resources which may not have attained the status of a historic landmark or as historic district. Within twenty (20) days of a resource listing determination by the Landmarks Commission, the following shall be provided as administered by the preservation staff:
 - (a) Property owners of those sites and structures which are listed as historic resources shall be notified of such listing;
 - (b) Property owners of historic resources shall be provided the opportunity to concur, or not to concur, with the inclusion of their property in the listing; and
 - (c) Notice of the listing of a property as a historic resource shall be filed with the Register of Deeds and recorded as an official notice to subsequent property owners.
- (10) The Landmarks Commission may implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the City or the County and monitored by the Landmarks Commission.
- (11) The Landmarks Commission may recommend programs and legislation to the City Council or County Commissioners to encourage historic preservation in the City of Topeka and Shawnee County.
- (12) The Landmarks Commission, upon request of the property owner, may assist in the preparation of National and/or State Register nominations.
- (13) The Landmarks Commission, upon request of the property owner, may render advice and guidance with respect to any proposed work on a historic resource. (Code 2006; History: Res. 1998-206, § 9)

Sec. 9-590. Procedure; Designation Of Historic Landmark And Historic District.

An application for historic landmark and residential historic district designation requires the following procedures:

- (1) A Historic Landmark or Historic District nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to the appropriate City or County Planning Department.
- (2) Upon receipt of such nomination, a hearing by the Landmarks Commission will be scheduled either at its regular meeting or at a special meeting, provided that notice of the meeting shall be published twenty (20) days prior to the date of such hearing. For purposes of holding a hearing to consider designation of a historic landmark or historic district, seven (7) members of the Landmarks Commission shall constitute a quorum. The owner or owners of record of any parcel on which a proposed historic landmark is situated or which is a part of a proposed historic district shall be mailed written notice at least twenty (20) days prior to the hearing related to the designation of such proposed historic landmark or historic district, the amendment to any designation thereof, or the proposed reduction of any designation or the amendment thereto. Owner(s) consent to the landmark or historic district designation is a requirement for such designation to occur. The Landmarks Commission shall afford a full and fair hearing to all interested persons. The Landmarks Commission may solicit expert testimony regarding the historic and architectural importance of the historic resource(s) under consideration for designation. All interested persons may appear in person or by representative and present evidence or comment. The Landmarks Commission shall make its decision regarding the designation within a reasonable time, no later than fifteen (15) days following the close of the hearing. In the event a member of the Landmarks Commission shall make application, evidence shall be presented in the same manner as all other persons and the Landmarks Commission member shall not vote on the matter contained in the application. Five (5) affirmative votes shall be required to constitute a recommendation of approval on any nomination application presented to the Landmarks Commission.
- (3) After consideration and recommendation by the Landmarks Commission, the application shall be submitted to the appropriate City or County Planning Department. The following is required as part of the designation application:
 - (a) The Landmarks Commission recommendation;
 - (b) Legal description and map of the boundaries of the proposed designation;
 - (c) Completed Historic Landmark or Historic District nomination form and accompanying materials;
 - (d) Applicable historic district preservation guidelines as defined herein; and
 - (e) A list of property owner(s) of record.
- (4) The designation shall be placed on the next possible meeting agenda of the applicable City or County Planning Commission for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a two hundred (200) foot radius in the City and within a thousand

(1,000) foot radius in the County will be notified of the hearing. At the conclusion of its hearing, the appropriate City or County Planning Commission shall set forth in writing its findings as to whether the designation is consistent with adopted plans and shall transmit such findings to the City Council or County Commissioners.

- (5) After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by ordinance by the City Council or by resolution by the County Commissioners. Upon passage of such ordinance or resolution, a certified copy shall be filed with the Shawnee County Register of Deeds.
- (6) Upon approval of a historic landmark or residential historic district designation ordinance by the City Council or resolution by the County Commissioners, the City or County Planning Department shall cause the official designation and delineation of the property or properties involved.

(Code 2006; History: Res. 1998-206, § 10)

Sec. 9-591. Historic District Preservation Guidelines.

Preservation guidelines for a proposed residential historic district shall be submitted with a nomination application. The district preservation guidelines shall include, but not be limited to the following:

- (1) Guidelines for those seeking a certificate of appropriateness including, but not limited to the following:
 - (a) Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
 - (b) Appropriate architectural character, scale, and detail for any construction additions, remodeling or rehabilitation activities;
 - (c) Acceptable appurtenances to the structures;
 - (d) Acceptable textures and ornamentation to the exterior of the structures;
 - (e) Acceptable accessories on structures;
 - (f) Such other building regulations which would have impact on the buildings;
 - (g) Acceptable standards for changes to non-contributing resources within the district; and
 - (h) Acceptable signage.
- (2) Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks.

(Code 2006; History: Res. 1998-206, § 11)

Sec. 9-592. Historic District Designation Administrative Requirements.

The following shall apply:

(1) When the Landmarks Commission considers an area as a possible residential historic district, the Landmarks Commission shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate City or County departments and other public agencies directly affected.

- (2) In addition, the Landmarks Commission shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.
- (3) Landmarks Commission approved graphics for designated residential historic resources within a historic district may be made available to the owners of designated structures.

(Code 2006; History: Res. 1998-206, § 12)

Sec. 9-593. Certificate Of Appropriateness Review.

The following procedures and requirements shall apply to certificate of appropriateness review:

- (1) A permit for any project as defined herein affecting a designated historic landmark or any property within a designated residential historic district shall not be issued to any applicant by the Development Coordination Office or Shawnee County Planning Department unless an application for a Certificate of Appropriateness has first been reviewed and approved by the preservation staff, the Shawnee County Planning Department, if applicable, the Landmarks Commission and, if a protest is filed by the City Council or the County Commissioners. Projects not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a certificate of appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic resource which is located within a residential historic district shall be subject to a certificate of appropriateness review.
- (2) When applying for a certificate of appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Landmarks Commission's adopted application forms. A complete certificate of appropriateness application and accompanying materials shall be submitted to the preservation staff for review of the application and determination if the proposed work is a major or minor project.
- (3) The Landmarks Commission shall review the application and recommend approval, approval with conditions, or denial within thirty (30) days of the receipt of the application. A fifteen (15) day period for written comments regarding the project shall be provided prior to the Landmarks Commission's hearing. These written comments shall be directed to the Landmarks Commission. If approved, and provided that a protest is not filed within five (5) business days, preservation staff shall issue a copy of the certificate of appropriateness to the applicant and provide a copy to the Development Coordination Office or Shawnee County Planning Department and the applicant. If an appeal is filed by the applicant or any interested party with the preservation staff within five (5) business days of the Landmarks Commission's action, the certificate of appropriateness shall not be issued until the City Council or County Commissioners holds a public hearing regarding the application. This public hearing shall be at the next available meeting of the applicable governing body. For the purpose of this section, interested party shall mean an individual or individuals with a legally recognized interest in the real property located within the subject historic district.
- (4) A certificate of appropriateness for a minor project shall be reviewed and approved or denied by the preservation staff. If approved, the preservation staff shall provide a certificate of appropriateness to the applicant and provide a copy of documented approval to the Development Coordination Office or Shawnee

County Planning Department. An appeal from a denial of an application for a minor project may be filed with the preservation staff within five (5) business days. A public hearing on the appeal shall be at the next available meeting of the applicable governing body.

- (5) Ordinary maintenance and repair not otherwise subject to a permit or restricted by the historic preservation guidelines may be carried out without a certificate of appropriateness.
- (6) If no action has been taken by the preservation staff and/or the Landmarks Commission within thirty (30) days for major projects and within fifteen (15) days for minor projects after date of receipt of the completed application, the applicant may apply for the permit with the Development Coordination Office or Shawnee County Planning Department.
- (7) No significant change shall be made in the work defined in the certificate of appropriateness application after issuance of a certificate of appropriateness without resubmittal and approval thereof in the same manner provided herein.
- (8) A certificate of appropriateness may be refiled provided the request addresses the concerns stated by the governing body in its denial.

(Code 2006; History: Res. 1998-206, § 13)

Sec. 9-594. Demolition And Moving Permits.

- (A) If an application is received by the Development Coordination Office or Shawnee County Planning Department for demolition or moving of any historic landmark or structure within a residential historic district the applicant shall be referred to the preservation staff for a certificate of appropriateness application. Review of such application for a certificate of appropriateness shall be as provided herein.
- (B) For a project which involves demolition of a historic landmark property or properties within a residential historic district or national and state registered properties, the proponents of such project shall, before doing any of the demolition or work in furtherance of such project, whether or not a building or other permit is required to be obtained to do such demolition work, file an application for a certificate of appropriateness for review as provided herein.
- (C) After review of certificate of appropriateness and, upon the recommendation of the Landmarks Commission and City or County Planning Commission, the City Council or Board of County Commissioners shall hold a hearing within thirty (30) days of the Landmarks Commission's recommendation. In addition to the recommendation of the Landmarks Commission, the City Council or Board of County Commissioners shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark or structure within a residential historic district, alternatives presented by interested parties, the character of the neighborhood, the economic consequences to the City or County and the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the structure within the residential historic district shall bear the burden of proof demonstrating hardship.
- (D) The City Council or Board of County Commissioners may approve the certificate of appropriateness or deny the certificate of appropriateness if it determines that feasible alternatives to demolition or moving of the historic landmark or structure within the residential historic district exist and that in the interest of preserving historical values, the historic landmark or structure within the residential historic district should not be demolished or moved.

- (E) In the event of an "emergency" demolition of a historic landmark or a structure within a residential historic district, the Development Coordination Office or Shawnee County Planning Department staff shall notify the preservation staff as soon as possible.
- (F) The Landmarks Commission shall, in the case of a historic resource, suggest to the owner of the property alternatives to demolition, or if demolition is the conclusive alternative, the Landmarks Commission shall document or cause to be documented the historic resource with photographs and/or measured drawings. The Development Coordination Office or Shawnee County Planning Department shall notify the Landmarks Commission in the event a permit for demolition is requested for a historic resource. (Code 2006; History: Res. 1998-206, § 14)

Sec. 9-595. Review Of Demolition Buildings/Moving Permits; Historic Resources.

An application to the Development Coordination Office or Shawnee County Planning Department for a demolition or moving permit shall require notification to preservation staff if the permit is for a historic resource determined by preservation staff to have potential for landmark designation. These resources shall be fifty (50) years or older and meet one (1) or more of the criteria for landmark designation described herein. The following procedure applies:

- (1) Demolition and moving permit applications for buildings or structures listed as historic resources will be reviewed by preservation staff.
- (2) Preservation staff may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.
- (3) If a building, site or structure is determined by the preservation staff to meet criteria for historic landmark designation, a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries and justification of its historic or architectural significance. The notice shall also be delivered to the Development Coordination Office or Shawnee County Planning Department with acknowledgment of receipt by the respective administrator.
- (4) Following application for a moving or demolition permit for a listed historic resource, a ninety (90) day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by Landmarks Commission staff.
- (5) During such period, no permit shall be issued unless for emergency public safety reasons, or a certificate of appropriateness has been issued.
- (6) After the delay, if demolition of the historic resource is the conclusive alternative, the Landmarks Commission shall direct staff to document the resource with photography, and/or measured drawings for record purposes.

(Code 2006; History: Res. 1998-206, § 15)

Sec. 9-596. Historic Landmark And Historic District; Demolition By Neglect.

In the event of demolition by neglect of a historic landmark or structure within a residential historic district on public or private property, the following provisions shall apply:

(1) If a historic landmark or a property within a residential historic district has been determined by the Landmarks Commission to be the subject of demolition by neglect, the Landmarks Commission or preservation staff shall provide the owner

- of record with a written notice specifying the conditions of deterioration and the minimum items of repair or maintenance necessary to correct or prevent further deterioration.
- (2) Such notice shall be sent by certified mail, return receipt requested, addressed to the owner of the property, contract purchaser, if applicable, at his or her last known address, or the address shown on the real property tax records in the County Clerk's Office. Such notice, when so addressed and deposited with the Postal Service with proper postage prepaid, shall be deemed complete and sufficient. In the event that notification cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be accomplished by posting a public notice on the property. A copy shall also be provided to the Development Coordination Office and Shawnee County Planning Department.
- (3) The notice shall provide that corrective action shall commence no later than thirty (30) days from the receipt or posting of said notice, unless an extension is granted by the Landmarks Commission. The owner or contract purchaser, if applicable, shall demonstrate continual progress and all repairs shall be completed within a reasonable period of time. The notice shall state that the owner(s) of record of the subject property may within ten (10) days request a hearing before the Landmarks Commission challenging the finding of demolition by neglect and/or the notice to repair. If such request for a hearing is received within this time period, a hearing will be at the next regular meeting of the Landmarks Commission. The Landmarks Commission shall review all evidence of demolition by neglect at the scheduled hearing.
- (4) In the event that the Landmarks Commission finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the Landmarks Commission shall establish a period of forty-five (45) days and direct preservation staff to seek alternative methods to preserve the historic landmark or property located within a historic district.
- (5) If no alternative is found to preserve the structure without undue hardship to the owner, and any or all persons with any right or title in the subject property and the structure is determined a threat to human safety and is in violation of City Code or County Code, a demolition permit may be issued.

(Code 2006; History: Res. 1998-206, § 16)

Sec. 9-597. Penalty.

It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move, or maintain any historic landmark in violation of the provisions of this article. In addition to other remedies, the City or County may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, moving or maintenance to restrain, correct or abate such violation.

(Code 2006; History: Res. 1998-206, § 17)

Sec. 9-598. Severability.

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

(Code 2006; History: Res. 1998-206, § 18)

Secs. 9-599-9-650. Reserved.

ARTICLE XX. TOPEKA-SHAWNEE COUNTY PUBLIC LIBRARY BOARD

Secs. 9-651 - 9-680. Reserved.

See K.S.A. 12-1260 et seq., Topeka and Shawnee County library districts; definitions.

ARTILE XXI. SHAWNEE COUNTY WELLNESS COMMITTEE

Sec. 9-681. Consolidated.

The functions of the Shawnee County Health Insurance Committee and the Shawnee County Wellness Committee are hereby combined into the Shawnee County Health Insurance and Wellness Committee.

(Code 2012; History: Res. 2012-69, consolidated by Res. 2016-69)

ARTICLE XXII. SHAWNEE COUNTY INVESTMENT OVERSIGHT COMMITTEE

Sec. 9-682. Established.

The Board of County Commissioners of the County of Shawnee, Kansas, hereby establishes the Investment Oversight Committee. (Code 2010; History: Res. 2010-88, *amended by* Res. 2014-13)

Sec. 9-683. Membership of Committee.

The Investment Oversight Committee shall consist of the following five members:

- The Shawnee County Audit Finance Administrator
- The Shawnee County Clerk
- The Shawnee County Counselor
- The Shawnee County Treasurer
- A Shawnee County Commissioner appointed by the Board of County Commissioners

(Code 2010; History: Res. 2010-88, amended by Res. 2014-13)

Sec. 9-684. Function.

The Investment Oversight Committee is hereby charged with overseeing prudent investment of Shawnee County investment funds. The committee shall review investment opportunities and make determinations as to which investments are in the best financial interest of the County.

(Code 2010; History: Res. 2010-88, amended by Res. 2014-13)

Sec. 9-685. Reports.

The Committee shall make regular written reports of its activities to the Board. (Code 2010; History: Res. 2010-88, *amended by* Res. 2014-13)

Sec. 9-686. Meetings.

The Shawnee County Audit Finance Director is charged with the responsibility of scheduling and conducting Committee meetings as necessary. The Officer Administrator of

the Board of County Commissioners shall serve as Secretary to the Committee and shall cause a proper record to be kept of all proceedings. The Secretary shall provide the Board of County Commissioners with notice of the time and place for all meetings as well as a written agenda and the action items resulting from all meetings.

(Code 2010; History: Res. 2010-88, amended by Res. 2014-13)

Sec. 9-687. Quorum and Voting.

A quorum of the Committee shall consist of three (3) members. Any matter requiring approval by the Committee or a recommendation to the Board of Shawnee County Commissioners shall require the affirmative votes of not less than a majority of the quorum present at such meeting of the Committee.

(Code 2010; History: Res. 2010-88, amended by Res. 2014-13)

Secs. 9-688 - 9-700. Reserved.

ARTICLE XXIII. SHAWNEE COUNTY AUDIT COMMITTEE

Sec. 9-701. Established.

The Board of County Commissioners of the County of Shawnee, Kansas, hereby establishes the Audit Committee and adopts the following procedures for receiving, investigating, and acting upon concerns and complaints regarding accounting and auditing matters.

(Code 2010; Res. 2010-93).

Sec. 9-702. Membership of Committee.

The Committee shall consist of the following three (3) members:

- The Shawnee County Audit Finance Administrator (Committee Chair)
- The Shawnee County Counselor
- The Director of the Shawnee County Human Resources Department (Code 2010; Res. 2010-93).

Sec. 9-703. Function.

The Audit Committee is hereby charged with receiving, investigating and acting upon concerns and complaints regarding questionable accounting, internal accounting controls or auditing matters.

(Code 2010; Res. 2010-93).

Sec. 9-704. Submission of complaints to Audit Committee.

Any person, including a Shawnee County employee, with a concern or complaint regarding questionable accounting, internal accounts controls or auditing matters, may submit such in writing to the Audit Committee at 200 SE 7th Street, Room 201, Topeka, KS, 66603. The County shall establish and maintain a link on the County's website which may also be used to submit concerns or complaints. Concerns or complaints may be submitted with the submitter's name, contact information, or the submitter may choose to remain anonymous. Any supervisor, elected official or department head who receives a concern or complaint or the report of a violation shall promptly transmit such to the Audit Committee. (Code 2010; Res. 2010-93).

Sec. 9-705. Receipts of complaints.

Upon receipt of any concern or complaint the Chair of the Audit Committee shall, if possible or requested, acknowledge receipt to the submitter. Discussions and documentation regarding concerns, complaints and reports shall be kept in strict confidence to the extent appropriate, consistent with the conducting of the Audit Committee review, and applicable laws, rules and regulations.

(Code 2010; Res. 2010-93).

Sec. 9-706. Investigation of complaints.

Upon receipt of a concern or complaint, the Chair of the Committee shall initially determine whether it relates to accounts and/or auditing matters. If it does not, the Chair shall forward the concern or complaint to the County Counselor. Concerns or complaints relating to accounting and/or auditing matters shall be investigated by the Audit Committee, which may involve such other person(s) as the Audit Committee shall determine to be appropriate. All matters before the Committee shall be investigated promptly. Confidentiality will be maintained to the fullest extent possible, consistent with the need to conduct an adequate review.

(Code 2010; Res. 2010-93).

Sec. 9-707. Action on complaints.

The Committee shall decide whether corrective action is necessary and shall determine the form of any such corrective action. If determined appropriate by the Audit Committee or Counselor, notice of the investigation's findings and/or any corrective action taken will be provided to the submitter, if their identity is known. (Code 2010; Res. 2010-93).

Sec. 9-708. Reporting and retention of records.

Concerns and complaints shall be recorded (with due respect for confidentiality of all person affected) and controlled by the Chair of the Audit Committee, who shall maintain in secured files to which only the Audit Committee and the County Counselor shall have full access. The Chair of the Audit Committee shall track the receipt, investigation and resolution of every concern and/or complaint in a tracking log. The Chair shall also record all votes taken in the tracking log.

(Code 2010; Res. 2010-93).

Sec. 9-709. Meetings.

The Shawnee County Audit Finance Director shall serve as the Chair of the Audit Committee and is charged with the responsibility of scheduling and conducting Committee meetings as necessary. The Chair shall provide the Board of County Commissioners of the County of Shawnee, Kansas, with notice of the time and place for all meetings as well as a written agenda and the action items resulting from all meetings. (Code 2010; Res. 2010-93).

Sec. 9-710. Quorum and voting.

A quorum of the Committee shall consist of two (2) members. Any matter requiring approval by the Committee or a recommendation to the Board of Shawnee County Commissioners shall require the affirmative votes of not less than a majority of the quorum present at such meeting of the Committee. (Code 2010; Res. 2010-93).

Sec. 9-711. Applicability of Shawnee County whistleblower policy.

The provisions of the Shawnee County Whistleblower Policy, (Shawnee County Code Section 10-209) shall apply to all concerns or complaints received by the Audit Committee from Shawnee County employees. (Code 2010; Res. 2010-93).

Secs. 9-712 - 9-725. Reserved.

ARTICLE XXIV. SHAWNEE COUNTY ERP OVERSIGHT COMMITTEE

Sec. 9-726. Established

The Board of County Commissioners of the County of Shawnee, Kansas, hereby establishes the ERP Oversight Committee. (Code 2008; History: Res. 2008-138, *amended by* Res. 2010-113)

Secs. 9-726-9-730. Reserved.

ARTICLE XXV. SHAWNEE COUNTY MAINFRAME TRANSITION COMMITTEE.

Sec. 9-731. Committee dissolution.

The Shawnee County Mainframe Transition Committee is hereby dissolved pursuant to Resolution No. 2012-102.

(Code 2018; History: Res. 2008-20, rescinded by Res. 2008-124, rescinded by Res. 2008-139, rescinded by Res. 2009-125, rescinded by Res. 2010-114, rescinded by Res. 2012-102)

Secs. 9-732-9-740. Reserved.

ARTICLE XXVI. SHAWNEE COUNTY TAX SYSTEM COMMITTEE.

Sec. 9-741. Established.

The Board of County Commissioners of the County of Shawnee, Kansas, hereby establishes the Shawnee County Tax System Committee. (Code 2011; History: Res. 2011-131)

Sec. 9-742. Membership.

The committee shall consist of the following members:

- Stacey Woolington, Shawnee County Finance Administrator, Chair
- Cynthia Beck Shawnee County Clerk, or designee
- Larry Wilson, Shawnee County Treasurer, or designee

- Mark Hixon, Shawnee County Appraiser, or designee
- Marilyn Nichols, Shawnee County Register of Deeds, or designee
- Eric Theel, Shawnee County Information Technology Director, or designee
- Shane Plemons, Shawnee County Information Technology
- Randy Roberts, Shawnee County Information Technology

(Code 2011; History: Res. 2011-131)

Sec. 9-743. Function.

The Shawnee County Tax System Committee is hereby charged with evaluating the needs for a new Shawnee County tax software system and making recommendations to the Board regarding the same.

(Code 2011; History: Res. 2011-131)

Sec. 9-744. Reports.

The Committee shall make regular written reports of its activities to the Board. (Code 2011; History: Res. 2011-131)

Sec. 9-745. Meetings.

The Chair of the Committee is charged with the responsibility of scheduling and conducting Committee meetings as necessary. The Chair shall provide The Board of County Commissioners of the County of Shawnee, Kansas, with notice of the time and place for all meetings as well as a written agenda and the action items resulting from all meetings. (Code 2011; History: Res. 2011-131)

Secs. 9-746 - 9-760. Reserved.

ARTICLE XXVII. SHAWNEE COUNTY PAYROLL COMMITTEE

Sec. 9-761. Established/Members.

The Board of County Commissioners of the County of Shawnee, Kansas, hereby establishes the Shawnee County Payroll Committee. The Shawnee County Payroll Committee shall consist of the following members, or their designees:

- Shawnee County Human Resources Director, Chair
- Shawnee County Audit Finance Director
- Shawnee County Counselor
- Shawnee County IT Director
- Shawnee County Payroll Officer

(Code 2016; History: Res. 2016-69)

Secs. 9-762 - 9-780. Reserved.

ARTICLE XXVIII. SHAWNEE COUNTY SECURITY COUNCIL.

Sec. 9-781. Established.

The Board of County Commissioners of the County of Shawnee, Kansas hereby establishes a Shawnee County Security Council to provide reasonable safety and security for all occupants and visitors to County facilities.

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Sec. 9-782. Membership.

The committee shall consist of the following ten (10) members:

- Director of Emergency Management (Chair)
- At least one member of the Board of County Commissioners (Co Chair)
- Homeland Security Programs Manager
- Court Security Unit Supervisor
- Shawnee County Counselor
- Shawnee County Director of Facilities and Maintenance
- Shawnee County District Court Administrator
- Shawnee County I.T. Director
- Shawnee County District Court I.T. Director
- Shawnee County Audit Finance Administrator
- Shawnee County Human Resources Director

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Sec. 9-783. Advisors of Council.

The following persons/entities may serve as advisors to the Council:

- Kansas Protective Security Advisor
- Kansas Bureau of Investigation (KBI)
- Kansas Division of Homeland Security Critical Infrastructure Protection
- Kansas Joint Terrorism Task Force (JTTF)
- Shawnee County Sheriff's Office
- Topeka Police Department
- Kansas Adjutant Generals Department
- Kansas Fusion Center
- Others as deemed necessary by the Council

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Sec. 9-784. Function.

The Shawnee County Security Council is hereby charged with providing reasonably safety and security for all occupants and visitors to County facilities. The Council shall accomplish this mission through information sharing, risk management processes and implementing strategies that mitigate or reduce risk.

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Sec. 9-785. Reports.

The Council shall make regular written reports of its activities to Board of County Commissioners.

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Sec. 9-786. Meetings.

The Chair of the Council is charged with the responsibility of scheduling and conducting Council meeting as necessary. The chair shall provide the Board of County Commissioners with notice of the time and place for all meetings as well as a written agenda and the action items resulting from all meetings.

(Code 2011; History: Res. 2011-173., amended by Res. 2014-6)

Secs. 9-787 - 9-800. Reserved.

ARTICLE XXIX. SHAWNEE COUNTY PUBLIC BUILDING COMMISSION

Sec. 9-801. Established.

The Board of County Commissioners of the County of Shawnee, Kansas, in accordance with K.S.A. 12-1757 *et seq.*, (the "Act") hereby creates the Shawnee County, Kansas Public Building Commission (the "PBC").

(Code 2017; History: Res. 2017-77)

Sec. 9-802. Composition.

The Governing Body of the PBC shall have three members (the "Members") who are the duly elected Board of County Commissioners of Shawnee County, Kansas. Each Member term shall run concurrently with the County Commissioner's term and each Member's position on the PBC shall be the same as each Member's position on the Board as a County Commissioners. Should the PBC provide facilities to be leased to governmental entity or entities other than the County the PBC Membership shall be modified as required by the Act.

(Code 2017; History: Res. 2017-77)

Sec. 9-803. Purpose, Powers and Functions.

The PBC shall follow the County's policies, procedures and protocols when acting as the PBC. The PBC Members will meet at such time and place when deemed necessary by the Chairman of the Board.

(Code 2017; History: Res. 2017-77)

Sec. 9-804. Support.

The County officials, staff and agents shall provide such support to the PBC as the Board deems appropriate.

(Code 2017; History: Res. 2017-77)

Sec. 9-805. Further Action.

The PBC may adopt such bylaws, resolutions or perform further acts permitted by the Act which are not inconsistent with the provisions of this Article. (Code 2017; History: Res. 2017-77)

Sec. 9-806. Severability.

If any section, paragraph, clause or provision of this Article shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any remaining provisions of this Article.

(Code 2017; History: Res. 2017-77)

Secs. 9-807-9-850. Reserved.

ARTICLE XXX. GREATER TOPEKA YOUTH PARTNERSHIP COMMISSION

Sec. 9-851. Support.

Shawnee County and the City of Topeka supports the formation and operation of a youth engagement commission to be known as the Greater Topeka Youth Partnership Commission (GTYPC) consisting of persons representing a broad base of youth and adult supporters.

(Code 2019; History: Res. 2019-2)

Sec. 9-852. Goal.

The goal of the GTYPC is to be a broad and diverse youth commission committed to providing community-wide voices in the areas of local government, outreach, and community involvement.

(Code 2019; History: Res. 2019-2)

Sec. 9-853. Efforts.

Shawnee County and the City of Topeka supports the GTYPC's efforts to provide avenues for youth to express opinions, involve youth in planning and decision-making, prepare youth to be good citizens, build skills, experience and confidence, provide opportunities to make a difference and to build an overall better community. (Code 2019; History: Res. 2019-2)

Secs. 9-854 - 9-900. Reserved

10. COUNTY PERSONNEL AND EQUIPMENT

Art. I. In General, §§ 10-1-10-50

Art. II. Compensation And Classification, §§ 10-51 – 10-100

Art. III. County Personnel, §§ 10-101-10-150

Art. IV. Personnel Financial Policies, §§ 10-151 – 10-200

Art. V. Personnel Policies, §§ 10-201-10-240

Art. VI. Reserved, §§ 10-241 - 10-290

Art. VII. Use Of County Equipment, §§ 10-291 – 10-330

Note: See also Chapter 12, Courthouse Policies, and Chapter 20, Information Technology.

ARTICLE I. IN GENERAL

Sec. 10-1. Restricted Hiring.

- (A) There is hereby enacted a hiring moratorium on the hiring of new employees by Shawnee County. This hiring moratorium shall apply to the promotion, reallocation, and reclassification of existing employees as well as new employment. This moratorium shall apply to temporary employees as well as full-time and part-time employees. This moratorium shall not apply to positions already approved for posting by the Director of Human Resources and Administrative Services. Any hiring or promotion must first be authorized by the Board of County Commissioners in advance sitting in regular session.
- (B) This hiring moratorium shall not apply to enterprise fund departments such as Shawnee County Refuse, Shawnee County Recycling and the Shawnee County Golf Courses.
- (C) This section supercedes § 10-201 until such time as this section is rescinded. (Code 2006; History: Res. 2002-309, §§ 1-3)

Sec. 10-2. Parks and Recreation Exemption from Hiring Freeze.

- (A) Resolution No. 2002-309 implementing a hiring freeze for all County departments shall not apply to the Shawnee County Parks and Recreation Department. The consolidation of the City of Topeka and Shawnee County Parks and Recreation Departments requires greater hiring flexibility than allowed by Resolution 202-309.
- (B) Any upward classification of positions within the Parks and Recreation Department shall require the approval of the Board of County Commissioners.

Secs. 10-3-10-50. Reserved.

ARTICLE II. COMPENSATION AND CLASSIFICATION

Sec. 10-51. Salary Schedule; Classified And Unclassified Employees.

There is hereby incorporated by reference, as if set out fully herein, the salary schedule adopted for all classified and unclassified employees adopted by the governing body of Shawnee County, Kansas and prepared by the County. The Classified pay plan is approved by the Board of County Commissioners on a yearly basis and is known as the "Shawnee County Classified Compensation Plan." Copies of the current salary schedule may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006; History: Res. 1999-227, § 1)

Sec. 10-52. Pay Ranges For Intermittent County Employees

- (A) An "Intermittent Employee Pay Scale" is hereby adopted and shall be kept on file with the County Director of Human Resources. The pay scale is attached as "Exhibit A" to Res. 2004-12, a copy of which may be found in the office of the County Clerk (200 S.E. 7th Street).
- (B) The Intermittent Employee Pay Scale will be used to establish compensation rates for all intermittent employees in Shawnee County.
- (C) The Intermittent Employee Pay Scale will continue in full force and effect until amended or rescinded.
- (D) Section 10-201 establishing classes of intermittent employees and personnel procedures for intermittent employees shall remain in full force and effect, except where pay rates have been amended.

(E) All other sections and provisions of § 10-201 not in conflict or contrary to the above shall continue to be in full force and effect.

(Code 2006; History: Res. 2004-12, §§ 1-5)

Sec. 10-53. Classifications Of Captain And Major.

The classifications of Captain and Major in the County Sheriff's Office shall be placed on the classified pay plan in a range as determined by the County Director of Human Resources. (Code 2006; History: Res. 2002-273, § 1)

Sec. 10-54. Unclassified Employees.

Unclassified employees remain unclassified and do not fall under § 10-201 (County Personnel Rules and Regulations). Unclassified employees continue to serve at the pleasure of their appointing authorities and the Board.

(Code 2006; History: Res. 1999-227, § 3)

Secs. 10-55-10-100. Reserved.

ARTICLE III. COUNTY PERSONNEL

Sec. 10-101. Elected And Appointed Officers.

The following County officers shall be elected in the manner prescribed by state statute and shall have such powers and duties as prescribed by the applicable state statute: County Clerk (K.S.A. 19-301 et seq.); County Treasurer (K.S.A. 19-501 et seq.); District Attorney (K.S.A. 19-701 et seq.); County Sheriff (K.S.A. 19-801a et seq.); Register of Deeds (K.S.A. 19-1201 et seq.). The Board may appoint the following officers who shall have such powers and duties as prescribed by the applicable state statute or by the Board: County Appraiser (K.S.A. 19-401 et seq.); County Counselor (K.S.A. 19-247 et seq.), and any other such officers as may be deemed necessary for the best interest of the County who shall have such powers and duties as prescribed by the Board. 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 Board. The duties and salaries of all appointed officers shall be fixed by resolution. (Code 2006)

Sec. 10-102. Appointment Of County Appraiser.

Steve Bauman, an eligible Kansas appraiser with at least three (3) years of mass appraisal experience, is appointed as the County Appraiser to fill unexpired term pursuant to K.S.A. 19-430, effective on July 1, 2017 and ending June 30, 2021.

(Code 2006; History: Res. 2001-65, § 1; amended by Res. 2005-40, § 1; amended by Res. 2015-6; amended by Res. 2017-33)

Sec. 10-103. Appointment of Health Agency Director.

(A) The Board hereby abolishes the position of Director of the Shawnee County Health Agency, and creates the positions of Director of the Shawnee County Local Health Department (LHD) and Director of the Shawnee County Community Health Center (CHC). (Code 2006: History: Res. 2001-78; rescinded by Res. 2011-72)

Sec. 10-104. County Appraisers; Dual-Employment.

- (A) The Shawnee County Appraiser and employees of that office shall not engage in any off duty employment or work if such employment or work presents a potential conflict of interest with their responsibilities as an employee of the County Appraiser's Office.
- (B) The County Appraiser and employees of that office shall not perform appraisals of property within Shawnee County other than in the course of their official County duties. (Code 2006; History: Res. 1993-64)

Sec. 10-105. Coroner; Exemption From K.S.A. 19-1027 And K.S.A. 19-1028.

- (A) That the provisions of K.S.A. 19-1027 and K.S.A. 19-1028 that set the salary and fees for the District and Deputy District Coroners do not apply for Shawnee County and the Third Judicial District.
- (B) That the salary and fees for the District and Deputy District Coroners shall be in an amount to be fixed by the Board of County Commissioners of the county comprising such judicial district.

(Code 2006; History: Charter Res. 1978-5)

Sec. 10-106. County Financial Administrator; Exemption From K.S.A. 19-620.

- (A) The Board hereby exempts itself from and makes inapplicable to it, K.S.A. 19-620 *et seq.*, more specifically those provisions which require the appointment of a County Auditor and set out the duties of that office.
- (B) The statutory duties of County Auditor shall be carried out by the County Financial Administrator who shall be appointed by the Board. (Code 2006; History: Charter Res. 1993-2)

Sec. 10-107. Register of Deeds Deputies.

- (A) It is has been deemed necessary and advisable that additional deputies for the County Register of Deeds be provided for the efficient administration and operation of the office of the Register of Deeds.
- (B) The Register of Deeds of Shawnee County, Kansas is hereby authorized to appoint up to three (3) additional deputies to that deputy allowed pursuant to the provisions of K.S.A. 19-1202. Said additional deputies shall have all the powers, duties and responsibilities of a Deputy Register of Deeds of Shawnee County, Kansas during the term of their office. The Register of Deeds shall appoint these deputies in number and at such times as shall be deemed necessary in the sole and exclusive discretion of the said Register of Deeds. (Code 2006; History: H.R. Res. 1975-4)

Secs. 10-108 - 10-150. Reserved.

ARTICLE IV. PERSONNEL FINANCIAL POLICIES

Sec. 10-151. Flexible Benefits Cafeteria Plan; Definitions.

When used herein, the following terms shall have the meanings set forth below, unless a contrary meaning is clearly intended by the context:

(1) Allowable salary reduction amount shall mean the monthly amount by which an employee annually elects to reduce his or her compensation, with the resultant reduction paid to the County to meet the group health insurance premium, the

cancer insurance premium, the dental insurance premium, and/or the flexible spending account contribution as directed by the participant.

The flexible spending account is capped as follows:

- (a) Unreimbursed Medical allowable reduction, Two Thousand Five Hundred Fifty and No/100 Dollars (\$2,550) annually;
- (b) Dependent Care allowable reduction as set by Federal law;
- (2) Cancer insurance plan shall mean the current or any successor insurance policy providing cancer coverage for employees of the County and their dependents;
- (3) Cancer insurance premium shall mean the monthly premium established periodically for coverage under the cancer insurance plan;
- (4) *Compensation* shall mean the base rate of pay plus longevity, overtime, or bonuses, if any received by the employee during the plan year;
- (5) County shall mean Shawnee County, Kansas;
- (6) *Effective date* shall mean that date as designated by the plan administrator;
- (7) *Employee* shall mean any benefit-eligible employee of the County, including benefit eligible elected officials;
- (8) Employer shall mean Shawnee County, Kansas;
- (9) *Group health insurance plan* shall mean the current or any successor insurance policy contracted for by the County providing health coverage for employees of the County and their dependents;
- (10) *Group health insurance premium* shall mean the monthly premium established periodically for coverage under the County's group health insurance plan;
- (11) *Participant* shall mean any employee eligible to participate hereunder as a result of meeting the requirements of Section 3.0 herein;
- (12) *Plan administrator* shall mean the entity designated each year to administer all or part of the County's flexible compensation plan;
- (13) *Plan year* shall mean the twelve- (12) month period commencing on January 1 and ending December 31 of each calendar year commencing January 1, 2016;
- (14) *Pre-tax benefit plans* shall mean the group health insurance plan, the cancer insurance plan, the flexible spending account plan and the deferred compensation plan.
- (15) "Vision insurance plan" shall mean the current or any successor insurance policy providing vision coverage for employees of the County and their dependents
- (16) "Vision insurance premium" shall mean the monthly premium established periodically for coverage under the vision insurance plan.

(Code 2006; History: H.R. Res. 2003-15; § 1.0; amended by H.R. Res. 2004-16, § 1.0; amended by H.R. Res. 2005-19, § 1.0; amended by H.R. Res. 2007-8, § 1; amended by H.R. Res. 2009-5, § 1.0, amended by: Res. 2015-89)

Sec. 10-152. Same; Fringe Benefits.

- (A) Benefit Package. In addition to those fringe benefits required by law, the County may make available to all employees, subject to applicable eligibility requirements, the following optional fringe benefits:
 - (1) Group health insurance;

- (2) Cancer insurance;
- (3) Flexible Spending Account;
- (4) Deferred Compensation; and
- (5) Vision Insurance.
- (B) Non-taxable Employer Contribution. The Board of County Commissioners of the County of Shawnee, Kansas shall periodically determine, at least annually, by separate resolution, what portion, if any, of each of the optional fringe benefits listed in Section 2.1 will be paid by the County as a non-taxable employer contribution.
- (C) Health Insurance. The employer's contribution toward the payment of the group health insurance premiums for all County employees shall be the same rate for each employee regardless of marital status, number of dependents or health insurance plan, if any, chosen.
- (D) Benefit Election. Each County employee shall elect, from those optional fringe benefits set out in Section 2.1, those benefits in which the employee wishes to participate. For the purpose of this section, health insurance shall be construed to include group dental insurance. Employees who choose not to participate in the County's health insurance plan shall not be entitled to any cash benefit.
- (E) Cafeteria Plan. Any employee electing to participate in the County's cafeteria plan, shall do so and shall receive benefits as set out further in this article. Participation in the cafeteria plan through the salary reduction authorization shall be strictly voluntary.
- (i) The Shawnee County Health Insurance Core Committee recommends the employer contribute \$600.00 per month. This amount has been reflected in the 2016 budget. (Code 2006; History: H.R. Res. 2003-15; § 2.0; amended by H.R. Res. 2004-16, § 2.0; amended by H.R. Res. 2005-19, § 2.0, amended by H.R. Res. 2007-8, §2.0, amended by Resolution 2010-116, §2.0; amended by Res. 2015-89; amended by 2015-89)

Sec. 10-153. Same; Eligibility And Participation.

- (A) Eligibility. Each benefit-eligible permanent employee and each benefit-eligible elected official, shall be eligible to participate hereunder as of the first day of the first full month following sixty (60) days from date of hire. Permanent full-time employees are those employees assigned to positions that are intended to work at least two thousand and eighty (2,080) hours per year. Such permanent full-time employees will receive the full amount of the non-taxable employer contribution towards benefits, subject to the provisions of this plan. Three-quarter (3/4) employees are those employees assigned to positions that are intended to work at least one thousand five hundred sixty (1,560) hours per year, but less than two thousand and eighty (2,080) hours. Three-quarter (3/4) employees will receive three-fourths (3/4) of the amount of the non-taxable employer contribution towards benefits, subject to the provisions of this plan. Half-time (1/2) employees are those employees assigned to positions that are intended to work at least one thousand and forty (1,040) hours per year, but less than one thousand five hundred sixty (1,560) hours. Half-time (1/2) employees will receive one-half (1/2) of the amount of the non-taxable employer contribution towards benefits, subject to the provisions of this plan. Other permanent part-time employees assigned to positions that are intended to work less than one thousand and forty (1,040) hours per year will receive no non-taxable employer contribution towards benefits. No temporary employee will receive benefits under this plan.
- (B) Enrollment. Each participant shall enroll in the plan by completing an enrollment form provided by the plan administrator. Such enrollment form shall include the participant's allowable salary reduction amount. Eligible participants may enroll when first

eligible, prior to January 1 each year, or at such other times or as a result of such other events as provided in Section 4.0 herein.

(C) Termination of Participation. A participant's participation hereunder shall cease as of the earliest to occur of the date the participant ceases to be an employee, the date the County terminates the plan, or such employee's participation election is revoked as provided in Section 4.5 herein.

(Code 2006; History: H.R. Res. 2003-15; § 3.0; amended by H.R. Res. 2004-16, § 3.0; amended by H.R. Res. 2005-19, § 3.0; amended by Res. 2015-89)

Sec. 10-154. Same; Payment Of Benefits.

- (A) Election. Each plan year, a participant has the option of receiving such participant's full compensation or electing an allowable salary reduction amount thereby providing coverage under the group health insurance plan, the cancer insurance plan and/or participation in the Flexible Spending Account. For the initial plan year of participation, the election shall be made on or before the date an employee becomes eligible hereunder. In subsequent years, the election must be made at least fifteen (15) days prior to the first full biweekly pay period in January of the plan year to which the election applies. Any such election shall be irrevocable throughout the plan year to which it applies, except as provided in Section 4.5 herein.
- (B) Continuation of Election. Any election of an allowable salary reduction amount hereunder shall continue to be in effect for the pertinent plan year unless such election is revoked by a participant for reasons set forth in Section 4.5. Furthermore, the failure of an employee to elect a voluntary pre-tax salary reduction amount under this cafeteria plan shall automatically be treated as the employee's election to receive full after-tax salary in lieu of coverage under the pre-tax cafeteria plans, as allowed in this section.
- (C) Benefits. In the event a participant elects an allowable salary reduction amount, such participant shall be eligible for coverage under the pre-tax benefit plans for the plan year to which the election applies. Notwithstanding anything herein to the contrary, no benefits are promised under the terms of this plan to any participant or the participant's dependents other than those provided by the pre-tax benefit plans. In the event any benefits under this plan are ruled ineligible by the Internal Revenue Service, this plan will be deemed amended to be in compliance with Federal law.
- (D) County Contribution. The County shall remit out of the same fund for which the employee's compensation is paid the allowable salary reduction amount. Such amount shall be used to pay the group health insurance premium.
- (E) Revocation and Reelection. In the event a participant has a change in family status, such as, but not limited to marriage, divorce, birth or death of a dependent, termination of employment of spouse, or taking of unpaid leave pursuant to the Family and Medical Leave Act, that affects benefits, a participant shall, as of the first day of the first biweekly pay period following the date the participant notifies the plan administrator, in writing, be permitted to revoke a prior election of an allowable salary reduction amount and reelect an allowable salary reduction amount and participation in pre-tax benefit plans to apply for the remainder of the plan year. For each plan benefit, the qualifying change in election event is that allowed under regulations governing Section 125 plans.

(Code 2006; History: H.R. Res. 2003-15; § 4.0; amended by H.R. Res. 2004-16, § 4.0; amended by H.R. Res. 2005-19, § 4.0; amended by Res. 2015-89)

Sec. 10-155. Same; Administration Of Plan.

- (A) Plan Administrator. The designated plan administrator may be a third-party entity or the Shawnee County Clerk or his/her designee. This will be set forth in a separate resolution.
- (B) Rights, Powers and Duties of the Plan Administrator. The rights, powers and duties of a third-party plan administrator shall be governed by a contract between the Board of County Commissioners and the third party, as well as applicable state and federal law. The rights, powers and duties of the plan administrator as set forth below apply to the Shawnee County Clerk or his/her designee.

The plan administrator shall have such authority as may be necessary to discharge his/her responsibilities under the plan, including the following rights, powers and duties:

- (1) The plan administrator shall adopt rules governing the procedures not inconsistent herewith and shall keep a permanent record of actions. The plan administrator shall administer the plan uniformly and consistently with respect to persons who are similarly situated;
- (2) The plan administrator shall prepare and file such reports as may be required by Kansas statute or federal law from time to time;
- (3) The plan administrator shall not take action with respect to any of the benefits provided hereunder which would be discriminatory in favor of those participants or eligible participants who are officers or highly compensated benefit-eligible elected officials of the County;
- (4) The plan administrator shall have the responsibility for the administration of the plan; and except as herein expressly provided, the plan administrator shall have the right to interpret the provisions of the plan and to determine any questions arising hereunder or in connection with the administration of the plan, including the remedying of any omission, inconsistency or ambiguity, and his/her decision or action in respect thereof shall be conclusive and binding upon any and all participants;
- (5) The plan administrator may employ such counsel and agents in such clerical, accounting and other services as he/she may require in carrying out the provisions of the plan.
- (C) Exercise of the Plan Administrator's Duties. The plan administrator shall discharge his/her duties solely in the interest of participants and former participants:
 - For the exclusive purposes of providing benefits to such participants or former participants and, at his/her discretion, defraying reasonable expenses of plan administration; and
 - (2) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.
- (D) Indemnification of Fiduciaries. The County shall indemnify all County employees or elected officials having fiduciary responsibility under federal law to the extent that such employees or elected officials incur loss or damage which may result from such employees' or elected officials' duties, exercise of discretion under the plan, or any act or omission hereunder. Such duties, exercises of discretion, acts or omissions will not be indemnified by the County in the event that such loss or damage is judicially determined or agreed by the employee(s) or elected official(s) to be due to actual fraud or actual malice.

(E) Compensation. Any employee of the County acting as agent of the plan administrator shall serve without additional compensation for services as such, but all proper expenses incurred by the individual incident to the functioning of the plan shall be paid by the County. (Code 2006; History: H.R. Res. 2003-15; § 5.0; *amended by* H.R. Res. 2004-16, § 5.0; *amended by* H.R. Res. 2005-19, § 5.0; *amended by* H.R. Res. 2009-5, § 5.0)

Sec. 10-156. Same; Claims Review Procedure.

Any participant or former participant, who wishes to request an informal review of a claim for benefits pursuant to the pre-tax benefit plans, or who wishes an explanation of a benefit or its denial may direct a written request to the plan administrator. The plan administrator or his/her designee shall respond to the request by issuing a notice to the claimant as soon as possible but in no event not later than sixty (60) days from the date of the request. This notice furnished by the plan administrator shall be written in a manner calculated to be understood by the claimant and shall include the following:

- A description of any further material or information which is necessary for the claimant to perfect his/her claim and an explanation of why the material or information is needed;
- (2) The specific reason or reasons for any denial of benefits; and
- (3) The specific plan provisions on which any denial is based. (Code 2006; History: H.R. Res. 2003-15; \S 6.0; *amended by* H.R. Res. 2004-16, \S 6.0; *amended by* H.R. Res. 2005-19, \S 6.0)

Sec. 10-157. Same; Miscellaneous Provisions.

- (A) Amendment and Termination. This plan shall be subject to amendment or termination at any time by the County; provided, however, that amendment or termination shall not affect any right to claim benefits arising prior to such amendment or termination, and provided further that after termination, no person shall be considered to be a participant for any purpose of the plan.
- (B) No Diversion of Assets. No amendment, suspension or termination shall be made which would cause or permit the assets of the plan to be used for any purpose other than the payment of benefits or cause or permit the assets of the plan to inure (other than through payments made pursuant to the plan) to the benefit of any individual.
- (C) Applicable Law. The plan is intended to qualify as a "flexible compensation plan" under Section 125 of the Internal Revenue Code, and shall be construed and interpreted consistent with the requirements of the section. The plan shall be further construed and administered in accordance with the law of Kansas. The plan does not prohibit, and in fact contemplates, the payment of taxable benefits under certain portions hereof. The County shall not be liable for any taxes incurred by any employee by virtue of their participation in the plan.
- (D) No Contract of Employment. Nothing herein contained shall be construed to constitute a contract of employment between the County and any person. The records in the possession of the County shall be final and binding upon all employees as to liability and participation.

(Code 2006; History: H.R. Res. 2003-15; § 7.0; amended by H.R. Res. 2004-16, § 7.0; amended by H.R. Res. 2005-19, § 7.0)

Sec. 10-158. Employer Contribution.

(A) The non-taxable employer monthly contribution for the year 2006 plan shall be Three Hundred Eighty Dollars (\$380).

(B) The County Clerk is designated plan administrator of the group health insurance, cancer insurance, and group term life insurance plans for the year 2006. Central Trust Bank/ASI of Columbia, Missouri is designated plan administrator of the Flexible Spending Account upon such terms and conditions as set forth in Contract No. C421-2002 between the County and Central Trust Bank/ASI from January 1, 2003 to December 31, 2005. (Code 2006; History: Res. 2003-166, §§ 1-2; amended by Res. 2004-194, §§ 1-2; amended by Res. 2005-188, §§ 1-2)

Sec. 10-159. Flexible Spending Account.

- (A) A separate bank account to house those employee/employer funds identified as Dependent Care and Medical Reimbursements shall be established. Said account shall be controlled and supervised by the County Audit-Finance Department.
- (B) Commerce Bank and Trust, Topeka, Kansas is designated as a depository for that portion of the funds being held for employee reimbursement for Dependent Care and Medical Reimbursements as approved within the County's Section 125 Flexible Spending Account Program.
- (C) Central Trust Bank Of Jefferson City/Application Software Incorporated, designated agents of the Board of Commissioners, are hereby authorized to individually sign and/or countersign on behalf of the County, all checks, drafts, bill of exchange, or other orders for the payment of money, when drawn on or addressed to Commerce Bank and Trust, Topeka, Kansas.
- (D) Endorsements on behalf of the County upon any and all checks, drafts, or other instruments for the payment of money deposited by or on behalf of the County in said checking account, for credit and/or for collection, may be made by any of the above-mentioned companies or agents or by a hand-stamped impression in the name of the County.
- (E) Checks, drafts or other instruments of the payment of money drawn to this order of the County shall, when properly endorsed, be accepted by said bank for deposit only to the credit of the County.
- (F) The foregoing powers and authority are to continue until written notice of revocation has been given to said bank by the County.
- (G) Central Trust Bank Of Jefferson City/Application Software Incorporated are hereby authorized by the Board to make payments from the above specified checking account at Commerce Bank and Trust as required by the terms of their agency. The County Auditor/Financial Administrator is directed to monitor payments made from said checking account.
- (H) The County Auditor/Financial Administrator is authorized to make payments from the Flexible Spending checking account as are necessary.
- (I) The terms of the above specified checking account shall be governed according to the terms set forth in the attached letter dated 12-15, 1995 signed by Mr. Jerry K. Anderson of Commerce Bank and Trust, said letter being marked as Exhibit A, and incorporated herein by reference.

(Code 2006; History: Res. 1995-232)

Sec. 10-160. Deferred Compensation Plan Participation.

(A) Shawnee County, Kansas hereby elects to join and participate in the Kansas Public Employees Deferred Compensation Plan, as authorized by House Bill No. 3054, Session Laws of 1982.

- (B) There is hereby established a County Deferred Compensation Committee, which shall consist of three (3) officers and employees of the County. The Chair of the Board and the County Clerk, shall be members of the Committee. The remaining member shall be appointed by the Board and shall serve until replaced by a new appointee.
- (C) The County Clerk is hereby charged with the duties of serving as local administrator of the plan and shall provide forms to all County employees to specify the amount of any compensation voluntarily deferred, make appropriate reductions from the gross compensation of such employees, transfer to ING Company the amount so deferred in accordance with the conditions established under the Plan Joinder Agreement, and serve as Secretary of the Deferred Compensation Committee established by § 10-160(B).
- (D) Shawnee County, Kansas, being authorized to become a joint contract owner with the State of Kansas of the group annuity contract issued by ING Life Insurance and Annuity Company, in conjunction with the Kansas Public Employees Deferred Compensation Plan, hereby authorizes and approves execution of a Plan Joinder Agreement and a Contract Joinder Agreement to implement a deferred compensation plan. Such agreements shall be signed by the Chair of the Board.
- (E) The County Clerk shall periodically cause an accounting to be made to each employee participating in the County's deferred compensation plan of the amount contributed and such other information as may be required by the Committee. The County shall not be responsible for any loss incurred by an employee under the County's deferred compensation plan adopted and approved by this section.

(Code 2006; History: H.R. Res. 1982-20, §§ 1-5)

Sec. 10-161. Deferred Compensation Plan Established.

The Board hereby adopts the National Deferred Compensation Program and hereby establishes the County of Shawnee Deferred Compensation Plan for the voluntary participation of all eligible County employees, elected officials and independent contractors. (Code 2006; History: Res. 1993-117)

Sec. 10-162. Sale Of Life Insurance Prohibited With Deferred Compensation Plan.

- (A) No representative of a County approved deferred compensation plan shall be authorized to sell life insurance to County employees within such plan. This section is only meant to prohibit the sale of life insurance as a part of the deferred compensation plan in which the premiums are paid with pre-tax dollars and are paid through payroll deduction. Nothing shall prohibit these companies from offering life insurance policies which are not a part of the deferred compensation plan to individual employees. Such premiums will not be paid through payroll deduction.
- (B) The County Clerk is directed to send a copy of this section to representatives of each company authorized by the County to provide a deferred compensation plan. (Code 2006; History: Res. 1996-56)

Sec. 10-163. Employee Benefit Contribution Fund.

An Employee Benefit Contribution Fund is established pursuant to K.S.A. 12-16,102 for the purpose of paying the County's share of the following employee benefits: social security, retirement and unemployment.

(Code 2006; History: H.R. Res. 1982-6)

Sec. 10-164. Employee Retirement Revolving Fund.

- (A) There is hereby created the Employee Retirement Revolving Fund for Shawnee County Employees (the "fund").
- (B) All amounts approved by the Board for accrued retirement benefits to retiring employees shall be immediately deposited in the fund.
- (C) The fund shall be administered by the County Financial Administrator. (Code 2006; History: Res. 2003-117, §§ 1-3)

Sec. 10-165. Retirants' Health Care Program.

- (A) The Retirants' Health Care Program, Shawnee County, Kansas, set forth in the document of the same name and dated December 6, 1988, is hereby approved.
- (B) The County Clerk shall periodically report to the Board, as to any needed changes in the Program, including information as to the costs thereof.
- (C) The retirant shall contribute to the cost of coverage an amount that is one hundred and fifteen percent (115%) of the premium costs for other similarly situated employees, which is allowable by K.S.A. 12-5040 and amendments thereto. (Code 2006; History: Res. 1988-200; *amended by* Res. 1997-160, § 1)

Sec. 10-166. Public Safety Officers' Health Benefits.

The Board resolves to provide the same level of health benefits to a public safety officer who is separated from service due to personal injury suffered as a direct and proximate result of action in the line of duty while responding to a hot pursuit or emergency situation, as the public safety officer was receiving while on active status. (Code 2006; History: Res. 2001-138)

Sec. 10-167. Health Insurance Privacy Notice; Privacy Officer Appointed.

- (A) The Board adopts the Health Insurance Privacy Notice which shall be kept on file in the office of the County Clerk. The Board further directs that such notice be distributed to all County employees, via payroll distribution, and to all new County employees, hired subsequent to the initial distribution, via the orientation process.
- (B) The Board appoints Cynthia A. Beck, County Clerk, as the County's Privacy Officer for Health Insurance Portability and Accountability Act ("HIPAA") compliance purposes.
- (C) The provisions of this section may be amended from time to time as additional HIPAA compliance requirements are required by the appropriate governmental entities. (Code 2006; History: Res. 2003-51, §§ 1-3)

ARTICLE V. PERSONNEL POLICIES

Sec. 10-201. Personnel Rules And Regulations.

There are hereby incorporated by reference, as if set out fully herein, personnel rules and regulations adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 1996-176, and amendments thereto (Res. 1997-182, Res. 1999-22, Res. 1999-228, Res. 2002-35, Res. 2003-21; H.R. Res. 2005-18; Res. 2008-177; and Res. 2019-6), entitled "Shawnee County Human Resources Policy Manual" Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Sec. 10-202. Americans With Disabilities Act Grievance Procedure.

- (A) The "Shawnee County Americans With Disabilities Act Grievance Procedure" is adopted. The "Shawnee County Americans With Disabilities Act Grievance Procedure" is as follows:
 - (1) Shawnee County has an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the United States Department of Justice regulations implementing Title II of the Americans with Disabilities Act ("A.D.A"). Title II states, in part, that "no otherwise qualified disabled individual shall, solely, by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.
 - (2) Complaints should be addressed to: A.D.A. Coordinator; 200 S.E. 7th Street, Room B28, Topeka, Kansas 66603-3971; (785) 233-8200 ext. 4435.
 - (a) A complaint should be filed in writing, contain the name and address of the person filing it (the complainant), and briefly describe the alleged violation of the regulation under Title II of the A.D.A.
 - (b) A complaint should be filed within ten (10) business days after the complainant becomes aware of the alleged violation. In cases of employment-related A.D.A. complaints, the procedures established by the Grievance Procedure for Shawnee County employees will be followed where applicable.
 - (c) An investigation, as may be appropriate, will follow the filing of a complaint. The investigation shall be conducted by the A.D.A. Coordinator or their designee. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.
 - (d) A written determination as to the validity of the complaint and a description of the resolution, if any, shall be issued by the A.D.A. Coordinator. A copy shall be forwarded to the complainant no later than twenty (20) working days after its issuance.
 - (e) The A.D.A. Coordinator shall maintain the files and records of Shawnee County relating to the complaints filed.
 - (f) The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be submitted within seven (7) calendar days of the original determination to the A.D.A. Coordinator. The A.D.A. Coordinator shall

- consider the complainant's request for reconsideration. The request shall be considered denied if no action is taken within ten (10) days after the date the A.D.A. Coordinator received the request for reconsideration.
- (g) The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an A.D.A. complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- (h) These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards, and to assure that Shawnee County complies with the A.D.A. and implementing regulations.
- (B) Copies of the "Shawnee County Americans With Disabilities Act Grievance Procedure" shall be publicly disseminated by posting copies in a conspicuous location in each County department or office. In addition, copies shall be made available in the office of the County Clerk.
- (C) In cases of employment related Americans With Disabilities Act complaints, the procedures established by the grievance procedure for County employees will be followed where applicable.
- (D) By adopting the "Shawnee County Americans With Disabilities Act Grievance Procedure," the Board does not intend to unilaterally change the terms and conditions of employment negotiated with the several labor unions representing County employees. However, if the terms in this procedure are more favorable than their equivalent terms in the collective bargaining agreements, without objection from the Union, the terms of this procedure will apply. It is the intent of the Board to afford the more favorable terms, even if they are not included in the collective bargaining agreement.
- (E) All other sections and provisions of § 10-201 (County's Personnel Policies and Procedures) not in conflict or contrary to the above shall continue to be in full force and

(Code 2006; History: Res. 2002-281, §§ 1-5)

Sec. 10-203. Equal Employment Opportunity And Affirmative Action Policy.

There are hereby incorporated by reference, as if set out fully herein, equal employment opportunity and affirmative action regulations adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 1996-36 and amendments thereto and entitled "Equal Employment Opportunity and Affirmative Action Plan of Shawnee County, Kansas." Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street).

(Code 2006)

Sec. 10-204. Family And Medical Leave Policy.

- (A) There are hereby incorporated by reference, as if set out fully herein, family and medical leave regulations adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 2005-7 and amendments thereto and entitled "Shawnee County Family and Medical Leave Policy." Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street).
- (B) This policy does not intend to unilaterally change the terms and conditions of employment negotiated with the several labor unions representing County employees. However, if the terms of this policy are more favorable than their equivalent terms in the collective bargaining agreements, without objection from the union, the terms of this policy will apply. It is the intent of the Board of County Commissioners to afford the more favorable terms, even if they are not included in the collective bargaining agreement. (Code 2006; History: Res. 2002-156; amended by Res. 2005-7)

Sec. 10-205. Federal Fair Housing Amendment; Kansas Act Against Discrimination.

- (A) The Board hereby adopts both the Federal Fair Housing Amendment Act of 1988 together with the Kansas Act Against Discrimination.
- (B) The Board hereby directs the County Clerk to make available for viewing at the office of the County Clerk, by any interested citizen, both the Kansas Act Against Discrimination and the Federal Fair Housing Amendments Act of 1988. (Code 2006; History: Res. 1994-208, §§ 1-2)

Sec. 10-206. Sexual Harassment Policy.

There are hereby incorporated by reference, as if set out fully herein, sexual harassment regulations adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 2000-89 and amendments thereto and entitled "Shawnee County Sexual Harassment Policy Statement." Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Sec. 10-207. Sexual Orientation Policy For County Employees.

- (A) The sexual orientation of any person shall not be a factor in the recruitment, hiring, training, transfer, promotion and termination and other forms of discipline.
- (B) This section shall be enforced according to the provisions of § 10-201 and § 10-203. This section shall not be interpreted as giving to any individual a claim or cause of action in any competent court or administrative agency based upon this section. (Code 2006; History: Res. 2003-108, §§ 1-2)

Sec. 10-208. Shared Leave Policy.

- (A) Each employee in a permanent position who has worked for Shawnee County for twelve (12) months, and for a minimum of one-thousand two-hundred and fifty (1,250) hours during the previous year may be eligible to receive or donate shared leave as provided in this section.
- (B) An employee shall be eligible to receive shared leave if the employee has exhausted all leave (sick, vacation, compensatory, and personal leave days), completed the "Application for Shared Leave" as directed by the Human Resources Director, and meets one of the following criteria:
 - (1) The employee has been approved for FMLA leave under the County FMLA policy; or

- (2) The employee is receiving temporary total disability payments as a result of a covered injury under the County workers' compensation program.
- (C) An employee shall be eligible to donate vacation leave or sick leave to another employee if:
 - (1) The donation of vacation leave does not cause the accumulated vacation leave balance of the donating employee to be less than eighty (80) hours; and
 - (2) The donation of sick leave does not cause the accumulated sick leave balance of the donating employee to be less than four hundred eighty (480) hours.

Any employee wishing to donate shared leave must complete a "Shared Leave Donation Form" as directed by the Human Resources Director

- (D) At any time during the use of shared leave, any employee may be required by the Director of Human Resources to provide a physician's statement or other medical evidence necessary to establish that the employee qualifies for leave under the County FMLA policy. If the employee fails to provide the required evidence, the use of shared leave may be denied or terminated by the Director of Human Resources.
- (E) The Director of Human Resources shall notify the employee if if the employee has been approved for shared leave.
- (F) The amount of shared leave when combined with the temporary total disability payments under the County workers' compensation plan shall not exceed the employee's base rate for a pay period.
- (G) Employees shall not be notified of the need for shared leave until the request for shared leave has been approved by the Director of Human Resources. No employee shall be coerced, threatened, intimidated, or financially induced into donating leave for purposes of the shared leave program. Any employee found to have violated this policy shall be subject to discipline up to and including termination.
- (H) Shared leave may be used only for the duration of the serious health condition for which it was collected. Shared leave shall not be transferable to any employee other than the employee for which it was requested and donated.
 - (I) Shared leave may not be applied retroactively.
- (J) The employee shall no longer be eligible to receive shared leave for a particular occurrence if:
 - (1) In the case of use of shared leave for Workers' Compensation, the employee is no longer eligible for temporary total disability under Shawnee County workers' compensation program;
 - (2) The recipient terminates employment or retires; or
 - (3) The employee is no longer eligible for leave under the Family and Medical Leave Policy. If the employee has exhausted his/her twelve (12) week entitlement of leave under the FMLA, has shared leave donated, and the employee or immediate family member continues to have a serious health condition, the employee may continue to use shared leave until the leave is exhausted or the serious health condition is alleviated.

An employee that does not return at the end of shared leave shall be dismissed.

(K) Any unused portion of the shared leave shall be prorated among all donating employees based on the original amount and type of donated leave. Shared leave shall not be

returned to donating employees in increments of less than one (1) full hour or to any person who has left County employment.

- (L) Shared leave shall be paid according to the receiving employee's regular rate of pay by the receiving employee's department. The rate of pay of the donating employee shall not be used in figuring the amount of shared leave the requesting employee receives.
- (O) Shared leave shall be donated in full-hour increments. (Code 2006; History: Res. 2001-109, §§ 1-16; amended by Res. 2005-6, §§ 1-13)

Sec. 10-209. Whistleblower Policy.

- (A) No supervisor, elected official or department head of any County department shall prohibit any employee of the County department from discussing the operations of the department, either specifically or generally, with any member of the Board.
 - (B) No supervisor, elected official or department head of any County department shall:
 - Prohibit any employee of the department from reporting any violation of State, Federal or County laws or rules and regulations to any person, agency or organization; or
 - (2) Require any such employee to give notice to the supervisor, elected official or department head prior to making such report.
 - (C) This section shall not be construed as:
 - (1) Prohibiting a supervisor, elected official or department head from requiring that an employee inform the supervisor, elected official or department head as to requests from the Board for information or the substance of such information to be communicated to the Board by such employee;
 - (2) Permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a member of the Board to appear before the Board;
 - (3) Authorizing an employee to represent the employee's personal opinions as the opinion of the County department; or
 - (4) Prohibiting disciplinary action of an employee who discloses information which:
 - (a) The employee knows to be false or which the employee discloses with reckless disregard for its truth and falsity;
 - (b) The employee knows to be exempt from required disclosure under the open records act; or
 - (c) Is confidential under any other provision of law.
- (D) Any disciplinary action imposed for any of the acts set forth in this section may be appealed by the employee through the applicable grievance procedure for such employee. This may include grievance procedures through any union contract, the personnel rules and regulations or the Civil Service Board as appropriate.
- (E) As used in this section, *disciplinary action* means any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work.
- (F) Each County department shall prominently post a copy of this act in locations where it can reasonably be expected to come to the attention of all employees of the department. (Code 2006; History: Res. 1996-76, §§ 1-6)

Sec. 10-210. Employee Assistance Program And Drug And Alcohol Testing Policy.

There are hereby incorporated by reference, as if set out fully herein, employee assistance and drug and alcohol testing regulations adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 1994-253 and amendments thereto (Res. 2002-71; Res. 2002-241; Res. 2004-71; Res. 2007-56; Res. 2008-47), and entitled "Employee Assistance Program and Drug and Alcohol Testing Policy." Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006; History: Res. 1994-253; amended by Res. 2002-71; amended by Res. 2002-241; amended by Res. 2004-71; amended by Res. 2007-56)

Sec. 10-211. Drug Screening For Department Of Corrections Job Applicants.

Rescinded.

(Code 2006; History: H.R. Res. 1987-5, §§ 1-4 rescinded by Res.)

Sec. 10-212. Lobbyist Policy.

No County employee shall register or expend County funds to register with the Secretary of State as a legislative lobbyist on behalf of the County without the express approval of the Board.

(Code 2006; History: Res. 1995-209)

Sec. 10-213. Notaries Public Policy.

- (A) The Board hereby certifies that it intends to act as approved surety for each and every County employee who has been approved as a County Notary as demonstrated by their name being found on the formal list maintained by the County Clerk.
- (B) The Board agrees to provide payment of up to Seven Thousand Five Hundred Dollars (\$7,500) in the event that a court of competent jurisdiction finds that any individual County Notary fails to engage in the "... faithful performance of all notarial acts in accordance with law" as provided for in K.S.A. 53-102.
- (C) It is the intent of the Board to submit copies of this duly signed resolution with each approved County Notary application filed with the Secretary of State and to have this assurance accepted as full satisfaction of the bonding requirement for such Notary Publics as found in K.S.A. 53-102.
- (D) More specifically, the Board as sole surety for those County employees found on the approved list and acknowledged as County Notaries, having unimpaired legal capacity to enter into a binding contract, is hereby held and firmly bound to the State of Kansas in the sum of Seven Thousand Five Hundred Dollars (\$7,500), for the payment of which we bind ourselves. The condition of said obligation is that whereas those individuals who appear on the approved list of County Notaries, did individually apply for appointment as Notary Public in and for the State of Kansas, for a term of four years, unless sooner removed from the date appointment is made by the Secretary of State of the State of Kansas, which date will be recorded on the relevant appointment form recorded and kept on file with the Office of the Secretary of State. If said named County Notaries shall faithfully perform the duties of said office according to law, then this obligation shall be void at the expiration of the relevant four (4) year term; otherwise, it will remain in full force and effect until such relevant statutes of limitation expire.
- (E) The Board does further state that upon the termination of employment of any approved County Notary, the County Clerk shall give written notice to the Secretary of State and shall continue to act as surety for a period of fourteen (14) days from the date on which the Secretary of State receives notice of such revocation as required by K.S.A. 53-115.

(F) The Board reserves the right to pursue recovery of any amounts paid out on these bonds against any individual County Notary who wantonly or willfully violates any provision of law covered by said bond and any County Notary who agrees to be covered by this bond agrees to this term.

(Code 2006; History: Res. 2002-136, §§ 1-6)

Sec. 10-214. Travel And Mileage Reimbursement Policy.

The following procedures and expense allowance are hereby prescribed for travel on official business incurred by County officials and County employees:

- (1) No employee shall use a County-owned vehicle except in connection with official County business. Employees may use a County-owned vehicle for commuting purposes only where a bona fide non-compensatory business purpose exists.
- (2) All travel outside the State of Kansas and Jackson County, Missouri, by County officials and County employees on official business, other than Sheriff's deputies who are transporting prisoners, must be approved by the Board of County Commissioners of the County of Shawnee, Kansas prior to said travel. All travel inside the State of Kansas and Jackson County, Missouri, must be approved by the department head prior to said travel.
- (3) All claims for travel expenses shall show the date and hour of departure and return, points visited, and purpose of travel. All claims shall be paid after the travel has occurred.
- (4) Reimbursement for air and rail transportation shall be limited to coach-class rates.
- (5) County officials and County employees, when traveling on official business, may use privately-owned vehicles if approved by the department head, and will be reimbursed at the rate of Fifty-one Cents (\$.51) per mile, for a total not to exceed the cost of coach-class commercial air rates with due regard for the exemption allowable to Shawnee County, Kansas. Reimbursement at the State mileage rate will be paid to the Assistant Election Commissioner and the supervising judges of the elections as provided by Kansas statute. The claim for mileage shall show the points between which said mileage occurred, license number, and owner of the vehicle used (see Shawnee County Counselor's Officer for form). Mileage claimed shall be that over "usually traveled" routes and shall be based on that from official state road maps or on mileage published by the American Automobile Association.
- (6) A car allowance of Two Hundred Fifty and No/100 Dollars (\$250.00) per month shall be paid to each member of The Board of County Commissioners of the County of Shawnee, Kansas, the Shawnee County Election Commissioner, the Public Works Director, the Shawnee County Appraiser, and the Shawnee County Counselor for travel within Shawnee County. The Public Works Director may use a County-owned vehicle, if available, in lieu of receiving the monthly car allowance.
- (7) County officials and County employees, when traveling on official business, shall ascertain the availability of air transportation originating from the Metropolitan Topeka Airport. Due diligence should be given to utilize those airlines and air transportation which service Topeka directly, taking into consideration the costs, the avoidance of unnecessary delays, excessive absence from the office, and hardship. Failure to comply with this provision may result in non-reimbursement of transportation costs.

- (8) County officials and County employees, when traveling on official business in privately-owned vehicles, may be reimbursed for turnpike and other tolls providing his or her voucher is accompanied by the appropriate receipt. This reimbursement will be in addition to the official mileage rate allowed.
- (9) When a County-owned vehicle is used by County officials or County employees, no mileage will be allowed, and only actual expense such as gasoline, toll charges, etc., will be allowed.
- (10) Daily reimbursement for meals shall be made, at the election of the department head, in one of these manners, not to exceed Thirty-six Dollars (\$36) per day per person:
 - (a) On a per diem basis at the rate of Nine Dollars and No/100 Dollars (\$9) for any fraction of a quarter day in which the official travel begins and for each full quarter day thereafter. No quarter day allowance shall be paid for any fraction of a quarter day in which a traveler returns to his or her official station or domicile.
 - (b) On an actual amount spent basis, not to exceed an average of Thirty-six Dollars and No/100 Dollars (\$36) per day per person. The reimbursement under this provision shall not exceed the actual amount spent. Receipts shall be generally required prior to such reimbursement; but, this requirement may be waived by the department head if deemed appropriate, and if so waived shall be substituted by a signed statement by the person seeking reimbursement as to how the claimed funds were spent in accordance with this section.

The election as to which of these reimbursement methods to use, and any specific limitations to place on the actual amount method, shall rest with the department head on a case-by-case basis.

- (11) Reimbursement for lodging will be made for the actual expense of the hotel's lowest priced room available.
- (12) Reimbursement will be made for transportation to and from the airport by bus or limousine, or by taxi if no bus or limousine service is reasonably available. Public transportation to and from points of official County business obligations is reimbursable.
- (13) Each claim submitted must be signed by the claimant as well as signed and authorized by the department head and must be accompanied by receipts for lodging. Any items of expense not listed in this section should be supported by receipts and must be approved by The Board of County Commissioners of the County of Shawnee, Kansas before payment.
- (14) Any previous resolution in conflict with the forgoing, including Home Rule Resolution No. HR-2007-7 is hereby rescinded.

(Code 2006; History: H.R. Res. 2004-9, §§ 1-13; amended by H.R. Res. 2004-14, §§ 1-13; amended by H.R. Res. 2005-15, §§ 1-13, amended by H.R. Res. 2007-2, §§ 1-13; amended by H.R. Res. 2007-7, §§ 1-13; amended by H.R. Res. 2008-5, §§ 1-14 § 1.)

Secs. 10-215-10-240. Reserved.

ARTICLE VI. RESERVED

Secs. 10-241-10-290. Reserved.

ARTICLE VII. USE OF COUNTY EQUIPMENT

Note: See also Chapter 11, County Property and Chapter 20, Information Technology.

Secs. 10-291 - 10-330. Reserved.

CHAPTER 11. COUNTY PROPERTY

- Art. I. In General, §§ 11-1-11-50
- Art. II. County Personal Property Disposition, §§ 11-51 11-100
- Art. III. County Vehicles, §§ 11-101 11-130
- Art. IV. Kansas Expocentre Regulations, §§ 11-131 11-200
- Art. V. Naming Of County Property, §§ 11-201 11-250
- Art. VI. Political Advertisements, §§ 11-251 11-300
- Art. VII. Use Of Coroner's Office For Autopsy Services, §§ 11-301 11-350

Note: See also Chapter 10, County Personnel And Equipment, Article VII, Use of County Equipment.

ARTICLE I. IN GENERAL

Sec. 11-1. Smoking Prohibited Upon County Owned Property.

- (A) The purpose of this prohibition is to 1) improve and protect the public's health by eliminating smoking on all property owned by the Board of County Commissioners of the County of Shawnee, Kansas; 2) guarantee the right of non-smokers to breathe smoke-free air; and 3) recognize that the need to breathe smoke-free air shall have priority over the choice to smoke.
- (B) The following words and phrases, whenever used, shall be construed as defined in this Section:
 - a. County-owned Property means all real property, whether inside a building or located outdoors, now owned or leased, or that may in the future be acquired or leased, by the Board of County Commissioners of the County of Shawnee, Kansas.
 - b. Smoking means possession of a cigarette, cigar, or pipe partially or wholly consisting of or containing burning vegetation, or possession of any other device containing burning vegetation that is used for the introduction of smoke from the burning vegetation into the human body. For the purposes of this definition, the term vegetation includes, but is not limited to, tobacco, but does not include any controlled substance listed in K.S.A. 65-4105 through K.S.A. 65-4113 inclusive, and amendments thereto.
- (C) Smoking shall be prohibited upon all County-owned property. However, smoking at the Kansas Expocentre and Shawnee County Parks and Recreation property may be permitted by the management of those areas.
- (D) The Shawnee County Facilities Management Department is hereby directed to erect conspicuously posted signs clearly stating that smoking is prohibited on County-owned property. Such "No Smoking" signs shall have bold lettering of not less than one (1) inch in height. The international "No Smoking" symbol may also be used (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with red bar across it).

- (E) Violation of this provision shall be enforced by the Shawnee County Sheriff's Office in a manner consistent with that Law Enforcement Agency's policy for misdemeanor offenses. Any person who violates any provision of this section shall be guilty of a misdemeanor, punishable by:
 - a. A fine not exceeding One Hundred and No/100 Dollars (\$100.00) for the first violation
 - b. A fine not exceeding Two Hundred and No/100 Dollars (\$200.00) for the second violation within a one (1) year period of the first violation.
 - c. A fine not exceeding Five Hundred and No/100 Dollars (\$500.00) for a third or subsequent violation within a one year period of the first violation.
 - d. For the purpose of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.
- (F) In addition to the penalties set forth in section C, any violation of this section by an employee of Shawnee County shall constitute personal conduct detrimental to County service which could cause undue disruption of work or endanger the safety of persons or property of others and shall subject the employee to the disciplinary procedure by the Shawnee County Personnel Rules and Regulations and/or any applicable Union contract.
- (G) Any fines collected for violations of this Section shall be retained by the County to defray the costs of enforcement. Any excess fines collected shall be transferred to the Shawnee County's General Fund.
- (H) If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Section or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Section or any part thereof.

(Code 2007; History: Res. 1994-169; rescinded by H.R. Res. 2007-3)

Secs. 11-2-11-50. Reserved.

ARTICLE II. COUNTY PERSONAL PROPERTY DISPOSITION

Sec. 11-51. Purchasing Department.

The Purchasing Department shall be responsible for the disposition of all obsolete, surplus, unused or unneeded personal property of the County. (Code 2006; History: H.R. Res. 2003-13, § 1; H.R. Res. 2010-7, § 1)

Sec. 11-52. Requests For Property Disposal.

- (A) A department head who wishes to dispose of obsolete, surplus, unused, or unneeded personal property shall, at a minimum, submit to the Purchasing Department the following information regarding the property:
 - (1) A detailed description of the item;
 - (2) The item's fixed asset number (if there is such a number);
 - (3) The item's serial number (if there is such a number);
 - (4) The item's approximate value;
 - (5) The date of the disposal request; and

- (6) The name and/or signature of the department.
- (B) This information shall be kept on file for a period of three (3) years in the office of the Purchasing Department.

(Code 2006; History: H.R. Res. 2003-13, § 2; H.R. Res. 2010-7, § 2)

Sec. 11-53. Salvage Value Only.

If the department head and the Purchasing Department agree that any County owned personal property has no value, other than salvage value, then the Purchasing Department can, in its discretion, cause the disposal of such property. The Purchasing Department shall maintain a record explaining how the property was disposed, along with the information required in § 11-52 for a period of three (3) years.

(Code 2006; History: H.R. Res. 2003-13, § 3; H.R. Res. 2010-7, § 3)

Sec. 11-54. Private Auction; Private Negotiated Sales; Consignments.

The Purchasing Department may dispose of County property estimated by the department head and the Purchasing Department to have a fair market value of less than One Thousand Dollars (\$1,000) through a public auction, private negotiated sale, or consignment. Before concluding any such disposition, the Purchasing Department shall petition the Board for authority to do so. The Purchasing Department shall furnish the Board with a description of the property proposed to be disposed of, evidence of the Purchasing Department's and the department head's concurrence that the fair market value of the property does not exceed One Thousand Dollars (\$1,000), and the names and prices offered by prospective purchasers of the property. When any such property is disposed of and the value of the property is Fifty Dollars (\$50) or greater, public notice of the disposition shall be given in accordance with K.S.A. 19-211.

(Code 2006; History: H.R. Res. 2003-13, § 4; H.R. Res. 2010-7, § 4)

Sec. 11-55. Property Valued In Excess Of One Thousand Dollars.

Any County property deemed by either the department head or the Purchasing Department to be valued in excess One Thousand Dollars (\$1,000) shall be disposed in accordance with K.S.A. 19-211.

(Code 2006; History: H.R. Res. 2003-13, § 5; H.R. Res. 2010-7, § 5)

Sec. 11-56. Administrative Fee.

When the Purchasing Department conducts a sale of County property, it may also include property owned by any other public entity or private party, provided that the Purchasing Department receives an administrative fee that will cover all of its costs related to the sale of such property.

(Code 2006; History: H.R. Res. 2003-13, § 6; H.R. Res. 2010-7, § 6)

Sec. 11-57. Trade-Ins.

If County property is to be traded in or applied toward the purchase of new or replacement property, a record of any such disposition shall be maintained as provided in § 11-53 and notice of the disposition shall be provided in accordance K.S.A. 19-211.

(Code 2006; History: H.R. Res. 2003-13, § 7; H.R. Res. 2010-7, § 7)

Sec. 11-58. Delinquent Real Estate Taxes.

Obsolete, surplus, unused, or unneeded personal property shall not be sold to any person or entity if the records of the Shawnee County Treasurer show that the person or entity owns personal property or real estate with delinquent taxes.

(Code 2010; History: H.R. Res. 2010-7, § 8)

Sec. 11-59. Board's Rights; Disposition Of Personal Property.

The Board reserves the right, upon majority vote, to dispose of County property in any manner it deems prudent and in the public interest. Notice of any such disposition shall be made in accordance with K.S.A. 19-211.

(Code 2006; History: H.R. Res. 2003-13, § 8; H.R. Res. 2010-7, § 9)

Secs. 11-60 - 11-100. Reserved.

ARTICLE III. COUNTY VEHICLES

Sec. 11-101. Gasoline Cards For County Vehicles.

- (A) Only County-owned vehicles will be issued gasoline cards. Gasoline cards must not be used for private vehicles or be switched between County vehicles.
- (B) The gasoline card number assigned to a County-owned vehicle will be reflected on the fixed asset system corresponding to the vehicle of assignment. The gasoline card number will be reassigned to any replacement vehicles.
- (C) It is mandatory that accurate odometer readings be entered into the gasoline pump computer at the time of each gasoline purchase.
- (D) The Audit-Finance Department will perform periodic spot audits of all gasoline card usage.
- (E) Gasoline cards issued separately for non-highway vehicles having a distinct purpose, such as lawnmowers, snow blowers, chain saws, gas powered utility carts, weed whackers, generators, or anything powered by small gasoline engines that are portable, are exempt from this section.

(Code 2006; History: Res. 1994-191, §§ 1-5)

Note: See also § 10-214, Travel and Mileage Reimbursement Policy.

Sec. 11-102. Registration For County Vehicles.

- (A) All vehicles, either new or used, purchased or acquired by the County, shall be registered and titled in the name of Shawnee County.
- (B) For purposes of inventory control, the vehicle shall be recorded on the inventory of the department to which the vehicle is assigned.
 - (C) All titles for County vehicles shall be filed with the County Clerk.
- (D) When any County vehicle is transferred from one County department to another, the department transferring said vehicle shall notify the County Clerk of said transfer.
- (E) All Sheriff's Office vehicles, either new or used, purchased or acquired by Shawnee County, to be assigned to the Narcotic's Unit shall be registered and titled under the name of Narcotics Section, Shawnee County Sheriff's Office.

- (F) All titles for the Narcotic's Unit vehicles shall be filed with the County Clerk and maintained in a locked vault and shall not be subject to public inspection.
- (G) All insurance information and documents for the Narcotic's Unit vehicles shall be filed with the County Clerk and maintained in the same locked vault where the titles for such vehicles are kept.

(Code 2006; History: Res. 1982-161, §§ 1-4; amended by Res. 1984-171, §§ 1-3)

Sec. 11-103. Operation Of County-Owned Vehicles.

- (A) No employee shall use a County-owned vehicle except in connection with official County business. Employees may use a County-owned vehicle for commuting purposes only where a bona fide non-compensatory business purpose exists and when authorized by their appointing authority. Employees shall not use County-owned vehicles for commuting outside Shawnee County.
- (B) County employees shall request and make arrangements through their appointing authority or supervisor for the use of County-owned vehicles, as per department procedure.
 - (C) Any employee using a County-owned vehicle for any purpose shall:
 - (1) Be fully qualified to operate the specific vehicle;
 - (2) Have a valid Kansas drivers' license in effect; such license shall be of the proper type and class for the vehicle(s) being operated by the employee;
 - (3) Comply with all traffic laws, rules, and regulations, including the use of seat belts, as required by K.S.A. 8-2503;
 - (4) Exercise due care and diligence in operation of the vehicle;
 - (5) Not permit any unauthorized person to operate the vehicle;
 - (6) Not operate the vehicle when under the influence of alcohol or any controlled substance;
 - (7) Promptly notify appropriate persons of any maintenance problem, accident, or other problem with the vehicle;
 - (8) Have no misdemeanor of felony convictions for traffic or vehicular offenses (DUI, vehicular homicide, reckless driving, hit and run, etc.) on his or her driving record that are less than five (5) years old at the time the County-owned vehicle is being operated by the employee;
 - (9) Have no more than two (2) at fault or chargeable accidents on his or her driving record that are less than five (5) years old at the time the County-owned vehicle is being operated by the employee; and
 - (10) Have no more than two (2) traffic infractions (speeding, failure to yield right of way, etc.) that are less than one (1) year old at the time the County-owned vehicle is being operated by the employee.
- (D) For the purposes of this section, the term *driving record* shall mean an individual employee's driving record as obtained by the Shawnee County Department of Human Resources from the Kansas Department of Revenue. For the purposes of this section, whether an entry on an individual employee's driving record is classified as an "infraction", "misdemeanor", or "felony" and whether an accident is considered "at fault" and/or "chargeable" to the employee shall be conclusively determined in accordance with the court system's adjudication of the underlying case.

- (E) Any employee whose driving record makes them ineligible to operate a County-owned vehicle under the provisions of this section shall immediately report that fact to their appointing authority and shall refrain from operating a County-owned vehicle until such time as they become eligible to do so.
- (F) The appointing authority shall have the responsibility of verifying that employees who operate County-owned vehicles and equipment have a current valid Kansas driver's license. Further, each appointing authority is responsible for maintaining enforcement of this policy within their respective departments.
- (G) Any employee who violates the provisions of this resolution shall be subject to discipline up to and including termination.

(Code 2006; History: H.R. Res. 2005-7, §§ 1-7, amended by H.R. Res. 2013-2, § 1.)

Secs. 11-104 - 11-130. Reserved.

ARTICLE IV. KANSAS EXPOCENTRE REGULATIONS

Sec. 11-131. Definitions.

- (A) Concessions as herein used means the use and occupancy of the Arena, Exhibit Hall, Expo East, Expo West, Agricultural Hall, Heritage Hall, Agricultural Arena, Livestock Pavilion, Outdoor Arena, Parking Lot, Grounds, or by such other name as may be officially designated, or any part thereof for:
 - (1) The sale or dispensing of programs, records, librettos, periodicals, books, magazines, newspapers, soft drinks, alcoholic beverages, flowers, tobaccos, candies, food, novelties, t-shirts, posters, bedding, or related merchandise, but not including food commonly sold or dispensed in arenas, exhibit halls, agriculture complexes, or theaters;
 - (2) The renting and/or sale of opera glasses, cushions, and other articles; and
 - (3) The taking and/or selling of photographs. However, the term *concessions* shall not include: the sale or dispensing of merchandise or products including sandwiches, doughnuts, coffee, dairy products, tobacco, carbonated beverages and candy which are a part of or directly related to an authorized display or exhibit for which a fixed rental is otherwise charged under this article; or the giving away without consideration of food products which are the subject matter of any particular convention or the free offering of any food products to the delegates of any particular convention.
- (B) Expocentre as used herein means the Kansas Expocentre of Shawnee County, Kansas, or by such other name as may be officially designated for said facility, or any hall therein, grounds, parking lots or facility thereof.
- (C) *Permit* as used herein means the written, typewritten or printed permission issued to an applicant by the Executive Manager of the Expocentre, or his or her authorized designee, under the authority and conditions as herein provided, and means and includes any amendment or supplement to such permit.
- (D) *Permittee* as used herein, includes any person, association, organization, partnership, business trust, company or corporation who is granted a permit to use the Arena, Exhibit Hall, Expo East, Expo West, Agricultural Hall, Heritage Hall, Agricultural Arena, Livestock Pavilion, Outdoor Arena, Parking Lot, Grounds, or by such other name as may be officially designated, or any part or facility therein, in accordance with this article. (Code 2006; History: H.R. Res. 1984-4A, § 1)

Sec. 11-132. Permit To Use.

No person may use the Expocentre without first having obtained a permit in writing to do so from the Executive Manager. Permits for the use of the Expocentre or any part or facility thereof shall be issued by the Executive Manager on printed forms which will be signed by the Executive Manager. The Executive Manager, at his/her discretion, may require a deposit at the time of the issuance of the permit, or at any time designated in the permit prior to the staging of the event. The Executive Manager may require the permittee or applicant for a permit to provide any information necessary to determine facilities, arrangements, and any special services necessary for the staging and proper management of any event scheduled in the Expocentre. The Executive Manager may require said information be set forth in writing prior to the issuance of a permit or at such time before the staging of the event as the Executive Manager may deem necessary.

(Code 2006; History: H.R. Res. 1984-4A, § 2)

Sec. 11-133. Bond May Be Required.

The Executive Manager may, at his/her discretion, require any person applying for a permit to use the Expocentre, to furnish a bond, commensurate with the risks and expense involved, in cash or with sureties satisfactory to the Executive Manager, guaranteeing that applicant, if granted a permit, will well and faithfully perform each and every term and condition of said permit and will abide by and observe all lawful rules and regulations for the use of the Expocentre as established by the Executive Manager as provided by this article. Every bond furnished by an applicant as provided herein shall be subject to the approval of the County Counselor as to form.

(Code 2006; History: H.R. Res. 1984-4A, § 3)

Sec. 11-134. Services Furnished By Expocentre.

- (A) Rental of the Expocentre herein provided shall include normal heat, light, water, air conditioning, building cleaning and building maintenance.
- (B) Rental of the Expocentre herein provided shall not entitle the permittee to any personnel services in connection with the staging of the event or attraction for which the permit is issued, provided, however, that the Executive Manager may, at his/her discretion, furnish, at no extra cost to permittee, the services of those employees of the Expocentre who are regularly employed as a part of the Expocentre staff, but such services shall not include extra services described in § 11-143. The Expocentre shall arrange for and the permittee shall pay for all extra personnel required for the event including but not limited to: all stage employees, projectionists, ticket sellers, ticket takers, ushers, cashiers, doormen, guards, custodians, maintenance personnel, electricians, and law enforcement officers. The qualifications and number of such extra personnel shall be determined by the Executive Manager. The Executive Manager may require additional security or supervision at the expense of the user.

(Code 2006; History: H.R. Res. 1984-4A, § 4)

Sec. 11-135. Classification And Time Of Usage.

A *normal day* is defined as that period beginning at 8:00 A.M. and ending at 12:00 midnight. *One-half day* is defined as that period beginning at 6:00 P.M. and ending at 12:00 midnight, or a six (6) hour use period. A *performance* is defined to be a single presentation of a show, sporting event, meeting, dance, etc. Repeating performances in any one (1) day will be accounted separately. Any overtime use is subject to advance permission by the Executive Manager.

(Code 2006; History: H.R. Res. 1984-4A, § 5)

Sec. 11-136. Amount Of Rental.

- (A) Any person using the Expocentre, or any part or facility thereof, shall pay for such use the amount set forth in rental schedules which shall be adopted from time to time by the Expocentre Advisory Board. However, the Executive Manager may, at his/her discretion, negotiate special rates when such rates are in the best interest of the Expocentre. The classification of any use of the Expocentre or any part or facility thereof for the purpose of determining the rental therefor shall be made by the Executive Manager and with regard thereto shall be final for all purposes.
- (B) Partial utilization of any space will be at the applicable gross square foot charge and not less than one-half (1/2) of the space dimension. Partial use may be allowed at the discretion of the Executive Manager.

(Code 2006; History: H.R. Res. 1984-4A, § 6)

Sec. 11-137. Ticket And Account Control Of Permittee.

In connection with any use of the Expocentre upon a percentage basis, the Executive Manager shall have the right, whether or not such right is expressly mentioned in the permit, to prescribe the form of tickets, accounts, records and reports that shall be used by the permittee in staging the event or attraction and in accounting for the gross receipts thereof, and at any and all times make, by himself or his/her designee, such investigation or inspection of any or all of permittee's tickets, accounts, records and reports as may, in his/her opinion, be required for the purpose of verifying the amount of such gross receipts. The Executive Manager shall secure all printed admission tickets from a bonded ticket printing company. Said ticket printing company shall transmit the tickets and ticket manifest directly to the Executive Manager. In the event that a computerized ticketing system is utilized, the computer ticket company shall provide the Executive Manager with computer printouts and other documentation as the Executive Manager may require to verify the accuracy of the ticket sales statistics. Samples of all passes and the number of passes which may be issued must meet with the approval of the Executive Manager, and if passes are issued in excess of the number authorized by the Executive Manager, permittee shall be required to account for the unpaid admissions in excess of the approved number of passes, as though the full admission charge had been paid therefor.

(Code 2006; History: H.R. Res. 1984-4A, § 7)

Sec. 11-138. Ticket Sales Facilities.

The permit for the use of the Expocentre does not include the use of ticket sales facilities within the Expocentre unless specifically so provided therein. The Executive Manager may, in his/her discretion, permit the use of ticket sales facilities by the permittee or permittee's ticket contractor on such terms and conditions as may be mutually agreed to between the Executive Manager and said parties. As a prerequisite to the use of such ticket facilities, the Executive Manager may require the permittee or its ticket contractor to furnish such bonds and insurance as reasonably necessary to protect the County, Expocentre and/or the public. (Code 2006; History: H.R. Res. 1984-4A, § 8)

Sec. 11-139. Occupancy For Rehearsals.

The rentals specified in schedules adopted by the Expocentre Advisory Board may entitle a permittee time for one (1) full rehearsal, practice or drill of not more than four (4) consecutive hours, without additional cost, the date and hours of which shall first meet with the approval of the Executive Manager and shall be subject to cancellation by him/her upon twenty-four (24) hours notice. Subject to the same approval as to date and hours and subject to the same right of cancellation, occupancy for additional rehearsals (whether dress rehearsals or otherwise) may be permitted at such charges as may be fixed by the Executive Manager.

(Code 2006; History: H.R. Res. 1984-4A, § 9)

Sec. 11-140. Move In; Move Out.

Shows of three (3) or more consecutive days shall be allowed up to three (3) days for combined move-in and move-out (including move-in and move-out time for decorator, etc.). Any additional days or part of a day required to move in and move out may be made available at one-half (1/2) of the applicable square foot rate by previous arrangement with the approval of the Executive Manager. One (1) or two (2) day shows may be allowed move-in/move-out time proportionate to this schedule at the discretion of the Executive Manager. (Code 2006; History: H.R. Res. 1984-4A, § 10)

Sec. 11-141. Concessions.

All concessions shall either be retained by and operated under the supervision of the Expocentre Advisory Board, or operated by the concessionaire authorized by the Expocentre Advisory Board, or combination.

(Code 2006; History: H.R. Res. 1984-4A, § 11)

Sec. 11-142. Permits And Licenses.

Rental fees for the Expocentre, or any part of facility thereof, shall not cover the cost of any City, County, State or Federal permit or license. Necessary and proper inspection to comply with City, County, State or Federal permits or licenses shall be performed by the applicable department. The permittee's use of any and all permits shall comply with all existing laws, ordinances and resolutions.

(Code 2006; History: H.R. Res. 1984-4A, § 12)

Sec. 11-143. Special Facilities And Extra Services.

The rental charges referred to in this article shall cover only the use of the Arena, Exhibit Hall, Expo East, Expo West, Agricultural Hall, Heritage Hall, Agricultural Arena, Livestock Pavilion, Outdoor Arena, or by such other name as may be officially designated, or any part thereof, and are not calculated to compensate the Expocentre for special facilities and extra services hereinafter provided for or mentioned in this article. Regardless of the classification of use, where the Executive Manager determines that such special facilities or extra services have been requested or are needed or have actually been used or rendered, an additional charge, to be determined by the Executive Manager, shall be made. These charges shall be based upon a schedule of extra charges which shall be kept on file with the Executive Manager. A list of charges will be kept current by the Executive Manager and subject to the approval of the Expocentre Advisory Board. The following are special facilities or extra services for which an additional charge shall be made: parking; public address system; outside amplification, as a part of any regular interior usage; any additional equipment necessary to play any recordings over the Expocentre amplification system; supervising any installation required for the purpose of broadcasting any program over any radio or television station or for tuning in on any radio or television program for broadcast of the Expocentre amplification system; special seating arrangements; use of forklift and operator; change in seating arrangements; special mechanical or electrical connections; special bedding or other livestock needs and equipment; janitor work beyond the usual hours; erection of platforms, stalls or stands other than those usually furnished; decorating and installation or removal of fixtures; and other miscellaneous service or equipment. All labor and/or other costs associated with a particular event will be arranged for by the Expocentre and paid for by the permittee including, but not limited to, those services outlined in § 11-

(Code 2006; History: H.R. Res. 1984-4A, § 13)

Sec. 11-144. Booking Policies.

The Expocentre staff shall have the primary responsibilities for marketing the facilities and to carry out this responsibility will have control over all bookings. The Executive Manager may hold or refuse to hold dates which are more than eighteen (18) months in the future, if he/she determines that such action will maximize the use of the Expocentre for trade shows and conventions. However, the Expocentre Advisory Board may allow certain traditional users to target approximate dates indefinitely, subject to specific criteria, approximately thirty-six (36) months prior to the event taking place. The term *Trade Shows and Conventions* as used in this article refers to those events and activities which utilize a guaranteed block of hotel/motel rooms in addition to Expocentre space and thereby make a significant economic impact on the community in terms of hotel/motel occupancy tax, sales tax and other expenditures.

(Code 2006; History: H.R. Res. 1984-4A, § 14)

Sec. 11-145. Shawnee County Fair Reservations.

(A) The following buildings at the Kansas Expocentre are hereby reserved on an annual basis for use by the Shawnee County Fair Association for the purpose of conducting the annual Shawnee County Fair, in exchange for an appropriate annual fee to be determined by the Board of County Commissioners on an annual basis, such reservation being from and including Thursday before the last Saturday in July for eleven (11) days. Said reservation shall commence on the first Thursday at 8:00 A.M. and end at 10:00 P.M. on the last Sunday. The buildings hereby reserved are as follows: Landon Arena, Exhibition Hall, Livestock Pavilion and Stall Barn, Agricultural Hall, and Heritage Hall. Provided, however, that the Shawnee County Fair Association shall not be entitled to the use of Exhibition Hall on the

second Friday between the hours of 12:01 A.M. and 11:59 P.M. for each year, such reservation being made to allow the County to bid for and host the Annual Shrine Bowl Banquet.

(B) Said reservations shall be subject to all rules and regulations of the Board of County Commissioners, the County Parks and Recreation Department, and the Kansas Expocentre applicable to said areas.

(Code 2006; History: Res. 1990-91, §§ 1-2)

Sec. 11-146. General Terms And Conditions.

- (A) All leasees, permittees, licensees, concessionaires and/or their respective agents and employees shall at all times conform to all rules and regulations for the use and occupancy of, and operations in, the Expocentre, as adopted, issued and ordained, from time to time, by the Board of County Commissioners, the Expocentre Advisory Board, and the Executive Manager. Any violation of such rules and regulations by any of the foregoing persons mentioned in this article shall, at the discretion of the Executive Manager, subject such violator or violators to immediate expulsion from the Expocentre and the forfeiture of all rents, percentage, or other fees theretofore paid and without releasing in any manner any obligations for the payment of the rents, percentages, or other fees required to be paid under such permit for the full term thereof.
- (B) No verbal agreements for the use of the Expocentre, or any part or facility thereof shall be binding upon the Executive Manager or upon Expocentre Advisory Board. No solicitation shall be allowed at the Expocentre without written approval from the Executive Manager.
- (C) All moneys received as rental for the Expocentre shall be paid over and deposited by the Executive Manager to and with the Shawnee County Treasurer. All Expocentre employees shall be bonded.
- (D) The Executive Manager is authorized to contract for the rental of the Expocentre on behalf of the Expocentre Advisory Board, subject to the provisions hereof. The Expocentre Advisory Board may cancel the contract of any person or organization as to the use of any portion of the Expocentre when such person or organization, in the opinion of the Executive Manager or Expocentre Advisory Board, is not acting for the best public interests. The Executive Manager shall have the right to deny any group use of the Expocentre if he/she deems the use to be unfair competition with other groups or with City or County business.
- (E) All rentals for the use of the Expocentre shall be paid prior to the occupancy of said Expocentre by the permittee, except the Executive Manager may waive this requirement up to fifty percent (50%) of the required fee and the Expocentre Advisory Board, at its discretion, may waive all prepayment requirements. The Executive Manager may, at his/her discretion, designate the length of time prior to the staging of any event in which these payments shall be made. In cases where the rental involves the payment of a stipulated percentage of gross receipts in lieu of the approved flat rental rates, the Executive Manager shall determine the amount of the advance deposit. In no case shall the Executive Manager permit the occupancy of the building by any permittee until not less than the minimum guarantee, plus the cost of any special facilities or extra services which can be determined or estimated in advance by the Executive Manager, has been paid or proper assurances have been made. If for any reason any permittee cancels or fails to hold a scheduled attraction, without the written approval of the Executive Manager, or in case any permittee fails to make the necessary payments as provided herein, all moneys previously paid by the permittee as a deposit and/or rental may be retained by the Expocentre as liquidated damages.
- (F) By their acceptance of a permit as hereinabove provided, permittee shall covenant and agree to relieve and discharge the County, the Expocentre Advisory Board, Expocentre

staff, and the elected officials and employees of the County from any and all liability for loss and/or injury and/or damages to any person and/or persons and/or property that may be sustained by reason of the occupancy and use of said Expocentre and of the facilities thereof, and to save them free and harmless therefrom. Every permittee shall further agree to pay for any and all damage to said Expocentre and damage to or loss of any of the property and/or equipment of said Expocentre and/or any other property, resulting either directly or indirectly, from such occupancy and/or use of said Expocentre, by or through the negligence and/or other acts of the permittee, their agents and employees and any person or persons participating in or attending the performance, attraction or affair in connection with or during said use and occupancy. However, the Executive Manager may, whenever in his/her opinion the circumstances may warrant same, require that permittees secure and indemnify the County, the Expocentre Advisory Board, Expocentre staff and such other persons as it shall designate, against any and all liability, loss, injury, and damage, by procuring, paying for and keeping in force a policy of liability and/or indemnity insurance, or a surety bond, for such purpose or purposes, which said policy of insurance or bond shall be written and used by a reputable and solvent insurance or surety company, as the case may be, authorized to do business in the State, and such policy or bond shall be subject to approval as to form thereof by the County Counselor. In like manner, whenever in the opinion of the Executive Manager the circumstances may warrant same, a permittee shall procure, pay for and keep in force, worker's compensation insurance for and on behalf of, and protecting, the agents and/or employees of such permittee. However, whenever such permittee shall be required under the laws of the State, to cover his, her or its agents, and/or employees by worker's compensation insurance, such law or laws shall be complied with, notwithstanding the exercise of or failure to exercise such discretion of said Executive Manager with regard thereto.

- (G) Permittees, their agents and/or employees shall at all times strictly comply with and abide by all Federal, State, Municipal and County laws, ordinances and resolutions applying to or affecting the use and occupancy of said Expocentre. No machinery may be operated or flammable liquids used in the Expocentre without approval of the Executive Manager.
- (H) Every permittee shall furnish or pay for such law enforcement and/or security protection as may be required by the Executive Manager during the occupancy of such permittee. If any permittee fails or refuses to furnish police and/or security protection satisfactory to the Executive Manager, the Executive Manager may furnish the same and charge the cost thereof to the permittee, or cancel the event.
- (I) The Executive Manager shall maintain proper records of all space reserved and services rendered. He/she shall also file with the County Auditor copies of such receipts, invoices and other financial documents as the County Auditor may require.
- (J) The Executive Manager, and other duly authorized representatives as may be approved by the Executive Manager, shall have the right to enter the Expocentre and all parts thereof, at all times during any and all Expocentre occupancies and events.
- (K) Payment of all Federal, State, County and City taxes in connection with any attraction shall always be the liability and responsibility of the permittee; however, if the Executive Manager deems it advisable for the protection of himself/herself and the protection of the Expocentre, he/she shall have the authority to collect all such taxes and pay them over to the proper representatives of the State, Federal or other units of government.

(L) No copyrighted musical composition of the members of the American Society of Composers, Authors and Publishers or any other copyright owners, shall be played or sung in connection with any use of the Expocentre or any part or facility thereof, either amplified, televised, or otherwise, in either the form of a mechanical recording or personal rendition, unless the sponsor of the program shall have first paid any license fee or other fee required therefor by said society, or other copyright owner. The permittee shall furnish satisfactory evidence of such payment to the Executive Manager prior to such program. By acceptance of the permit as hereinabove provided, the permittee shall covenant and agree to indemnify the County, the Expocentre Advisory Board, Expocentre staff, and the elected officials and employees of said County, and to save them free and harmless for any and all liability or responsibility whatsoever for infringement of, and/or other violation of, the rights of said society, or any other copyright owner, under the copyright law.

(Code 2006; History: H.R. Res. 1984-4A, § 15)

Sec. 11-147. Broadcast; Telecast.

In any application for a permit every permittee shall state whether they intend to broadcast or telecast over any radio or television system, any event or program or speech for which a permit is sought.

(Code 2006; History: H.R. Res. 1984-4A, § 16)

Sec. 11-148. Signs, Posters And Literature.

- (A) Signs may only be posted on billboards provided for such use, and all signs, advertisements, show cards, and posters must relate to the performance or exhibition to be given on the premises. The hanging of pictures, banners or any other items on walls or draperies is prohibited unless prior written approval of the Executive Manager is obtained. The Executive Manager, at his/her discretion may as a marketing tool, require all advertisement used at the Expocentre to bear the current name and logo of the Expocentre.
- (B) Permittees shall not distribute or circulate or permit to be circulated any advertising matter or programs at the entrance to or any part of the premises that does not pertain completely to the immediate attraction. Such material must have prior approval of the Executive Manager and at no time shall any advertising matter or programs be distributed or circulated on parking facilities or sidewalks adjacent to the facilities.

(Code 2006; History: H.R. Res. 1984-4A, § 17)

Sec. 11-149. Marquee.

Event information may be placed upon the Expocentre marquee, if available, only for events on the Expocentre grounds where an admission charge is made and/or the general public is invited. A special fee may be charged for this service at the Executive Manager's discretion.

(Code 2006; History: H.R. Res. 1984-4A, § 18)

Sec. 11-150. Entrance And Exit.

All persons, articles, exhibits, fixtures, displays, and other equipment shall be brought into and out of Expocentre buildings and facilities only at designated entrances and exits. (Code 2006; History: H.R. Res. 1984-4A, § 19)

Sec. 11-151. Abandoned Property.

Any equipment or property of the permittee remaining on the leased premises for more than ten (10) days after the expiration of the lease shall be deemed abandoned and may be disposed of by the Executive Manager as prescribed by the Board of County Commissioners. (Code 2006; History: H.R. Res. 1984-4A, § 20)

Sec. 11-152. Lost, Stolen Or Misplaced Articles.

The Expocentre shall have the sole right to collect and have the custody of articles left on the premises by permittee's patrons, and to provide for the disposition thereof. Such articles shall be kept on the premises for sixty (60) days and then disposed of as directed by the Board of County Commissioners. The Expocentre and the County shall assume no responsibility for losses suffered by the permittee, his or her agents, servants, employees or patrons which are occasioned by theft or disappearance of equipment, articles or other personal property.

(Code 2006; History: H.R. Res. 1984-4A, § 21)

Sec. 11-153. Equipment Usage.

No person may authorize the use of or transportation of any equipment, furnishing, or other article which is the inventoried property of Shawnee County to any place or places outside the immediate confines of the Expocentre. As used in this article, the word *equipment* encompasses all items of inventory equipage which are capable of being moved by one (1) or more persons, such as chairs, spotlights, tables, sound amplifying equipment and all other similar items.

(Code 2006; History: H.R. Res. 1984-4A, § 22)

Sec. 11-154. Deposits.

- (A) A deposit of at least twenty percent (20%) of the base rental cost must be paid when the permit is signed. Should a cancellation of an event by the permittee occur, the deposit will be retained by the Expocentre as liquidated damages. Any balance of rental payment shall be due and paid ten (10) days prior to the start of the event. All charges for equipment, services or labor will be due and payable prior to the closing of the event.
- (B) Refund of advance rental deposits may be authorized: (1) where permittee gives written notice of cancellation to the Executive Manager at least twenty-one (21) calendar days, including holidays and weekends, prior to the dates reserved if the Executive Manager determines that no detriment will result to Shawnee County for such cancellation; (2) where the scheduled performance is otherwise cancelled at the request of the Executive Manager under any of the terms of the resolution governing the management of the Expocentre; or (3) where the scheduled performance is otherwise cancelled at the request of the Executive Manager with the consent of the permittee.
- (C) The right to recover any refund shall not be assignable except by operation of law, and such right shall be barred and the money to which any applicant shall be entitled shall be and become the sole property of the Expocentre upon the expiration of one (1) year following the date the right to such refund has accrued.

(Code 2006; History: H.R. Res. 1984-4A, § 23)

Sec. 11-155. Parking Lot.

The Expocentre reserves the right to maintain and control parking on and about the Expocentre site, either by direct operation under the supervision of the Executive Manager, or through a contract for private operation thereof.

(Code 2006; History: H.R. Res. 1984-4A, § 24)

Sec. 11-156. Vehicular Parking, Traffic And Speed

- (A) The Expocentre Manager, with the approval of the Expocentre Advisory Board, is hereby authorized to designate, paint, erect, and maintain such parking areas, no parking areas, loading zones, speed limit signs, stop signs and such other traffic control devices, including informational signs, as are deemed necessary for the safety and convenience of all persons using the Expocentre.
- (B) The County Public Works Department may assist the Expocentre Manager in surveying the traffic patterns and use of the Expocentre premises.
- (C) The Expocentre Manager, with approval of the Expocentre Advisory Board, is further authorized to modify existing traffic control devices from time to time in order to promote safe and convenient use of the Expocentre.

(Code 2006; History: H.R. Res. 1986-2, §§ 1-3)

Sec. 11-157. Parking Plan.

- (A) The color-coded site plan shall be filed with the County Clerk's Office and shall be the official parking map.
- (B) The yellow area shall be permit parking only. The General Manager of the Kansas Expocentre, or his/her designee, reserves the right to have unauthorized vehicles ticketed and towed, at the vehicle owners' expense.
- (C) The pink area shall be reserved for the sales staff for the Capitol Plaza Hotel. This parking space may be reassigned by the General Manager, or his/her designee.
 - (D) The blue area will remain a handicapped parking stall.
 - (E) The orange area shall be visitor parking.
 - (F) The purple area shall be the livestock loading and unloading zone.
- (G) The green area shall be County Extension Office parking. (Code 2006; History: Res. 1997-158, §§ 1-7)

Sec. 11-158. Legal Advisor.

The County Counselor shall be the legal advisor to the Expocentre and shall approve all forms of permits, bonds, contracts and other documents used in carrying out this article. (Code 2006; History: H.R. Res. 1984-4A, § 25)

Sec. 11-159. Changes In This Article.

The Advisory Board of the Kansas Expocentre shall be consulted before any amendments are made to this article.

(Code 2006; History: H.R. Res. 1984-4A, § 27)

Sec. 11-160. Budget.

The Expocentre Manager is hereby authorized to administer, subject to supervision by the Expocentre Advisory Board, the Expocentre annual operating budget and is hereby granted the authority to approve and authorize payroll, purchase orders, vouchers and other payments for goods and services.

(Code 2006; History; H.R. Res. 1985-19, § 1)

Sec. 11-161. Petty Cash Fund.

A petty cash fund in an amount not to exceed One Hundred Dollars (\$100) is hereby authorized and established to be maintained by the Kansas Expocentre for the operating expenses such as postage and other miscellaneous office expense. (Code 2006; History: Res. 1986-13)

Secs. 11-162 - 11-200. Reserved.

ARTICLE V. NAMING OF COUNTY PROPERTY

Sec. 11-201. Bettis Family Sports Complex

The Lake Shawnee Sports Complex is hereby renamed the "Bettis Family Sports Complex." This is in recognition of the Bettis Family, who have been and are community leaders who have made countless contributions to the community through their commitment to youth sports.

(Code 2010; History: Res. 2010-67)

Sec. 11-202. Betty Dunn Park

"Adams Park" is hereby renamed the "Betty Dunn Park." This is in recognition of her contribution as a community leader who has worked to preserve and improve the community for years.

(Code 2014; History: Res. 2014-74)

Sec. 11-203. Dick and Dotty Hanger Family Preserve

The area surrounding the Lake Shawnee Junior Fishing Pond shall hereafter be known as the "Dick and Dotty Hanger Family Preserve." This is in recognition of the Richard B. and Dorothy Hanger, who have been community leaders for many years and have made countless contributions to the community.

(Code 2010; History: Res. 2010-134)

Sec. 11-204. E. Newton Vickers Courtroom.

The courtroom on the fourth floor of the Shawnee County Courthouse, Room 409, is hereby named The E. Newton Vickers Courtroom. This is in recognition of the many years of dedicated judicial service to Shawnee County by Judge E. Newton Vickers. (Code 2006; History: Res. 1992-4)

Sec. 11-205. Greggory Van Sickle - Robert B. Thorn Building.

The medical clinic at 2115 S.W. 10th Avenue, is hereby named the Greggory Van Sickle – Robert B. Thorn Building. This is in recognition of the many years of dedicated service to citizens of the City of Topeka and Shawnee County by Greggory Van Sickle, M.D. and Robert B. Thorn.

(Code 2010; History: Res. 2010-60)

Sec. 11-206. Harold North Field.

The "Gopher Ball Diamond" at the Bettis Family Sports Complex, shall hereafter be known as the "Harold North Field". This is in recognition of Harold North's major contributions of time and talent to youth baseball at Shawnee County Amateur Baseball Association (SCABA) that included volunteer service on the Board of Directors, tournament director, and responsibility for facility maintenance and grounds keeping.

(Code 2010; History: Res. 2010-120)

Sec. 11-207. Jerry Robertson Field.

The "Pony Express Ball Diamond" at Lake Shawnee, shall hereafter be known as the "Jerry Robertson Field". This is in recognition of Jerry Robertson who was a community leader who made countless contributions to a better community through his work as the Executive Director of the Topeka YMCA where he developed a youth baseball program for underprivileged youth.

(Code 2010; History: Res. 2010-50)

Sec. 11-208. Jim Parrish Field.

The "Gopher #2 Diamond" at the Bettis Family Sports Complex, shall hereafter be known as the "Jim Parrish Field". This is in recognition of his commitment to building better youth through baseball.

(Code 2014; History: Res. 2014-9)

Sec. 11-209. J.P. Lewis Building.

The Shawnee County Health Department located at 2600 SW East Circle Drive, Topeka, Kansas, shall hereafter be known as the "J.P. Lewis Building." This is in recognition of Dr. J.P. Lewis who was elected as the first Health Officer for Shawnee County on July 7, 1885. (Code 2014; History: Res. 2016-85)

Sec. 11-210. Landon Arena.

The arena at the Kansas Expocentre which is designed to provide approximately seven thousand six hundred (7,600) permanent seats for public events is hereby named and shall be hereafter known as the Governor Alfred M. Landon Arena and shall be commonly known as Landon Arena. This is done in recognition of and appreciation for the many years of public service to the Great State of Kansas by Governor Alfred M. Landon.

(Code 2006; History: Res. 1986-179)

Sec. 11-211. Maner Conference Centre.

The Conference Centre at the Kansas Expocentre is hereby named and shall be hereafter known as the Commissioner Richard A. Maner Conference Centre, and shall be commonly known as "Maner Conference Centre." This is in recognition of the many years of public service to Shawnee County by Commissioner Richard A. Maner. The Board of County Commissioners hereby reserves the official naming and designating of the following buildings at the Kansas Expocentre until such appropriate time in the future: Exhibition Hall, and the Livestock Stalls/Barn.

(Code 2006; History: Res. 1987-141)

The address for the Maner Conference Centre is hereby changed from 1717 SW Topeka Blvd. to 1720 SW Western at the request of the Topeka Fire Department.

(Code 2006; History: Res. 2018-66)

Sec. 11-212. Midwest Health Aquatic Center

The major aquatic facility to be located Southwest of SW 21st and SW Urish Road in Topeka shall hereafter be known as the Midwest Health Aquatic Center. This is in recognition of Midwest Health for their generosity and commitment to the community by sponsoring the facility to provide for future enhancements, repairs and maintenance to the facility in order to preserve it as a first class aquatic facility for future generations.

(Code 2015; History: Res. 2015-97)

Sec. 11-213. North Industrial Park Annex.

The building at 1515 Northwest Saline shall be named The Shawnee County North Industrial Park Annex and referred to as such on letterhead, stationery and related materials.

(Code 2006; History: Res. 1993-154)

Sec. 11-214. Richard W. Barta Shawnee County Sheriff's Office Training Complex and Firing Range.

The Shawnee County Sheriff's Office Training Complex and Firing Range located at 7437 S.E. California Avenue shall hereafter be known as the "Richard W. Barta Shawnee County Sheriff's Office Training Complex and Firing Range". This is in recognition of Richard W. Barta's service and commitment to the community having served in law enforcement for forty-four years, and having served the citizens of Shawnee County for twelve years as the Shawnee County Sheriff.

(Code 2012; History: Res. 2012-53)

Sec. 11-215. R.R. "Doc" Domer Livestock Arena.

The Kansas Expocentre Livestock Arena is hereby renamed The R.R. "Doc" Domer Livestock Arena. The Livestock Arena shall be commonly known as the "Domer Arena." This is in recognition and appreciation for the many years of dedicated services to Shawnee County by Dr. R.R. "Doc" Domer.

(Code 2006; History: Res. 1997-107)

Sec. 11-216. Sabatini Park.

- (A) The Board gratefully accepts Frank C. Sabatini's donation of land generally located at the Southeast corner of the intersection of 37th Street and California Avenue.
- (B) Upon Frank C. Sabatini raising sufficient funds to pay for the developments, the County will develop this land as a park, to be named the "Alice C. Sabatini Children's Park" and commonly known as "Sabatini Park."
- (C) The County Parks and Recreation Department will oversee the development and maintenance of the Alice C. Sabatini Children's Park, which generally shall be in accordance with the depiction attached to Res. 1998-90 as Exhibit 1, a copy of which may be found in the office of the County Clerk (200 S.E. 7th Street).
- (D) This section and the dedication of the park is in recognition of and appreciation for the many years of enthusiastic support of children's activities by Alice C. Sabatini. (Code 2006; History: Res. 1998-90, §§ 1-4)

Sec. 11-217. Ted Ensley Gardens.

The Rose Garden and the Gazebo at the Rose Garden at Lake Shawnee formerly known as "Ensely Botanical Garden" is hereby named and shall hereafter be known as the "Ted Ensley Gardens". This is in recognition of the many years of dedicated public service to Shawnee County by Theodore D. Ensley.

(Code 2006; History: Res. 1992-155; Res. 2009-17.)

Sec. 11-218. Thomas D. Opat Golf Course Maintenance Facility.

The "Golf Course Maintenance Building" at Lake Shawnee, shall hereafter be known as the "Thomas D. Opat Golf Course Maintenance Facility". This is in recognition of Tomas D. Opat who made significant contributions of his time and talents to the construction and development of the Lake Shawnee Golf Course that included working on the construction that built the facility, donation of thousands of hours on weekends and holidays, and development of the Master Improvement Plan that began in 1996 and was completed in 2002.

(Code 2011; History: Res. 2011-8)

Sec. 11-219. Topeka Optimist Club Juvenile Detention Center Library.

The Shawnee County Juvenile Detention Center Library shall hereafter be known as the Topeka Optimist Club Juvenile Detention Library. This is in recognition of the Topeka Optimist Club who has served the youth at the Shawnee County Juvenile Detention Center for twenty year and who continues to contribute to the development of youth at the Shawnee County Juvenile Detention Center through a book and reading project that includes donating time for reading and discussion with youth, books and other instructional tools, and funds for the purpose of buying books.

(Code 2018; History: Res. 2018-14.)

Sec. 11-220. Velma K. Paris Community Center.

- (A) The Shawnee County South Community Center is hereby renamed "The Velma K. Paris Community Center."
- (B) The Velma K. Paris Community Center shall be commonly known as the "Paris Community Center."
- (C) This in recognition of and appreciation for the many years of dedicated service to Shawnee County by Velma. K. Paris.

(Code 2006; History: Res. 1996-69, §§ 1-3)

Secs. 11-221—11-250. Reserved.

ARTICLE VI. POLITICAL ADVERTISEMENTS

Sec. 11-251. Political Advertisements On Courthouse Property Prohibited.

- (A) No signs, posters or stickers will be affixed to or on any walls, desks, poles or the like on courthouse property. This does not prohibit handing out of campaign cards by individuals.
- (B) Automobiles or other vehicles bearing other than normal bumper stickers shall not be parked on County property for a period of more than one (1) hour.
- (C) It is expressly intended by this section that courthouse property is, and shall remain, neutral ground where political advertising is concerned. (Code 2006; History: Res. 1966-152)

Sec. 11-252. Political Advertisements On County Property Prohibited.

No County-owned property may be used for the purposes of publicly displaying political advertisements for any candidate for any political office for the purpose of furthering such political candidacy.

(Code 2006; History: Res. 1986-167)

Secs. 11-253 - 11-300. Reserved.

ARTICLE VII. USE OF CORONER'S OFFICE

Sec. 11-301. Facility Fee; Facility Billing; Authority To Set Fees.

- (A) Effective January 1, 2005, the facility use fee of One Hundred Eighty-five Dollars (\$185) per autopsy performed for other Kansas counties will be increased to One Hundred Ninety-five Dollars (\$195.00). The County Coroner will bill the other counties and reimburse Shawnee County for the use of the facility.
- (B) The County Coroner is given the authority to set fees for supplies and services as he/she deems appropriate, such fees to be reimbursed to Shawnee County. (Code 2006; History: Res. 2004-125, §§ 1-2)

Sec. 11-302. Other Fees.

- (A) Cremation Fee whenever cremation of remains is requested by a person entitled to control the disposition of the remains, the Shawnee County Coroner's Office shall charge and collect a fee in the amount of Fifty Dollars and NO/100 (\$50.00). However, no cremation fee shall be charged or collected for a descendent less than one year of age. Funeral home accounts past due at least forty-five (45) days shall not receive approvals on requests for cremations.
- (B) Certified Autopsy Report whenever a certified autopsy report is requested by an individual or entity entitled to receive the same, the Shawnee County Coroner's Office shall charge and collect a fee in the amount of Fifty Dollars and NO/100 (\$50.00)
- (C) Relinquished Body Fee whenever any hospital, hospice or nursing home relinquishes a body to the Coroner's Office about which the Coroner did not decide to perform an investigation pursuant to K.S.A. §22a-231, the Shawnee County Coroner's Office shall charge and collect a fee in the amount of Five Hundred Dollars and NO/100 (\$350.00). No relinquishment shall take place unless:
 - 1. The coroner consents;
- 2. The relinquishing entity provides all demographic information requested by the Coroner; and
- 3. The relinquishing entity certifies in writing that it has done a thorough investigation and found no person who qualifies as next-of-kin.

The Coroner may charge an additional seventy dollars (70.00) per hour, for time spent in excess of thirty minutes if required for investigation pertaining to identification of next-of-kin and for arrangements related to disposition of the remains.

- (D) Fees for Non-Coroner Cases In accordance with K.S.A. §65-2412, death certification in non-coroner cases should be completed by the last physician of record. In Shawnee County, a physician who has attended to the decedent within the past year or is prescribing medication to the decedent at the time of death will be required to certify the death unless the death falls under the jurisdiction of the coroner. Non-Coroner cases shall be subject to the following fees:
 - 1. Medical examination and death certification of non-coroner cases: \$500.00/case
 - 2. Research and correction fee for improperly certified cause of death: \$150.00/case
- (E) Non-Coroner Case Transportation Fee any charges by any entity delivering non-corner cases to the County Coroner's office shall be the responsibility of the person or persons who are financially responsible for the final disposition of the deceased's remains.
- (F) All fees collected pursuant to this Article shall be paid over to the Shawnee County Treasurer and deposited into the general fund of the County. (Code 2015; History: Res. 2010-110; *amended by* Res. 2011-5; *amended by* Res. 2015-3.)

Secs. 11-303 - 11-350. Reserved.

CHAPTER 12. COURTHOUSE POLICIES

Art. I. In General, §§ 12-1-12-50

Art. II. Courthouse Security, §§ 12-51-12-100

Art. III. Dogs, §§ 12-101-12-120

Art. IV. Evacuation Plan, §§ 12-121 – 12-150

Art. V. Firearms, \S 12-151 – 12-190

Art. VI. Footwear, §§ 12-191 – 12-220

Art. VII. Parking And Office Keys, §§ 12-221-12-250

Art. VIII. Postings; Announcements, §§ 12-251 – 12-290

ARTICLE I. IN GENERAL

Secs. 12-1-12-50. Reserved.

ARTICLE II. COURTHOUSE SECURITY

Sec. 12-51. Evacuation Determination.

The County Sheriff or his/her designee shall have the authority and responsibility upon notification of an emergency situation to determine whether the County Courthouse should be evacuated.

(Code 2006; History: H.R. Res. 1997-3, § 1)

Sec. 12-52. Bomb Threat Evacuation Options.

Except in mandatory evacuations for a bomb threat, employee options shall remain as follows for bomb threats:

- (1) Employees may remain in the building;
- (2) Employees may use annual leave to go home with the consent of their department head; or
- (3) Employees may evacuate the Courthouse and report to the Ramada Inn, or locations to be determined by the Board at a later date, without loss of any leave time.

(Code 2006; History: H.R. Res. 1997-3, § 2)

Sec. 12-53. Smoking.

Employee smoking will be prohibited on the South side of the County Courthouse. (Code 2006; History: H.R. Res. 1997-3, § 3)

Sec. 12-54. Deliveries.

All packages being delivered to the County Courthouse must go in the East entrance. (Code 2006; History: H.R. Res. 1997-3, § 4)

Sec. 12-55. Entrance Into Courthouse.

Sheriff deputies will have the authority to deny entrance to the County Courthouse for any individual refusing to comply with required security measures. (Code 2006; History: H.R. Res. 1997-3, § 5)

Sec. 12-56. Courthouse Entrances.

Entrance to and exit from the County Courthouse is limited to the main South doors and East doors. No entrance or exit is permitted through any other door.

(Code 2006; History: H.R. Res. 1997-3, § 6)

Sec. 12-57. Employee Violation.

Any violation by employees of the terms of this article may subject the employee to disciplinary action up to and including termination.

(Code 2006; History: H.R. Res. 1997-3, § 7)

Sec. 12-58. Non-Employee Violation.

Violation of this article by any other individual is punishable by a fine of up to One Thousand Dollars (\$1,000).

(Code 2006; History: H.R. Res. 1997-3, § 8)

Sec. 12-59. Article's Intent.

The intent of this article is to put in place short-term measures to assist in securing the County Courthouse. It is intended that other policy documents will be adopted by the Board with more detail regarding such policies.

(Code 2006; History: H.R. Res. 1997-3, § 9)

Sec. 12-60. Designation of Shawnee County Sheriff as Contract Administrator for Night Security Guard Contract

The Shawnee County Sheriff is hereby designated as the Contract Administrator for Shawnee County Contract No. C402-2010 regarding after hours security guard services at the Shawnee County Courthouse. The Sheriff is hereby authorized to monitor vendor compliance, terminate the agreement, negotiate extensions or modifications to the Agreement and/or solicit bids as the Sheriff deems necessary.

(Code 2012; History: Res. 2012-7)

Secs. 12-61-12-100. Reserved.

ARTICLE III. DOGS

Sec. 12-101. Dogs Prohibited In Courthouse; Exceptions.

The Board resolves to restrict animals from entering the Shawnee County Courthouse with the exception of law enforcement animals commissioned as members of the Shawnee County Sheriff's Office or guide dogs, hearing assistance dogs, or service dogs, as provided in K.S.A. 39-1102, 39-1107, and 39-1108.

(Code 2006; History: Res. 2001-247)

ARTICLE IV. EVACUATION PLAN

Sec. 12-121. Regulations Incorporated.

There are hereby incorporated by reference, as if set out fully herein, evacuation regulations for the County Courthouse during emergency situations adopted by the governing body of Shawnee County, Kansas, and prepared by the County consisting of Resolution 1995-136 and amendments thereto and entitled "Shawnee County Courthouse Evacuation Plan." Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Secs. 12-122-12-150. Reserved.

ARTICLE V. FIREARMS

Sec. 12-151. Definition.

Possession of a firearm within the Shawnee County Courthouse building is possession of a firearm by a person who brings a firearm into, or possesses a firearm within the Shawnee County Courthouse building, located at 200 SE 7th Street, Topeka, Kansas. (Code 2006; History: Res. 1991-152, § 1; Res. 2009-48, § 1)

Sec. 12-152. Firearm Prohibited.

Possession of a firearm within the Shawnee County Courthouse building is hereby prohibited. The Board of Shawnee County Commissioners finds that there are adequate security measures in place in the Shawnee County Courthouse to ensure that no weapons are permitted to be carried into the facility. Specifically, the Board finds that the security provided by personnel of the Shawnee County Sheriff's Office, metal detectors, metal detector wands, and x-ray machines are adequate to detect and restrict the carrying of any weapons into the Courthouse. In accordance with K.S.A. 21-4218(d), the provisions of K.S.A. 21-4218(c) shall not apply to the Shawnee County Courthouse. (Code 2006; History: Res. 1991-152, § 2; Res. 2009-48, §§ 2-4)

Sec. 12-153. Exclusions.

This article shall not apply to or affect any of the following:

- (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
- (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
- (3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; and
- (4) Armored transport service employees while actually engaged in the performance of the duties of their employment.

(Code 2006; History: Res. 1991-152, § 3; Res. 2009-48, § 2)

Sec. 12-154. Violation; Penalty.

Violation of this article is a Class A misdemeanor. Prosecution of violations shall be conducted in the manner provided by law for the prosecution of misdemeanor violations of State laws. The penalty imposed shall be in accordance with the penalties established by law for conviction of a Class A misdemeanor.

(Code 2006; History: Res. 1991-152, § 4; Res. 2009-48, § 6)

Sec. 12-155. Firearm Prohibited Signs.

Signs clearly stating that possession of firearms within the Shawnee County Courthouse building is prohibited, shall be conspicuously posted at each entryway to the Courthouse. The signs shall also state the provisions of subsection (c) of K.S.A. 21-4218 do not apply to the Shawnee County Courthouse.

(Code 2006; History: Res. 1991-152, § 5; Res. 2009-48, § 5)

Secs. 12-156-12-190. Reserved.

ARTICLE VI. FOOTWEAR

Sec. 12-191. Footwear In Courthouse.

The use of footwear is required for all persons who walk into the Shawnee County Courthouse as visitors, employees, vendors, or for any other purpose. (Code 2006; History: Res. 1997-167, § 1)

Sec. 12-192. Footwear On Courthouse Grounds.

The use of footwear is required for all persons who walk onto the grounds surrounding the Shawnee County Courthouse as visitors, employees, vendors, or for any other purpose. This excludes the public sidewalks surrounding the Courthouse. (Code 2006; History: Res. 1997-167, § 2)

Sec. 12-193. Definition.

Footwear includes any kind of shoes or sandals which protect the soles of the wearer's feet.

(Code 2006; History: Res. 1997-167, § 3)

Sec. 12-194. Exclusions.

This article is intended to exclude infants who are not yet walking and any individuals who may not wear shoes for medical reasons.

(Code 2006; History: Res. 1997-167, § 4)

Sec. 12-195. Discretionary Exceptions.

Courthouse security personnel are hereby authorized to make discretionary exceptions to the requirements of this article in cases where other compelling demonstrable reasons exist. (Code 2006; History: Res. 1997-167, § 5)

ARTICLE VII. PARKING AND OFFICE KEYS

Sec. 12-221. Courthouse Parking.

- (A) The parking lot on the East side of Monroe Street between Fourth and Sixth Streets be, and it is hereby, reserved for the use of Courthouse employees only. All persons using such lot shall be issued printed cards through the County Facilities Management Director with a deposit of Ten Dollars (\$10) per card issued to employee. At the time of employee's termination, cards shall be returned to the County Facilities Management Director. All automobiles not authorized to park by assignment in said lot shall be subject to removal at the owner's expense at the direction and order of the County Facilities Management Director. Further penalties may be assessed by imposition of fine not less than One Dollar (\$1) nor more than Fifteen Dollars (\$15) per violation in addition to court costs. Provided however, violators will be charged and ticketed only upon direction of the County Facilities Management Director.
- (B) Parking assignments within the immediate grounds of the Courthouse located at Seventh and Quincy Streets shall be by assignment only which assignment shall be issued through the County Facilities Management Director's Office. The County Facilities Management Director shall also designate "restricted" and "no parking" areas. All automobiles parked in assigned areas or in "no parking" or "restricted" zones without authorization, shall be subject to removal at the owner's expense at the direction and order of the County Facilities Management Director. Further penalties may be assessed by imposition of fine of not less than One Dollar (\$1) nor more than Fifteen Dollars (\$15) per violation in addition to court costs. Provided, however, violators will be charged and ticketed only upon the direction of the County Facilities Management Director.
- (C) The parking lot located at the Southwest corner of the intersection at Sixth and Monroe Streets, more specifically described above as Parking Area No. 3, shall be assignment only, which assignment shall be issued through the County Facilities Management Director's Office. The County Facilities Management Director shall also designate "restricted" and "no parking" areas. All automobiles parked in assigned areas or in "no parking" or "restricted" zones without authorization, shall be subject to removal at the owner's expense at the direction and order of the County Facilities Management Director. Further penalties may be assessed by imposition of fine of not less than One Dollar (\$1) nor more than Fifteen Dollars (\$15) per violation in addition to court costs. Provided, however, violators will be charged and ticketed only upon the direction of the County Facilities Management Director.

(Code 2006; History: Res. 1973-113)

Sec. 12-222. Lease Of Surplus Parking Spaces.

- (A) The Director of Purchasing, or his/her designee, is hereby authorized and directed to offer for lease, to the public, assigned parking spaces located in the card-controlled parking lot Northeast of the Shawnee County Courthouse.
- (B) The Director of Purchasing, or his/her designee, shall be responsible for administering the leasing of the parking spaces and making an annual determination as to how many spaces shall be leased.
- (C) Should the County's parking needs increase in the future, the Board of County Commissioners shall retain the right to discontinue the practice of leasing the spaces or decrease the number of spaces to be leased.

(D) The parking spaces shall be offered for lease at the rate of Fifty Dollars (\$50.00) per month. The Board of County Commissioners shall retain the right to change this rate in the future

(Code 2006; History: H.R. Res. 2002-12, §§ 1-4; amended by H.R. Res. 2010-1, §§ 1-4)

Sec. 12-223. Parking Card And Office Key Policy.

- (A) The County Facilities Management Director will issue parking cards and office keys to courthouse employees only upon written authorization by the employee's department head.
- (B) Parking cards and office keys are not transferable and shall be used only by the employee to whom they are issued.
- (C) Parking cards and office keys remain the property of Shawnee County and shall not be duplicated.
- (D) Before terminating employment with Shawnee County, an employee shall return to their department head any parking card and all office keys issued to them.
- (E) Any person violating §§ 12-223(B), 12-223(C) or 12-223(D) shall be guilty of a Class C misdemeanor and upon conviction thereof shall be punished by a fine not exceeding Five Hundred Dollars (\$500).

(Code 2006; History: H.R. Res. 1983-8, §§ 1-5)

Sec. 12-224. Electronic Keys.

- (A) Electronic keys shall be issued *only* to the following:
 - (1) All County department heads and elected officials;
 - (2) All non-probationary County employees housed in the County Courthouse except those hired for temporary assignments;
 - (3) Those temporary and/or probationary County employees housed in the County Courthouse for whom requests for issuance of electronic keys have been made in writing by the employees' respective department heads to the County Facilities Management Director;
 - (4) Those probationary and/or non-probationary County employees, except those hired for temporary assignments, who are housed *outside* the County Courthouse *and*:
 - (a) Whose positions require, as determined by the employees' respective department heads, daily access to the County Courthouse; and
 - (b) For whom passage through one (1) of the two (2) public entrances, as determined by the employees' respective department heads, is impracticable. Such determinations shall be made in writing by the department head to the County Facilities Management Director
 - (5) State Department of Corrections employees whose positions require daily access to the County Courthouse and for whom passage through one (1) of the two (2) public entrances is impracticable. Such determination shall be made in writing by the State Department of Corrections to the County Facilities Management Director.
- (B) Issuance of electronic keys shall be the responsibility of the County Facilities Management Director.

- (C) Issuance of electronic keys to any persons other than those specifically described herein shall require action of the Board.
- (D) Retrieval of electronic keys and return to the County Facilities Management Director shall be the responsibility of employees' respective department heads or, for keys issued pursuant to the request of the State Department of Corrections, of the State Department of Corrections. Retrieval of electronic keys shall take place upon employees' departure from County or State Department of Corrections employment and/or upon employees' transfer to positions for which possession of an electronic key may not be necessary. (Code 2006; History: Res. 1995-135, §§ 1-4)

Secs. 12-225-12-250. Reserved.

ARTICLE VIII. POSTINGS; ANNOUNCEMENTS

Sec. 12-251. Postings.

No notices, announcements, advertisements, or any other similar information or writings may be posted on the walls, elevators, bulletin boards, telephones, or other surfaces on or within the hallways inside the Shawnee County Courthouse except as is provided in this article.

(Code 2006; History: Res. 1987-110, § 1)

Sec. 12-252. Same; Approval.

Private or public notices, announcements, advertisements, and other similar information and writings may be posted on the bulletin boards outside the County Courthouse elevators on the basement and first floors after the County Facilities Management Director has given his/her approval in the form of making his/her initials at the lower left-hand corner of each item to be posted. Public notices, announcements, and other similar information and writings may be posted on the bulletin boards outside Room B25 after the County Facilities Management Director has given his/her approval in the form of making his/her initials at the lower left-hand corner of each item to be posted.

(Code 2006; History: Res. 1987-110, § 2)

Sec. 12-253. Same; Waiver.

The County Facilities Management Director may, for good cause, waive the provisions of this article on a case-by-case basis.

(Code 2006; History: Res. 1987-110, § 3)

Sec. 12-254. Same; Vending Machines.

This article shall not apply to the owners of vending machines lawfully located within the County Courthouse.

(Code 2006; History: Res. 1987-110, § 4)

Sec. 12-255. Same; Other Spaces.

The respective department heads in charge of the various spaces other than mentioned above shall be responsible for, and in control of their various spaces with respect to displaying notices, announcements, and other similar information and writings.

(Code 2006; History: Res. 1987-110, § 5)

Sec. 12-256. Same; Official Information.

Official information only may be posted on the bulletin board outside Room B22A subject to the authorization of the County Director of Human Resources. (Code 2006; History: Res. 1987-110, § 6)

Sec. 12-257. Same; Gambling.

All items posted anywhere within the County Courthouse shall be reviewed for any matter containing or suggesting the offer of gambling, chance, lottery, or prizes. Any matter containing or suggesting the offer of gambling, chance, lottery, or prizes shall be submitted to the County Counselor for prior approval.

(Code 2006; History: Res. 1987-110, § 7)

Secs. 12-258-12-290. Reserved.

CHAPTER 13. ECONOMIC GROWTH AND DEVELOPMENT

Art. I. In General, §§ 13-1-13-50

Art. II. Countywide Retailers' Sales Tax, §§ 13-51 – 13-120

Art. III. Economic Development, §§ 13-121 – 13-160

Art. IV. Industrial Revenue Bonds, §§ 13-161 – 13-200

Art. V. Tax Exemptions And Incentives, §§ 13-201 – 13-260

ARTICLE I. IN GENERAL

Secs. 13-1-13-50. Reserved.

ARTICLE II. COUNTYWIDE RETAILERS' SALES TAX

Sec. 13-51. One-Half Cent Sales Tax Question (2004 Ballot).

The Board hereby adopts the following countywide retailers' sales tax question to be placed on the August 3, 2004 Primary Election ballot: "Shall the following be adopted: Shall the one quarter percent (.25%) countywide retailers' sales tax approved by Shawnee County citizens on November 7, 2000 be repealed effective December 31, 2004 and a new one half percent (.5%) countywide retailer's sales tax be levied in Shawnee County, Kansas to take effect January 1, 2005, and expire twelve (12) years after its effective date to provide revenue for:

- (1) Economic development;
- (2) Southwest Wanamaker Road from Southwest 39th Street to Southwest 61st Street;
- (3) Southeast 45th Street from South Topeka Boulevard to Southeast California Avenue:
- (4) Southeast Croco Road from US 40 Highway to Southeast 29th Street;
- (5) Southwest 29th Street from Southwest Wanamaker to Southwest Urish Road;

- (6) Southwest 21st Street from the west city limits of Topeka to Southwest Indian Hills Road:
- (7) Topeka Boulevard Bridge and bridges in the unincorporated areas of Shawnee County; and
- (8) The intersection of North Topeka Boulevard and Northwest 46th Street. (Code 2006; History: Res. 2004-86, § 1)

Sec. 13-52. Levy Of Local Retailers' Sales Tax.

The Board resolves that the levy of a local retailers' sales tax of one-half (1/2) cent is hereby authorized pursuant to K.S.A. 12-189 to commence January 1, 2005 and expire December 31, 2016. This levy replaced the previous one-quarter (1/4) cent countywide retailers' sales tax.

(Code 2006; History: Res. 2002-147, §§ 1-2; amended by Res. 2004-165, § 1)

Sec. 13-53. One-Half Cent Sales Tax Question (2014 Ballot).

The Board hereby adopts the following countywide retailers' sales tax question to be placed on the November 4, 2014 General Election ballot: "Shall the following be adopted: Shall the one half percent (.5%) countywide retailers' sales tax be renewed and levied in Shawnee County, Kansas to take effect January 1, 2017, and expire fifteen (15) years after its effective date to provide revenue for:

- (1) Economic development;
- (2) SW 6th Avenue Gage Boulevard to Fairlawn Road;
- (3) SW 17th Street Adams Street to Washburn Avenue;
- (4) SW 17th Street MacVicar Avenue to Kansas Interstate 470;
- (5) Topeka Boulevard 15th Street to 21st Street;
- (6) SE California Avenue 37th Street to 45th Street;
- (7) NE Seward Avenue Sumner Street to Forest Avenue;
- (8) SW Huntoon Street Gage Boulevard to Harrison Street;
- (9) SW 12th Street Gage Boulevard to Kansas Avenue;
- (10) NW Rochester Road US Hwy 24 to NW 50th Street;
- (11)NW 46th Street Button Road (N) to Rochester Road;
- (12)SW 29th Street Fairlawn Road to Wanamaker Road;
- (13)SW 37th Street Scapa Place to Burlingame Road;
- (14)SE 37th Street Kansas Avenue to Adams Street;
- (15) County Bridges;
- (16) Kansas Expocentre;
- (17) Topeka Zoological Park; and
- (18)Bikeways Master Plan

(Code 2014; History: Res. 2014-80)

Sec. 13-54. Levy Of Local Retailers' Sales Tax.

The Board resolves that the levy of a local retailers' sales tax of one-half (1/2) cent is hereby authorized pursuant to K.S.A. 12-189 to commence January 1, 2017 and expire December 31, 2031. This levy replaced the current one-half (1/2) cent countywide retailers' sales tax.

(Code 2014; History: Res. 2016-55)

Secs. 13-54-13-120. Reserved.

ARTICLE III. ECONOMIC DEVELOPMENT

Sec. 13-121. Economic Development Vision.

The economic development vision for the City of Topeka and Shawnee County is growth through an increase in population and an increase in the number of employed citizens. This vision includes: (1) the addition of Fourteen Thousand (14,000) people to the City/County population by the year 2005, and (2) the addition of Fourteen Thousand (14,000) new jobs located in Shawnee County by the year 2005.

(Code 2006; History: Res. 1999-64, § 1)

Sec. 13-122. Economic Development Goals.

The economic development goals for the City of Topeka and Shawnee County are to increase the number of new employment opportunities and an increase in employment expansion. Objectives for these goals include:

- (1) Establish a competitive financial incentive policy and a local economic development incentive fund;
- (2) Significantly expand the business retention program; and
- (3) Target business recruitment efforts as the basis for the unified marketing plan. The identified targeted industries include, but are not limited to, the following: Administrative Centers, Food and Kindred Products, Distribution, Health Services, and Call Centers (which offer above average wages).

(Code 2006; History: Res. 1999-64, § 2)

Sec. 13-123. Economic Development Strategies.

The economic development strategies for the City of Topeka and Shawnee County are to revitalize the downtown/central core, develop and use a unified marketing strategy, and make Topeka and Shawnee County "business" friendly. These strategies include:

- (1) Identify sources of private financing capital;
- (2) Regularly update the development review process and building codes to ensure quality development;
- (3) Renew downtown Topeka as the region's business, cultural, entertainment, and governmental center; including new housing, office, and retail development; and
- (4) Expand the existing economic development structure by forming and developing new partnerships and relationships and defining new roles.

(Code 2006; History: Res. 1999-64, § 3)

Sec. 13-124. Economic Development Success Measures.

The economic development success measures for the City of Topeka and Shawnee County are to achieve an increase in the local tax base, a more diversified economy and an increase in community pride.

(Code 2006; History: Res. 1999-64, § 4)

Secs. 13-125-13-160. Reserved.

ARTICLE IV. INDUSTRIAL REVENUE BONDS

Sec. 13-161. Definitions.

Whenever used in this article, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the context:

- (1) Revenue Bonds means bonds issued by Shawnee County to be paid exclusively from the revenue produced by the "project" property and facilities improved, constructed, reconstructed, repaired or otherwise improved by the use of the proceeds of said bonds. Such Revenue Bonds shall not be general obligations of the County and shall not contain the recitals set forth in K.S.A. 10-112 or any amendments thereto. Such revenue bonds shall, however, contain the following recitals: Such bonds shall recite the authority under which such revenue bonds are issued and that they are issued in conformity with the provisions, restrictions and limitations thereof, and that such bonds and the interest thereon are to be paid from the money and revenue received from the rates and fees charged and rentals received for the use of the project acquired, improved, constructed, reconstructed, repaired or otherwise improved by the proceeds in whole or in part from such revenue bonds when issued and sold:
- (2) Project means any land, interest in land, building, structure, facility, system, fixture, improvement, addition, appurtenance, machinery or equipment or any combination thereof, and all real and personal property deemed necessary in connection therewith, or any manufacturing, commercial, office, retail, charitable, non-profit, educational, or any other project provided that the existence of such project will create or promote the economic welfare and prosperity of Shawnee County and the State of Kansas through the promotion and advancement of physical and mental health, industrial, commercial, charitable, agricultural, natural resources and recreation; and
- (3) Project Costs means and includes the sum total of all reasonable necessary costs incidental to the acquisition, construction, reconstruction, repair, alteration, improvement and extension of a project including without limitation the cost of studies and surveys, plans, specifications, architectural and engineering services, legal, marketing, or other services, financing acquisitions, demolition, construction, equipment and site development of new and rehabilitated buildings, rehabilitation, reconstruction, and all other necessary and incidental expenses.

(Code 2006; History: H.R. Res. 1981-4, § 1)

Sec. 13-162. Purpose.

The purpose of this article is to provide a financing device which will aid in the financing of projects which will promote, stimulate, and develop the general economic welfare and prosperity of Shawnee County and the State of Kansas through the promotion and advancement of physical and mental health, industrial, commercial, charitable, agricultural, natural resources and recreation of the County and its inhabitants by the issuance of revenue bonds to be paid solely from the revenues to be derived from the project. (Code 2006; History: H.R. Res. 1981-4, § 2)

Sec. 13-163. Authority.

The County is hereby authorized to:

- (1) Issue its revenue bonds, the proceeds of which shall be used only to pay project costs;
- (2) Enter into Lease or Lease-Purchase Agreements which shall provide for a rental sufficient to amortize the cost of the project, plus the fair market value on the date of the Agreement of the site, if it is necessary to purchase the site. Such Agreement shall also provide for a reasonable rate of interest on the outstanding principal and reimburse the County for the cost of any other obligation assumed by it under the Agreement;
- (3) To pledge the rentals received from the project to the punctual payment of the principal of and interest on the bonds authorized by this article, together with the redemption premiums, if any;
- (4) To sell and convey such projects, including without limitations, the sale and conveyance thereof subject to the terms of the Lease or Lease-Purchase Agreement;
- (5) To issue its bonds to refund in whole or in part bonds previously issued by such County under the authority of this article; and
- (6) To appoint a paying agent and/or trustee bank for the benefit of the bond holders. (Code 2006; History: H.R. Res. 1981-4, § 3)

Sec. 13-164. Exercise of Powers - Bonds.

The exercise of all powers granted by this article may be authorized and bonds may be authorized to be issued under this article for the purposes set for in this article by resolution of the Board. The bonds shall bear interest at the rate or rates payable at such times, may be in one (1) or more series, may bear such date or dates, may mature at such time or times, may be payable in such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form either coupon or registered, as such resolution may provide. The bonds may be sold at public or private sale in such manner and upon the terms as may be deemed advisable by the Board.

(Code 2006; History: H.R. Res. 1981-4, § 4)

Sec. 13-165. Signing And Execution Of Bonds.

Such bonds issued by the County shall be signed by the Chair of the Board and attested by the County Clerk under seal of the County. The interest coupons to be attached to said bonds shall be signed by the facsimile signatures of the said officers. The bonds may be signed by the facsimile signatures of the said officers upon the execution and filing of a Certificate of Facsimile Signature with the office of the Secretary of State as provided by law. (Code 2006; History: H.R. Res. 1981-4, § 5)

Sec. 13-166. Registration Of Bonds.

All bonds issued under the authority of this article shall be registered in the office of the County Clerk as provided by K.S.A. 10-107. (Code 2006; History: H.R. Res. 1981-4, § 6)

Sec. 13-167. Bonds Limited Obligation.

Nothing in this article shall be so construed as to authorize or permit the County to make any contract or to incur any obligation of any kind or nature except such as shall be payable solely out of the rentals from the project with respect to which such bonds are issued. No holder of any bonds issued under this article has the right to compel in the exercise of taxing power of the County to pay the bonds, interest or premium, if any, thereon and the bonds do not constitute an indebtedness of the County.

(Code 2006; History: H.R. Res. 1981-4, § 7)

Sec. 13-168. Exemption From Construction And Bidding Requirements.

The acquisition and construction of a project shall not be subject to any requirements relating to public buildings, structures, grounds, works or improvements imposed by the Kansas Statutes Annotated, or any other similar requirement which may be lawfully waived by this article and any requirement of competitive bidding or restriction imposed on the procedure for award of contracts for such purpose or for the lease, sale or other disposition of the property of the County is not applicable to any action taken under the authority of this article.

(Code 2006; History: H.R. Res. 1981-4, § 8)

Sec. 13-169. Pledge Of Facility And Earnings.

The County, by resolution of the Board, may pledge the project purchased or constructed and the net earnings therefrom to the payment of the revenue bonds and the interest thereon, and provide that the net earnings thereof shall be set aside as a sinking fund for that purpose.

(Code 2006; History: H.R. Res. 1981-4, § 9)

Sec. 13-170. Severability.

The provisions of this article are severable, and if any of its provisions or any sentence, clause or paragraph should be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (Code 2006; History: H.R. Res. 1981-4, § 10)

Sec. 13-171. Industrial Revenue Bond Issuance; Policy.

- (A) The project should result in economic growth for the County and the State.
- (B) The project should add to the employment or preserve existing jobs in the County.

(C) Payment in lieu of taxes will generally be expected and will be negotiated with the applicant prior to the issuance of the resolution of intent. (Code 2006; History: H.R. Res. 1984-16, § A)

Sec. 13-172. Same; Procedure.

- (A) All requests for the issuance of industrial revenue bonds shall be initiated by filing four (4) copies of an application in letter form with the office of the Board of County Commissioners.
 - (B) All applications shall contain:
 - (1) The names and addresses of all persons who would be obligated as tenant and guarantor, if any, under the lease;
 - (2) The names and addresses of the principal officers and directors of the applicant;
 - (3) A description of the nature of the applicant's business;
 - (4) A detailed description of the proposed project to be financed with the proceeds of the bonds;
 - (5) A statement with respect to the impact upon the employment in the County;
 - (6) The dollar amount of the bonds being requested;
 - (7) A statement setting forth the estimated use of the bond proceeds including a detailed breakdown of the proposed costs which includes an estimate of underwriting, attorney fees and other miscellaneous expenses;
 - (8) The name and address of the proposed underwriter or purchaser of the bonds;
 - (9) A map showing the location of the proposed project;
 - (10) A statement with respect to the status of the zoning at the project site;
 - (11) A legal description of the property to be subject to the lease;
 - (12) The existing appraised valuation (not assessed) of the property to be acquired as of January 1 preceding the application as to land, improvements and equipment;
 - (13) A certified audit, if available, of the last fiscal year's business of the applicant prepared by an independent certified public accountant. Depending on the amount of time between the last certified audit and the date of the request for bonds, the County may require additional interim financial statements and records;
 - (14) For relatively new or proposed businesses, for which audits are unavailable, all information which might be relevant to the financial feasibility of the project, including feasibility studies, financial statements, historical experience and financial statements of the applicant, a complete financial outline of the total project plan including retirement of debt, and other corporate, partnership, and/or personal assurance that the applicant has sufficient financial strength to make the County's risk in issuing the bonds negligible; and
 - (15) A statement that the applicant will pay all costs of the County relative to the application and issuance of the bonds whether or not the bonds are issued.

(Code 2006; History: H.R. Res. 1984-16, § B)

ARTICLE V. TAX EXEMPTIONS AND INCENTIVES

Sec. 13-201. Purpose.

The purpose of this article is to establish the official policy and procedures of the County of Shawnee for the granting of property tax exemptions and tax incentives for real and personal property used for economic development purposes, in accordance with the provisions of § 13 of Article 11 of the Constitution of the State of Kansas and K.S.A. 79-251 and amendments thereto.

(Code 2006; History: H.R. Res. 2002-9, § 1)

Sec. 13-202. General Objective.

The securing of private economic growth and development and the creation and retention of employment within the area are important current and long-term objectives of this County. The granting of property tax exemptions and tax incentives is one of the tools available under Kansas law to help secure these public objectives. This article is intended to establish the procedure and policy standards to govern the fair, effective and judicious use of the power to grant such exemptions and tax incentives in this County.

(Code 2006; History: H.R. Res. 2002-9, § 2)

Sec. 13-203. Legal Authority.

- (A) The governing bodies of Kansas counties and cities may exempt certain property used for economic development purposes from taxes for a maximum of ten (10) years, in accordance with the provisions of § 13 of Article 11 of the Kansas Constitution, subject to such limitations or prohibitions as may be enacted by the legislature that are uniformly applicable to all cities and counties.
- (B) This authority is discretionary with the County, and the County may provide for tax exemption-incentives in an amount and for purposes more restrictive than that authorized by the Constitution or any such legislation. Pursuant to its home rule powers, the County may:
 - (1) Require the owners of any property for which an exemption is requested to provide certain information;
 - (2) Condition the granting of an exemption to an agreement providing for the payment in lieu of charges or taxes under the provisions of K.S.A. 12-147 and 12-148; and
 - (3) Require the payment of initial application and annual renewal fees reasonably necessary to cover the costs of administration.

(Code 2006; History: H.R. Res. 2002-9, § 3)

Sec. 13-204. General Procedure.

The following basic procedure shall govern the issuance of tax exemptions-incentives within this County:

- (1) The applicant business shall apply for a tax exemption-incentive by filing a written application as provided in § 13-213.
- (2) The County shall then determine whether the requested tax exemption-incentive (a) may be lawfully granted, and (b) should be granted, with the amount thereof later determined.

- (3) If it is determined that some tax exemption-incentive should be granted, the County may grant an exemption in an amount as specified in § 13-212. The County may also require a payment in lieu of taxes.
- (4) The amount of the tax incentive, which will be an amount equal to or less than the taxes otherwise payable if the property were not exempt, will then be determined in accordance with this article.
- (5) Upon the failure of the business to fully and timely pay the in lieu tax payments, if any are required as a condition of the granting of an exemption, or to provide reports or other information requested by the County and reasonably necessary for the implementation of this policy, the County may either deny, revoke, or not renew, the authorization of such an exemption.
- (6) All requests for a tax exemption-incentive for economic development purposes shall be considered and acted upon in accordance with this article.

(Code 2006; History: H.R. Res. 2002-9, § 4)

Sec. 13-205. Tax Incentive Defined.

Various words and terms used in this article are defined in § 13-227. The terms tax incentive or tax exemption-incentive shall mean the difference between the amount of ad valorem property taxes the affected business would pay if there were no County-granted exemption and the amount required to be paid as in lieu taxes or charges. For example, if the taxes required with no exemption were Five Thousand Dollars (\$5,000), and the required in lieu payments were Three Thousand Dollars (\$3,000), the tax incentive would be Two Thousand Dollars (\$2,000).

(Code 2006; History: H.R. Res. 2002-9, § 5)

Sec. 13-206. Jurisdiction.

It shall be the policy of the County to consider applications for tax exemption-incentives throughout Shawnee County. The County shall notify in writing the applicable city and unified school district within which the property proposed for exemption is located. (Code 2006; History: H.R. Res. 2002-9, § 6)

Sec. 13-207. Nominal Tax Determination.

All tangible property of a business receiving a tax exemption-incentive under this article shall be annually assessed by the County Appraiser in the same manner as if it were not exempt, but the amount thereof shall not be placed on the assessment rolls. The amount of the property taxes which would be payable shall also be determined annually by the County Clerk and Treasurer, in the same manner as if the property were not exempt, but such amount shall not be placed on the tax rolls. Separate assessment and tax calculations shall be made for the land, for the improvements thereon, and for any tangible personal property associated therewith, of the exempt business. The appropriate County officers are requested to provide the Board with this information as early as possible, but not later than November 15 of each year.

(Code 2006; History: H.R. Res. 2002-9, § 7)

Sec. 13-208. Minimum Payment In Lieu Of Taxes.

Any applicant receiving a tax exemption-incentive pursuant to this article may be required to make a minimum payment in lieu of taxes which equals the amount of property tax which was paid or was payable for the most recent year on the appraised valuation of the real estate, including either buildings together with land or land only, prior to the construction of new buildings or added improvements to buildings on such property or prior to the acquisition of the property by the new business. This requirement may be waived in part or in whole by the Board upon review of the standards contained in §§ 13-210 and 13-226

(Code 2006; History: H.R. Res. 2002-9, § 8)

Sec. 13-209. Special Assessments.

Any tax exemption granted for real property under this article shall not affect the liability of such property for any special assessments levied or to be levied against such property.

(Code 2006; History: H.R. Res. 2002-9, § 9)

Sec. 13-210. Standards For Determining Benefits.

- (A) The County will consider granting tax exemption-incentives only upon a clear and factual showing of direct economic benefit to the County through advancement of its economic development goals, including the creation or retention of employment and the stimulation of additional private investment.
- (B) The Board, in determining the amount and term of a tax exemption-incentive to be granted, shall consider various factors including, but not limited to, the following:
 - (1) The appraised valuation of the property in relation to the economic benefit to the County 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 directly created by the business in relation to the amount of tax incentives 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 County and its environs;
 - (8) The degree to which the ultimate market for the manufactured products is 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 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 County, including designated enterprise zones and areas of needed revitalization or redevelopment;
- (12) The compatibility of the location of the business with land use and development plans of the County and the availability of existing infrastructure facilities and essential public services;
- (13) The extent to which additional direct or indirect public costs to the County 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 incentive accrue to the residents and taxpayers of those taxing subdivisions which indirectly *subsidize* the business as a result of the foregone tax revenue; and
- (15) The retention of current employment that may be endangered by existing economic considerations.

(Code 2006; History: H.R. Res. 2002-9, § 10)

Sec. 13-211. No Exemptions.

- (A) No tax exemption shall be granted if the exemption would create, in the judgment of the Board, an unfair advantage for one business over another competing business within the County.
- (B) Tax exemptions shall be granted only to businesses which commence operations in Shawnee County after August 5, 1986 based on newly created jobs; or to businesses for the purposes of expansion based on newly created jobs and the value of the new property brought onto the tax rolls "but-for" the exemption; or if the County makes a factual determination that such an exemption is required to retain jobs in the state of Kansas, an exemption may be granted for such tangible personal property.

(Code 2006; History: H.R. Res. 2002-9, § 11)

Sec. 13-212. Amount Of Tax Incentives.

- (A) The two primary objectives of the County in granting tax exemption for economic development are to:
 - (1) Provide or retain needed jobs, and
 - (2) Expand the economic and tax base of the County.
- (B) The County recognizes that a simple system of determining the amount of tax incentives to be granted to reach these objectives may not always be equitable if applied uniformly to different kinds of businesses. As a result, in determining the actual amount of tax incentive granted, the County shall consider the factors and criteria set forth in § 13-210 of this article.
 - (C) The County may grant one of the two following forms of tax exemption:
 - (1) The amount of tax incentive will be equal to One Thousand Five Hundred Dollars (\$1,500) per new job created as documented by the annual renewal application. In the case of firms conducting research and development activities, the amount of tax incentive will be equal to One Thousand Five Hundred Dollars (\$1,500) per new job created and Five Hundred Dollars (\$500) per One Hundred Thousand Dollars (\$100,000) of new business facility investment; or

- (2) Exemption from *ad valorem* taxation, all or any portion thereof, of the appraised valuation of buildings, land, and tangible personal property if such property properly qualifies for exemption pursuant to this article.
- (D) In either case, the amount of the tax incentive shall not exceed the total amount of taxes due.

(Code 2006; History: H.R. Res. 2002-9, § 12)

Sec. 13-213. Application Required.

- (A) The County will not consider the granting of any tax exemption-incentive unless the business submits a full and complete application, and provides such additional information as may be requested by the Board.
- (B) The County Counselor is hereby authorized and empowered to prepare a standard application form which, upon completion, will provide the Board with adequate and sufficient information to determine whether a tax incentive should be granted and the amount thereof.
- (C) The accuracy of the information provided in the application shall be verified by the applicant. Any misstatement of or error in fact may render the application null and void and may be cause for the repeal of any resolution adopted in reliance on said information. (Code 2006; History: H.R. Res. 2002-9, § 13)

Sec. 13-214. Application And Renewal Fees.

Any business requesting a tax exemption pursuant to this article shall pay to the County an application fee of Two Hundred Fifty Dollars (\$250), which shall be submitted at the same time the application form required by § 13-213 is submitted. In addition, any business which has been granted a tax exemption shall pay an annual renewal fee in the amount of One Hundred Dollars (\$100).

(Code 2006; History: H.R. Res. 2002-9, § 14)

Sec. 13-215. Initial Review Procedure.

- (A) On receipt of the completed application form and the required fee, the County Counselor shall determine:
 - (1) Whether the application is complete and sufficient for review; and
 - (2) Whether the applicant business is eligible for an exemption under the Kansas Constitution, this article and any other applicable laws.
- (B) If the application is incomplete, the County Counselor shall immediately notify the applicant, noting the need for such changes or additions as deemed necessary.
- (C) If questions arise as to whether the business is legally eligible for an exemption, the County Counselor shall consult with the applicant business.
- (D) If the application is found complete, and is for a purpose which appears to be authorized by law, the County Counselor shall so notify the Administrative Review Committee.

(Code 2006; History: H.R. Res. 2002-9, § 15)

Sec. 13-216. Administrative Review Committee.

- (A) There is hereby created an Administrative Review Committee.
- (B) For properties outside the city limits of all cities in Shawnee County, the Administrative Review Committee shall consist of a designee by the Board of County Commissioners who shall serve as committee chair, the County Clerk, the County Counselor,

and a designee of the affected school district. For properties inside the city limits of any city in Shawnee County, the Administrative Review Committee shall consist of the foregoing members, and in addition, a designee by the mayor of the affected city.

- (C) The purpose of the Administrative Review Committee shall be to receive and review requests and applications for tax exemption-incentives, to gather and review such additional information as may be deemed necessary, to conduct preliminary negotiations with the applicant business, and to make such recommendations as deemed advisable to the Board.
- (D) Administrative Review Committee records, including applications for tax exemptions, may be withheld from public disclosure under the Kansas Open Records Act as provided for under subsections (20) and (31) and other subsections of K.S.A. 45-221, but shall be available for public inspection when otherwise required by law.
- (E) The Committee is authorized to issue administrative letters of intent when requested by the applicant upon a finding that the public interest requires confidentiality in order to successfully negotiate the location of the prospective business within the city or an expansion of an existing building. Such administrative letters of intent shall not be binding on the Board, and shall be superseded by any final action by the Board or by letter of intent issued by the Board under § 13-219.

(Code 2006; History: H.R. Res. 2002-9, § 16)

Sec. 13-217. Initial Board Action.

Upon receiving the recommendations of the Administrative Review Committee, the Board shall first determine whether to reject the requested exemption or to further consider the request. Upon a favorable vote for further consideration, the Board shall either:

- (1) Issue a letter of intent as provided by § 13-219; or
- (2) Schedule a public hearing thereon. (Code 2006; History: H.R. Res. 2002-9, § 17)

Sec. 13-218. Notice And Hearing.

No tax exemption shall be granted by the County prior to a public hearing thereon. $See \S 13-220$, Final Review Procedures.

(Code 2006; History: H.R. Res. 2002-9, § 18)

Sec. 13-219. Letters Of Intent.

- (A) Upon receiving the recommendation of the Administrative Review Committee, the Board may issue a letter of intent, setting forth in general terms its proposed plans for granting a tax exemption-incentive and any conditions thereto.
- (B) Such letters of intent shall be issued only with the approval of the Board, and as an expression of good faith intent, but shall not in any way bind the County to the granting of an exemption-incentive.
 - (C) Such letters of intent shall expire six (6) months after issuance, but may be renewed.
 - (D) A public hearing shall not be required prior to the issuance of letters of intent.
- (E) No elected or appointed officer, employee or committee of the County, and no chamber, board, development council or other public or private body or individual, shall be authorized to speak for and commit the Board to the granting of a tax exemption-incentive.
- (F) Letters of intent issued by the Board shall supersede any letters of intent issued by the Administrative Review Committee.

(Code 2006; History: H.R. Res. 2002-9, § 19)

Sec. 13-220. Final Review Procedures.

Pursuant to K.S.A. 79-251 and amendments thereto, the County has adopted the policies and procedures as outlined herein. Before a tax exemption-incentive is granted, the County shall:

- (1) Prepare an analysis of the costs and benefits of each exemption, including the effect of the exemption on state revenues;
- (2) Establish a procedure for monitoring the compliance of a business receiving an exemption with any terms or conditions established by the governing body for the granting of the exemption;
- (3) Conduct a public hearing on the granting of the exemption. Notice of the public hearing shall be published at least once seven (7) days prior to the hearing in the official County newspaper, and shall indicate the purpose, time and place thereof and the hearing may be held at a regular or special meeting of the Board. In addition to such publication notice, the County Clerk, shall notify in writing, the governing body of the city and unified school district within which the property proposed for exemption is located; and
- (4) Adopt a resolution containing the following findings of fact:
 - (a) That the property for which the exemption is to be granted will be used exclusively for the purposes specified in § 13 of Article 11 of the Kansas Constitution; and
 - (b) If the business using the property is relocating from one county to another within this state, that the business has received approval of the secretary of commerce and housing prior to qualifying for the exemption upon a finding by the secretary that such relocation is necessary to prevent the business from relocating outside this state.

(Code 2006; History: H.R. Res. 2002-9, § 20)

Sec. 13-221. Annual Renewal.

The extent and term of any tax exemption-incentive granted shall be subject to annual review and determination by the Board to insure that the ownership and use of the property and any other qualifying criteria of the business for the tax exemption-incentive continue to exist. The review shall be completed by no later than February 1 of each year. The County may require the annual renewal application to be filed or other information necessary to assure the continued qualification of the exempt business. The applicant shall file an annual claim for exemption as required in K.S.A. 79-210 and amendments thereto.

(Code 2006; History: H.R. Res. 2002-9, § 21)

Sec. 13-222. Transfer Of Ownership Or Use.

Exemptions on property granted under this article shall terminate on any change in ownership of the property. No exemption or tax incentives granted by the County shall be transferred as a result of a change in the majority ownership of the business. Any new owner shall file a new application for a tax exemption-incentive; however, the constitutionally mandated ten (10) year period for the length of the exemption shall not be exceeded. Further, the County shall be notified by the business of any substantive change in the use of a tax exempt property (see § 13-225). Upon change of use of the property, its exemption may be subject to termination by the County.

(Code 2006; History: H.R. Res. 2002-9, § 22)

Sec. 13-223. Distribution Of Revenue.

The payment in lieu of taxes which may be required of a business granted a tax exemption under this article shall be paid to the County Treasurer, with notice of the amount and date paid provided to the County. The County Treasurer is directed to apportion the payment to the general fund of all taxing subdivisions, excluding the state, which levy taxes on property where the business is situated. The apportionment shall be based on the relative amount of taxes levied, for any and all purposes, by each of the applicable taxing subdivisions.

(Code 2006; History: H.R. Res. 2002-9, § 23)

Sec. 13-224. Exemption Resolution.

The County Clerk shall provide a copy of the resolution, as published in the official County newspaper, granting an exemption from taxation to the applicant for use in filing an initial request for tax exemption as required by K.S.A. 79-213 and amendments thereto, and by K.S.A. 79-210 and amendments thereto, for subsequent years.

(Code 2006; History: H.R. Res. 2002-9, § 24)

Sec. 13-225. Exemption Forms.

A copy of the exemption applications required by K.S.A. 79-213 and K.S.A. 79-210 and amendments thereto, and the statement required by K.S.A. 79-214 and amendments thereto for the cessation of an exempt use of property, shall be filed with the County Clerk by the property owner.

(Code 2006; History: H.R. Res. 2002-9, § 25)

Sec. 13-226. Waiver Of Article Requirements.

The Board reserves the right to grant or not to grant a tax exemption-incentive under circumstances beyond the scope of this article, or to waive any procedural requirement. However, no such action or waiver shall be taken or made except upon a finding by the Board that such action or waiver is found and declared to be in the public interest and does not violate any Kansas law.

(Code 2006; History: H.R. Res. 2002-9, § 26)

Sec. 13-227. Definitions.

For the purpose of this article, in application to this County, the words or phrases as used in either the Constitution or this article shall have meaning or be construed as follows:

- (1) Applicant means and includes the business, property owner(s), and their officers, employees and agents;
- (2) Associated therewith as used with respect to tangible personal property means being located within, upon or adjacent to buildings or added improvements to buildings;
- (3) *Commenced operations* means the start of the business activity housed in the building for which a tax exemption-incentive is requested;
- (4) Economic development purposes means the establishment of a new business or the expansion of an existing business, engaged in manufacturing articles of commerce, conducting research and development, or storing goods or commodities which are sold or traded in interstate commerce, which results in additional employment or the retention of existing employment;

- (5) Expansion means the enlargement of a building or buildings, construction of a new building, the addition of tangible personal property, or any combination thereof, which increases the employment capacity of a business eligible for a tax exemption-incentive and results in the creation of new employment or the retention of existing employment;
- (6) Manufacturing articles of commerce means a business engaged in the mechanical or chemical transformation of materials or substances into new products, as defined in the "Standard Industrial Classification Manual";
- (7) Research and development means the application of science or technology to the improvement of either the process of manufacturing or manufactured products or both;
- (8) Storing goods or commodities which are sold or traded in interstate commerce refers to the business of storing property which may be exempt from *ad valorem* taxation under the provisions of K.S.A. 79-201f and amendments thereto; and
- (9) Tangible personal property means machinery and equipment used during the term of the tax exemption which may be granted.

(Code 2006; History: H.R. Res. 2002-9, § 27)

Secs. 13-228 - 13-260. Reserved.

CHAPTER 14. ELECTIONS

- Art. I. In General, §§ 14-1-14-50
- Art. II. Election Workers' Compensation, §§ 14-51-14-70
- Art. III. Mileage Reimbursement, §§ 14-71 14-100
- Art. IV. Payment Of Postage Costs, §§ 14-101 14-120
- Art. V. Voting Facility Reimbursement, §§ 14-121 14-140
- Art. VI. Free Use of Shawnee County Photocopiers to Copy Identification Documents for Advance Voting Purposes, §§ 14-141 14-160

ARTICLE I. IN GENERAL

Secs. 14-1-14-50. Reserved.

ARTICLE II. ELECTION WORKERS COMPENSATION

Sec. 14-51. Election Workers Compensation.

- (A) Board workers who work a full fourteen (14) hour day shall be paid One Hundred Ten and No/100 Dollars (\$110.00).
- (B) Board workers who work for less than fourteen (14) hours shall be paid the Federal minimum hourly wage.

(C) Supervising Judges shall receive, in addition to the compensation set forth in § 14-51(A) or (B), an amount of Fifteen and No/100 Dollars (\$15.00) for the additional supervisory responsibilities and the mileage allowance established pursuant to K.S.A. 75-3203a, as amended.

(Code 2006; History: Res. 1990-64, §§ 1-2, amended by Res. 2008-69, §§ 1-2, amended by Res. 2010-28, §§ 1-2)

Secs. 14-52 - 14-70. Reserved.

ARTICLE III. MILEAGE REIMBURSEMENT

Sec. 14-71. Mileage Reimbursement.

Mileage reimbursement at the state mileage rate will be paid to the election commissioner and supervising judges of the elections as provided by Kansas statute and as set out in § 10-214. (Code 2006)

Secs. 14-72 - 14-100. Reserved.

ARTICLE IV. PAYMENT OF POSTAGE COSTS

Sec. 14-101. Payment Of Postage Costs.

The County Election Commissioner is hereby authorized to pay the cost of return postage for advance voting ballots and applications for advance voting. (Code 2006; History: Res. 2003-140, § 1)

Secs. 14-102 - 14-120. Reserved.

ARTICLE V. VOTING FACILITY REIMBURSEMENT

Sec. 14-121. Voting Facility Expense Reimbursement.

A facility expense reimbursement of Fifty Dollars (\$50) per voting place is hereby established. The County Election Commissioner shall reimburse each voting place this amount for the use of the facility.

(Code 2006; History: Res. 1998-35, § 1)

Sec. 14-122. Voting Facility Equipment.

In the event that a voting place is unable to provide tables and chairs for use of election workers, the County shall have delivered an adequate number of tables and chairs to the location the day prior to the election, and will pick them up on the day following the election. (Code 2006; History: Res. 1998-35, § 2)

ARTICLE VI. FREE USE OF SHAWNEE COUNTY PHOTOCOPIERS TO COPY IDENTIFICATION DOCUMENTS FOR ADVANCE VOTING PURPOSES

Sec. 14-141. Purpose

- (A) In accordance with K.S.A. 25-1122(e)(2) of the 2011 Secure and Fair Elections Act (SAFE), all Shawnee County offices shall allow any person seeking to vote by an advance ballot the use of a Shawnee County photocopying device to make one photocopy of an identification document at no cost.
- (B) Identification documents which may be copied pursuant to this Article as listed on the Office of the Kansa Secretary of State's *Notice to Government Agencies to Provide Photocopies at No Cost* are as follows:
 - 1. Driver's License issued by Kansas or another state.
 - 2. Nondriver's ID card issued by Kansas or another state.
 - 3. U.S. passport.
 - 4. Concealed carry of handgun license issued by Kansas or another state.
 - 5. Employee badge or ID document issued by government office.
 - 6. U.S. military ID.
 - 7. Student ID card issued by an accredited Kansas postsecondary educational institution
 - 8. Public assistance ID card issued by a government office.

(Code 2012; History: Res. 2012-20)

Secs. 14-142-14-160. Reserved.

CHAPTER 15. EMERGENCY DEPARTMENTS AND SERVICES

- Art. I. In General, §§ 15-1-15-50
- Art. II. Consolidated Emergency Communications Center, §§ 15-51 15-100
- Art. III. Emergency Management/Emergency Communications, \$\$ 15-101-15-130
- Art. IV. Emergency Vehicles, §§ 15-131 15-170
- Art. V. Disaster Assistance, §§ 15-171 15-200
- Art. VI. Ambulance Service, §§ 15-201 15-270
- Art. VII. National Incident Management System, §§ 15-271
- Art. VIII. Homeland Security Exercise Evaluation Program §§ 15-272 15-300

ARTICLE I. IN GENERAL

Sec. 15-1. Adoption of The Shawnee County Mitigation Plan

- (A) Shawnee County has adopted the East-Central Kansas (Region J) Multi-Hazard, Multi-Jurisdictional Hazard Mitigation Plan (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]).
- (B) Such plan shall be updated no less then every five (5) years. (Code 2010; History: Res. 2010-30; *amended by* Res. 2016-22)

Sec. 15-3. Adoption of Policies and Procedures for First Responder Grant Funding

- (A) Shawnee County has adopted policies and procedures for first responder grant funding (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]) in order to first responders to apply for, receive and use grant funds collected from contractual fines and penalties paid by the County's ambulance contractor.
- (B) The Shawnee County Ambulance Advisory Board shall conduct an annual review of the policies and procedures and may recommend amendments to the Board of County Commissioners as necessary to maximize the public benefit of the grant funds. (Code 207; History: Res. 2017-16)

Secs. 15-3-15-50. Reserved.

ARTICLE II. CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER

Sec. 15-51. Interlocal Agreement.

The Consolidated Dispatch Center (hereinafter referred to as "CDC"), now known as the Shawnee County Consolidated Emergency Communications Center (see § 15-107), is hereby authorized to continue to serve the communication needs of all participating departments, including the Topeka Police Department, the Topeka Fire Department, the Shawnee County Sheriff's Office and rural Fire Departments. It is agreed that such CDC shall operate according to the following:

- (1) The CDC shall be separate and apart from all participating departments, and shall be administratively assigned to the CDC Management Board.
- (2) The CDC shall be under the direct supervision and control of the Director of CDC, hereinafter referred to as "Director." Said Director shall be an individual who is a qualified manager in the field of communications. The Director shall be chosen by the CDC Management Board and approved by the Board. The Director shall serve as an unclassified/exempt employee of the County and shall not serve as an employee of any participating department.
- (3) The CDC shall be staffed by qualified employees who shall be employees of the County, shall be responsible to the Director, shall be paid by the County, and shall be subject to and governed by the same provisions which are applicable to other County employees.
- (4) To aid in the establishment and maintenance of the CDC, there shall be established a CDC Management Board, composed of the Topeka Police Chief and his/her designated representative, the Topeka Fire Chief, the Shawnee County Sheriff and his/her designated representative, and one (1) member representing all rural fire districts as chosen by rural fire departments. The six (6) members of

the CDC Management Board shall each have one (1) vote. Any other emergency service which enters into an agreement to participate in the CDC may select a representative to serve as a non-voting member of the CDC Management Board. Said CDC Management Board shall have the sole oversight in the establishment of operational policies and procedures to be used by the CDC.

- (5) All purchases of the CDC shall be made according to purchasing regulations of the County, and all monies in funds of said CDC shall be handled by and through the Financial Administrator's Office of the County.
- (6) All licenses and permits required for operation of the CDC shall be obtained by the Director in accordance with applicable laws and regulations.

(Code 2006; History: County Contract 44-1995, § 1; County Contract 216-1996, § 1 [for subsection (4)])

Sec. 15-52. Equipment.

All equipment presently assigned in emergency communications will be assigned to the CDC with the exception of the Topeka Police Department's AS400 computer. Title to all new equipment or real estate acquired by the CDC shall be in the name of the Board of County Commissioners of Shawnee County, Kansas.

(Code 2006; History: County Contract 44-1995, § 2)

Sec. 15-53. Duties.

The duties of the CDC shall include, but are not limited to the following:

- (1) The answering point for all 911 calls;
- (2) Dispatching all units and personnel of the participating agencies, and other participating emergency services;
- (3) Monitoring and coordinating law enforcement, fire, and other emergency frequencies, as designated by the CDC Management Board; and
- (4) Responsibility for the operation of CJIS (Criminal Justice Information Systems) and LETS (Law Enforcement Teletype System) terminals pursuant to policies and procedures established by the user's Management Board.

(Code 2006; History: County Contract 44-1995, § 3)

Sec. 15-54. Operating Costs.

All costs of operating the CDC shall be the responsibility of the County. 911 funds will be made available for use by the CDC in accordance with State statutes. (Code 2006; History: County Contract 44-1995, § 4)

Sec. 15-55. Agreement Termination.

Pursuant to K.S.A. 12-2905(c)(5), this agreement may be terminated as follows:

(1) This agreement shall become effective immediately upon execution and approval by the attorney general and shall remain in full force and effect for an indefinite period, and may be terminated by either party giving to the other party written notice of its intention to terminate. However, because of the large costs and the many difficulties inherent in establishing a communications system of sufficient quality to meet the needs of the departments to be served by the CDC, it is expressly agreed that the notice of termination provided for herein shall be given at least two (2) years prior to the proposed date of termination.

(2) In the event that this agreement is terminated, all equipment contributed to the CDC by the respective participating agencies, or direct replacement equipment, shall be returned at no cost to the agency which contributed the equipment, and other equipment and materials obtained by the CDC will be divided between the parties on the basis of their proportional contribution to the CDC's budget for the operation of the CDC.

(Code 2006; 19 County Contract 44-95, § 5; Editor's Note: The Consolidated Dispatch Center was renamed the Shawnee County Consolidated Emergency Communication Center [CECC] during the March 28, 1996 meeting of the Board of County Commissioners.)

Sec. 15-56. Schedule For Destruction Of Emergency Communication Records.

- (A) The Shawnee County Consolidated Emergency Communications Center Director is hereby permitted to destroy said records in the manner described as follows. The Director may destroy the Emergency Communication 9-1-1 printouts, on a continuing basis, after the expiration of the minimum retention period of thirty (30) days and may destroy/tape over the Emergency Communication Center Audio Tapes, on a continuing basis, at the expiration of the set retention period of two (2) years, all as provided for in the KANSAS LOCAL GOVERNMENT RECORDS MANUAL as may be updated from time to time.
- (B) This authority for destruction of said records will continue until such time as this section is amended, revoked or invalidated by an officially published change in the retention schedule for said classes of records.

(Code 2006; History: Res. 2000-185, §§ 1-2)

Secs. 15-57 - 15-100. Reserved.

ARTICLE III. SHAWNEE COUNTY EMERGENCY MANAGEMENT

Sec. 15-101. Purpose.

The Board of County Commissioners of Shawnee County, Kansas, has the responsibility to protect the inhabitants of the County from the hazards of natural or man-made disasters and in connection with that responsibility, the Board deems it necessary and expedient to establish and maintain a disaster agency responsible for emergency management and coordination for the County as required by K.S.A. 48-929a.

(Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3; amended by H.R. Res. 2011-5)

Sec. 15-102. Establishment Of Shawnee County Department of Emergency Management.

There is hereby established the Shawnee County Department of Emergency Management for the purpose of assuming, as the designated disaster agency, responsibility for coordinating the mitigation of, preparedness for, response to and recovery from disasters. (Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3)

Sec. 15-103. Responsibilities and Powers of County Officials.

(A) The Board of County Commissioners, having established the Shawnee County Department of Emergency Management, shall notify the Kansas Division of Emergency Management of the manner in which the County is providing or securing disaster planning and Emergency Management. This article and any subsequent changes hereto shall be provided within ten (10) working days to the Kansas Division of Emergency Management.

- (B) The Board of County Commissioners shall provide for the establishment, staffing, operation, and support of the Shawnee County Department of Emergency Management. In addition to employing the Emergency Management Director, such support shall, at a minimum, be provided as required by KAR 56-2-2(a)(5).
- (C) The Chair of the Board of County Commissioners or designated successor shall be responsible for the issuance of proclamations of local emergency as provided for in K.S.A. 48-932.
- (D) The Board of County Commissioners shall establish and provide to the Kansas Division of Emergency Management a job description for the Shawnee County Department of Emergency Management Director as outlined in and required by K.A.R. 56-2-2(b). (Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3)

Sec. 15-104. Appointment of Emergency Management Director.

- (A) There is hereby created the position of Director for the Shawnee County Department of Emergency Management.
- (B) The Director shall be appointed by the Board of County Commissioners and will be an unclassified employee of the County. The Deputy Director, Homeland Security Program Manager and Ambulance Compliance/Comms Officer will also be an unclassified employees of the County. All other employees shall be classified employees of the County. The Director shall serve as the advisor to the Board of County Commissioners on all Emergency Management matters.
- (C) The Director is hereby delegated sufficient authority to effect coordination and accomplish all actions required prior to, during, and after an incident to the functions and duties required in K.A.R. 56-2-2(a)(4) and other related duties as directed by the Board of County Commissioners.
- (D) In normal operational circumstances when the Director is unavailable, the Deputy Director or other designee of the Director will assume the duties and responsibilities of the Director, under the administrative supervision of the Board of County Commissioners.
- (E) The Shawnee County Department of Emergency Management shall comply with all applicable Shawnee County Resolutions and it shall be governed by the purchasing resolution, budget, and audit finance rules.
- (Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3; amended by H.R. Res. 2011-5, amended by H.R. Res. 2013-5)

Sec. 15-105. Authority to Accept Services, Gifts, Grants, and Loans.

Whenever the federal government or any department or officer thereof or person, firm, or corporation shall offer through the State of Kansas or directly to the County, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of Emergency Management, the Director is hereby authorized to receive such services, equipment, supplies, materials or funds on behalf of the County subject to the terms of the offer and the rules and regulations, if any, of the agency or organization making the offer. (Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3)

Sec. 15-106. Severability.

If any provision of this Article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Article which can be given effect without the invalid provision or applications and to this end the provisions of the Article are declared to be severable.

(Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3)

Sec. 15-107. Effective Date.

This Article shall take effect immediately upon its passage and publication in the official County newspaper.

(Code 2006; History: H.R. Res. 1991-7, § 1.0; amended by Res. 1999-153; rescinded by Res. 2007-76; rescinded by H.R. Res. 2010-3)

Secs. 15-108 – 15-130. Reserved.

ARTICLE IV. EMERGENCY VEHICLES

Sec. 15-131. Authorization To Operate Emergency Vehicles.

No person, partnership, or public official may operate or cause to be operated upon a public highway, road or street within Shawnee County, a motor vehicle with a red light, siren or both unless the vehicle has been designated as an authorized emergency vehicle pursuant to $\S 15-132(A)$.

(Code 2006; History: Res. 1992-154, § 1)

Sec. 15-132. Definition.

- (A) Authorized emergency vehicle means such fire department vehicles, police vehicles and ambulances as are publicly owned and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to § 15-134.
- (B) The following vehicles, upon approval as set out herein below, may be designated as emergency vehicles: wreckers; civil defense vehicles; emergency vehicles operated by public utilities; privately-owned vehicles of firemen; privately-operated ambulances; or privately-owned vehicles of police officers.

(Code 2006; History: Res. 1992-154, § 2)

Sec. 15-133. Application; Renewal.

- (A) Any application or renewal for the designation as an emergency vehicle shall be made to the County Consolidated Emergency Communications Center ("CECC") in writing and upon the form furnished by said department.
- (B) Prior to submitting the application or renewal, the applicant shall obtain written approval of said application from the appropriate parties as specifically required on the form.
- (C) The application or renewal shall be accompanied by a Five Dollar (\$5) fee for each vehicle. The fee is non-refundable and should be made payable to the Board. Privately owned vehicles of firemen and police officers are exempt from the Five Dollar (\$5) fee. (Code 2006; History: Res. 1992-154, § 3; amended by Res. 1998-34A, § 1)

Sec. 15-134. Application Approval.

The County CECC shall forward all properly submitted applications and/or renewals to the Board. Upon finding that the designation of a vehicle is necessary to the preservation of life or property or to the execution of an emergency governmental function, then the Board shall designate in writing that said vehicle is an authorized emergency vehicle. Said written designation shall be carried in the vehicle at all times.

(Code 2006; History: Res. 1992-154, § 4)

Sec. 15-135. Authorization Period.

A vehicle designated as an authorized emergency vehicle, pursuant hereto, may operate as an authorized emergency vehicle, for a period of two (2) years after the date the permit is issued or until the ownership changes, or until the use of such vehicle for which it was designated changes, whichever is shorter.

(Code 2006; History: Res. 1992-154, § 5)

Secs. 15-136-15-170. Reserved.

ARTICLE V. DISASTER ASSISTANCE

Sec. 15-171. Assistance Authorized.

In the event of a disaster, if there is a request for assistance by another county, city or township, within or without the State of Kansas, and if the county can provide assistance without unduly jeopardizing the protection of its own community, that this article hereby authorizes providing, under the authority of K.S.A. 12-16,117 with all the privileges and immunities provided therein, such assistance as may be required.

(Code 2006; History: Res. 1994-252, § 1)

Sec. 15-172. Immediate Assistance; Continued Assistance.

This article authorizes, in the event of a disaster, the Chair of the Board or his/her designee to immediately render such assistance as may be acquired, provided that, as soon as practical the Board shall meet and shall vote upon any continuing or additional assistance, and provided further that no actions by the Chair of the Board or his/her designee, nor by the Board, shall conflict with any local or interjurisdictional disaster plan adopted by the County pursuant to K.S.A. 48-901 et seq., and amendments thereto. (Code 2006; History: Res. 1994-252, § 2)

Sec. 15-173. Conflicts.

Nothing in this article is intended to conflict with or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority of the County to enter into any such agreement in the future.

(Code 2006; History: Res. 1994-252, § 3)

Sec. 15-174. Form Of Assistance.

It is the intent of this article to authorize providing assistance in any form, including, but not limited to, police, fire, emergency management services, public works, administrative and clerical upon the occurrence or the imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to, fire, flood, earthquake, wind, storm, epidemics, air contamination, blight, drought, infestation, explosion or riot.

(Code 2006; History: Res. 1994-252, § 4)

ARTICLE VI. AMBULANCE SERVICE

Sec. 15-201. Ambulance Service; Function Of Government.

The Board recognizes the provision of ambulance services within Shawnee County to be a legitimate and proper function of government. (Code 2006; History: Res. 1981-139, § 1)

Sec. 15-202. Ambulance Advisory Board Established.

The Board hereby establishes the Ambulance Advisory Board. (Code 2006; History: Res. 1981-139, § 3; Note: *See also* Chapter 9, Art. III. Shawnee County Ambulance Advisory Board, §§ 9-91 — 9-120)

Sec. 15-203. Definitions.

As used in this article, the following words and phrases shall have the meanings respectively ascribed to them herein:

- (1) Ambulance means any aircraft or motor vehicle, whether privately or publicly owned, which is specially designed, constructed, equipped and intended to be used for the purpose of transporting sick, injured, disabled, deceased or otherwise incapacitated human beings who may or may not be in need of emergency care in transit. The term ambulance shall not include the vehicle or vehicles used for the purpose of transporting deceased persons for funeral or burial purposes;
- (2) Ambulance Advisory Board means the advisory panel established pursuant to § 15-203:
- (3) Ambulance service means any organization engaged in the transporting of sick, injured, disabled or otherwise incapacitated persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency care in transit;
- (4) Attendant means an emergency medical technician or a mobile intensive care technician, as said terms are defined in K.S.A. 65-4301, whose primary function is ministering to the needs of persons requiring emergency medical services;
- (5) *City* means the City of Topeka, Shawnee County, Kansas, having geographical limits as now existing or hereinafter altered;
- (6) County means Shawnee County, Kansas;
- (7) *Driver/Attendant* means an individual who satisfies the criteria for an attendant and who also drives ambulance vehicles for an operator granted a contract pursuant to this article;
- (8) *Health Officer* means the Shawnee County Health Agency Officer approved by the Board of County Commissioners;
- (9) Operator means any person who contracts with the Board of County Commissioners under this article;
- (10) *Person* means any individual, firm, partnership, corporation, or other association of persons;

- (11) Rules and regulations promulgated by the Secretary means duly adopted regulations of the Kansas Department of Health and Environment as now existing or hereinafter adopted or amended;
- (12) Secretary means the Secretary of the Kansas Department of Health and Environment;
- (13) Shall is always mandatory and not merely directory;
- (14) *Surrender* means the voluntary relinquishment of the rights and duties conferred by a contract for the unexpired term of such contract by action of the operator pursuant to the conditions stated in the contract;
- (15) *Termination* means the involuntary withdrawal of the rights and duties conferred by a contract for the unexpired term of such contract by action of the Board of County Commissioners pursuant to the authority reserved in the contract;
- (16) *Type I, II,* and *V* means that class of ambulance services and ambulances as required by K.A.R. 109-2-6, as amended.

(Code 2006; History: H.R. Res. 1982-2, Art. I, § 1; amended by H.R. Res. 1983-17, §§ 1-2)

Sec. 15-204. Contract Required.

No person except those awarded a contract pursuant to this article shall use the streets or other public ways of the County to operate an ambulance service which regularly offers and provides such transportation to residents of the County; provided, however, that nothing herein shall be deemed to limit or restrict an ambulance service operated by or under contract with a duly incorporated city located in this County from using the streets or other public ways for the purpose of transporting or delivering persons which such ambulance service is authorized to serve.

(Code 2006; History: H.R. Res. 1982-2, Art. I, § 2)

Sec. 15-205. Type Of Service Provided.

Any ambulance service awarded a contract by the County shall provide Type I service as defined by rules and regulations promulgated by the Secretary. All equipment, personnel, and services offered and provided by the operator shall conform to such regulations. (Code 2006; History: H.R. Res. 1982-2, Art. I, § 3)

Sec. 15-206. Cooperation With City.

The Board of County Commissioners shall with respect to all actions pursuant to this article give due consideration to the ambulance ordinances of the City of Topeka and any franchise awarded thereunder. A recommendation may be requested from the Topeka-Shawnee County Ambulance Advisory Council when any question regarding cooperation between the City and the County exists or is foreseen.

(Code 2006; History: H.R. Res. 1982-2, Art. I, § 4)

Sec. 15-207. Application For Contract; Finding Prerequisite To Issuance.

No person shall engage in the operation of any ambulance service nor shall any contract be awarded to operate an ambulance service pursuant to this article until the Board of County Commissioners shall first find that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of this article. (Code 2006; History: H.R. Res. 1982-2, Art. II, § 20)

Sec. 15-208. Same; Application For Contract.

Application for a contract ambulance service shall be in accordance with bid procedures set out in this article.

(Code 2006; History: H.R. Res. 1983-11, § 1)

Sec. 15-209. Conditions of Contract; Service.

The operator shall at all times during the term of such contract, except when such grant is terminated or surrendered, provide ambulance service to all residents of the County without discrimination.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 30)

Sec. 15-210. Compliance With Applicable Laws And Regulations.

The operator shall comply with all applicable City, State, County, and Federal laws and regulations.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 31)

Sec. 15-211. Rates.

- (A) The operator shall at all times comply with the maximum rates and fee schedules filed with the County Clerk and approved by the Board of County Commissioners.
- (B) Any proposed change in maximum rates or the rate schedule shall be filed with the County Clerk at least forty-five (45) days preceding the proposed effective date of such rates, accompanied by financial statements and documents from which the reasonableness for such rates can be determined.
- (C) Any proposed change in maximum rates or the rate schedule shall be submitted to the Board of County Commissioners for approval. The Board shall approve any proposed change if such proposal is found to be reasonable as defined in § 15-214(E).
- (D) The Board of County Commissioners shall not take any action regarding approval of maximum rates or the rate schedule which shall prohibit the operator from earning a reasonable rate of return upon the value of the property used and useful in providing ambulance service. A reasonable rate of return means receipt of revenues from patient charges and public funds, if any, equal to the sum of operating costs, depreciation reserves, and growth and development costs of the operator.
- (E) Reasonable rates means maximum rates and a rate schedule which when used as the basis to project future revenues yields a projected reasonable rate of return as defined in § 15-214(D). If approved rates do not provide such a reasonable rate of return, subsequently proposed rates shall be approved so as to cure the deficit incurred, as well as provide a reasonable rate of return.
- (F) The Board of County Commissioners shall hold a public hearing on the reasonableness of such proposed maximum rates and fee schedules within twenty-one (21) days after the filing thereof; provided, however, that the Board of County Commissioners shall make written approval or disapproval, in whole or in part, of said proposal within forty-five (45) days after the filing thereof, unless the operator consents to a reasonable time for such action more than forty-five (45) days after the filing of the proposed rate schedule.
- (G) If the Board of County Commissioners takes no final action within forty-five (45) days after the filing of such proposal or within the reasonable time agreed to by the operator, the proposal shall be deemed approved and the operator may institute such rate change. (Code 2006; History: H.R. Res. 1982-2, Art. III, § 32)

Sec. 15-212. Inspections.

Every ambulance service operator shall be subject to inspection at any time, at any place within the County, by either the Health Officer or his/her designated representative, in order to determine whether said service is complying with all applicable laws and regulations of the City, the County, and the State.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 33)

Sec. 15-213. Inspection Of Books And Records.

Upon request of the Board of County Commissioners, the operator shall make the books and records of the operator available for inspection by the Board of Commissioners or a certified public accountant designated by the Board of Commissioners at the office of the operator during regular business hours.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 34)

Sec. 15-214. Liability Insurance Standards.

- (A) During the term of such contract grant and during such time as the operator is providing service pursuant to such contract, there shall be on file with the County Clerk an insurance policy, approved as to form and endorsed by the County Counselor, providing liability coverage for each and every ambulance owned, operated, or leased by the operator.
- (B) Minimum coverage of said insurance policy shall be in the amounts of Five Hundred Thousand Dollars (\$500,000) for any one (1) person killed or injured in any one (1) accident or occurrence and Five Hundred Thousand Dollars (\$500,000) for more than one (1) person injured or killed in any one (1) accident or occurrence with passenger or patient hazard included in the policy. Such policy shall also provide One Hundred Thousand Dollars (\$100,000) minimum coverage for all damage arising out of injury to or destruction of property.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 35)

Sec. 15-215. Renewal Of Contract.

At any time within ninety (90) days prior to the expiration of a contract awarded pursuant to this article and at any time after such expiration, termination, or surrender of a contract awarded pursuant to this article, the operator may apply for an award of a contract for an additional term not to exceed twenty (20) years, subject to all the provisions of this article as then in force which are applicable generally to the application for such a contract. (Code 2006; History: H.R. Res. 1982-2, Art. III, § 36)

Sec. 15-216. Transfer, Termination And Surrender Of Contract.

The contract herein granted may be subject to transfer, termination and surrender, and the terms of such transfer, termination and surrender shall be provided in the contract. (Code 2006; History: H.R. Res. 1982-2, Art. III, § 37)

Sec. 15-217. Same: Waiver.

Waiver of a breach of an ambulance service contract or this article is not a waiver of any other similar or different breach. Neither the award of a contract nor any provision therein shall constitute a waiver or bar to the exercise of any governmental right or power of the County.

(Code 2006; History: H.R. Res. 1982-2, Art. III, § 38)

Sec. 15-218. Driver/Attendant And Attendant's Card; Required.

- (A) It shall be unlawful for any operator to employ any agent or employee as a driver/attendant or attendant, unless the person to be employed has first obtained a license as provided in this article.
- (B) It shall be unlawful for any person to accept employment as a driver/attendant or attendant of an operator without obtaining a license as provided in this article. (Code 2006; History: H.R. Res. 1982-2, Art. IV, § 40)

Sec. 15-219. Qualifications For Driver/Attendant Card.

- (A) No person shall drive any ambulance who is under the age of eighteen (18) years and who has not filed with the Health Officer:
 - (1) A copy of the driver/attendant's current state registry card issued by the Office of Emergency Medical Services of the State of Kansas and a copy of the driver/attendant's state ambulance attendant certificate, provided, that it shall be sufficient for the driver/attendant to certify that she/he has been awarded a state ambulance attendant certificate and that upon issuance of the certificate by the state the driver/attendant will file a copy of said certificate with the Health Officer;
 - (2) A certificate by a medical doctor that the applicant is of sound physique, with good eyesight, correctable to 20/30, and does not have and has not had infirmity of body or mind which might render him/her unfit for the safe operation of an ambulance or for the performance of the duties of an attendant;
 - (3) A certificate by the Chief of Police of the City of Topeka or a designee that the applicant possesses a valid Kansas driver's license, has been examined as to the knowledge of the provisions of this article and City ordinances relating to the operation of ambulances in traffic, and has shown a reasonable knowledge of such matters; and
 - (4) The certification of the results of a tuberculosis X-ray or skin test.
- (B) Physicians and Registered Nurses licensed by the State shall be exempt from the provisions of this article.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 41)

Sec. 15-220. Qualifications For Attendant's Card.

- (A) No person shall serve as an attendant of any ambulance who is under the age of eighteen (18) years and who has not filed with the Health Officer:
 - (1) A copy of the attendant's current state registry card issued by the Office of Emergency Medical Services of the State of Kansas and a copy of the attendant's state ambulance attendant certificate, provided, that it shall be sufficient for the attendant to certify that she/he has been awarded a state ambulance attendant certificate and that upon issuance of the certificate by the state the attendant will file a copy of said certificate with the Health Officer;
 - (2) A certificate by a medical doctor that the applicant is of sound physique, with good eyesight, correctable to 20/30, and does not have and has not had an infirmity of body or mind which might render him/her unfit for the performance of the duties of an attendant; and
 - (3) The certification of the results of a tuberculosis X-ray or skin test.

(B) Physicians and Registered Nurses licensed by the State shall be exempt from the provisions of this article.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 42)

Sec. 15-221. Approval; Issuance; Expiration.

The Health Officer shall examine the certificates filed with the Health Officer and approve or disapprove the same. If the Health Officer approves the same, the Health Officer shall issue a card to the driver/attendant or attendant which shall be kept in the possession of the driver/attendant or attendant at all times and shall expire on the same date as the expiration date of the driver/attendant's or attendant's current state registry card issued by the Secretary.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 43)

Sec. 15-222. Revocation Or Suspension Of Driver/Attendant Card.

- (A) The Health Officer may suspend or revoke a driver/attendant's card on the following grounds:
 - (1) The falsification of any forms required to be filed with the Health Officer;
 - (2) The conviction of the driver/attendant of a felony;
 - (3) The conviction of a driver/attendant of violating any moving traffic law while driving an ambulance or the conviction of a driver/attendant of driving while intoxicated, reckless driving, unsafe driving, inattentive driving, or negligent driving at any time; or
 - (4) The violation of a driver/attendant of any applicable regulation promulgated by the Secretary.
- (B) If revocation or suspension arises from grounds relating to the driving of an ambulance, the holder may serve as an attendant during the period of revocation or suspension, but shall not drive an ambulance during said period.
- (C) A suspension or revocation of a driver/attendant's card by the Health Officer may be appealed to the Board of County Commissioners in writing within ten (10) days of the Health Officer's decision.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 44)

Sec. 15-223. Revocation Or Suspension Of Attendant's Card.

- (A) The Health Officer may suspend or revoke an attendant's card on the following grounds:
 - (1) The falsification of any forms required to be filed with the Health Officer;
 - (2) The conviction of the attendant of a felony; or
 - (3) The violation of an attendant of any applicable regulation promulgated by the Secretary.
- (B) A suspension or revocation of an attendant's card by the Health Officer may be appealed to the Board of County Commissioners in writing within ten (10) days of the Health Officer's decision.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 45)

Sec. 15-224. Same; Transferability.

An ambulance driver/attendant or attendant license shall not be assignable or transferable.

(Code 2006; History: H.R. Res. 1982-2, Art. IV, § 46)

Sec. 15-225. Vehicles; Specifications.

Each ambulance of the operator shall meet the ambulance specification promulgated by the Secretary. No ambulance service shall acquire an ambulance for use in the County unless the ambulance complies with the required ambulance specifications for conforming ambulances. The Health Officer shall be authorized to grant a waiver of any ambulance specifications for a period not to exceed twelve (12) months upon a showing of hardship jeopardizing continuance of the service.

(Code 2006; History: H.R. Res. 1982-2, Art. V, § 50)

Sec. 15-226. Equipment.

Every Type I and Type II ambulance of the operator shall be equipped at all times with that medical equipment required by the current state regulations to be carried in the ambulance except as may be specifically waived by the State Emergency Medical Services Council. The Health Officer shall be notified of the application for any waiver presented, in advance of any presentment. The Health Officer shall recognize such waivers.

(Code 2006; History: H.R. Res. 1982-2, Art. V, § 51)

Sec. 15-227. Number Of Operational Vehicles Required.

No ambulance service shall operate within the County with less than four (4) fully operational ambulances, all of which shall contain all required equipment and meet all of the requirements of this article and the regulations promulgated by the Secretary applicable to Type I ambulances.

(Code 2006; History: H.R. Res. 1982-2, Art. V, § 52)

Sec. 15-228. Staffing.

All ambulances operated in the County shall be staffed at a minimum in accord with the regulations of the Secretary.

Nothing in this article shall preclude a physician or a registered nurse licensed by the State from serving as a driver/attendant or an attendant in an ambulance. (Code 2006; History: H.R. Res. 1982-2, Art. V, § 53)

Secs. 15-229 - 15-270. Reserved.

ARTICLE VII. NATIONAL INCIDENT MANAGEMENT SYSTEM

Sec. 15-271. National Incident Management System (NIMS).

The Board of County Commissioners does hereby establish the National Incident Management System (NIMS) as the County standard for incident management. (Code 2006; History: Res. 2005-165)

ARTICLE VIII. HOMELAND SECURITY EXERCISE EVALUATION PROGRAM

Sec. 15-272. Homeland Security Exercise Evaluation Program (HSEEP)

The Board of County Commissioners does hereby adopt the Homeland Security Exercise Evaluation Program (HSEEP) as the County's method of approach to exercise program management, design and development, conduct, evaluation, and improvement planning.

Any exercise(s) that utilize the process in the Shawnee County Emergency Operations Plan (EOP), the Kansas Response Plan and 44 Code of Federal Regulations (CFR) (Stafford Act); specifically the use of resources from the regional, state and federal levels, shall be coordinated through Shawnee County Emergency Management as the NIMS compliance office for Shawnee County.

(Code 2006; History: Res. 2018-36)

Secs. 15-273 - 15-300. Reserved.

CHAPTER 16. FINANCIAL ADMINISTRATION

- Art. I. In General, §§ 16-1-16-50
- Art. II. Investment Of Idle Funds, §§ 16-51-16-80
- Art. III. Designated Depositories, §§ 16-81 16-100
- Art. IV. Encumbrance Requests, §§ 16-101-16-150
- Art. V. Funds, §§ 16-151 16-240
- Art. VI. Petty Cash Funds, $\S 16-241 16-280$
- Art. VII. Change Drawer Funds, §§ 16-281-16-290
- Art. VIII. Fixed Asset Inventory System, §§ 16-291 16-320
- Art. IX. Grant Procedure, §§ 16-321 16-350
- Art. X. Declaration Of Official Intent Procedure, §§ 16-351 16-380
- Art. XI. Municipal Investment Pool, §§ 16-381 16-400
- Art. XII. Transient Guest Tax Levy, §§ 16-401 16-420
- Art. XIII. Establishment of Procedures for the Review and Approval of Shawnee County's Capital Improvement Programs, §§ 16-421 16-440

Note: See also §§ 11-160, Budget; and 11-161, Petty Cash Fund.

ARTICLE I. IN GENERAL

Sec. 16-1. Auditor Publication Requirements; Exemption From K.S.A. 19-609.

That the Shawnee County Auditor shall be exempt from the publication requirements provided by K.S.A. 19-609.

(Code 2006; History: Charter Res. 1979-5)

Sec. 16-2. Establishment of Juror Fees.

Jurors shall be paid the following fees from the Shawnee County general fund:

- (a) Ten dollars (\$10.00) for each day of attendance to attend court; and
- (b) Mileage at the legal rate as authorized by K.S.A. 75-3203 for necessary travel in going to and returning from court.

(Code 2011; History: Res. 2011-27)

Secs. 16-3-16-50. Reserved.

ARTICLE II. INVESTMENT OF IDLE FUNDS

Note: See K.S.A. 12-1675, Investment of public moneys by governmental subdivisions, units and entities; conditions and limitations.

Secs. 16-51 - 16-80. Reserved.

ARTICLE III. DESIGNATED DEPOSITORIES

Sec. 16-81. Designated Depositories.

The County Treasurer is authorized to deposit funds of the County in statutorily qualified depositories. The listing of qualified depositories will be updated and submitted to the Board as needed.

(Code 2006; History: Res. 2005-67)

Secs. 16-82 - 16-100. Reserved.

ARTICLE IV. ENCUMBRANCE REQUESTS

Sec. 16-101. Encumbrance Requests Procedure.

- (A) All requests for encumbrances for goods and services greater than One Thousand Dollars (\$1,000) will require approval by the Board.
- (B) All County departments will submit any requests for encumbrances that are to be charged against the current year's budget to the County Financial Administrator for review. Departments having initial or accumulated requests for encumbrances in excess of One Thousand Dollars (\$1,000) will be submitted by the Audit-Finance Department (with recommendations and/or comments) to the Board for action. All other requests will be approved or denied by the County Financial Administrator with a written explanation of action taken provided to the requesting department. A list of encumbrances approved by the County Financial Administrator under One Thousand Dollars (\$1,000) will be provided to the Board.
- (C) Beginning on the first Thursday meeting in December, an open agenda item will be placed on each County Commission agenda for any year-end related business requiring Board approval.

(Code 2006; History: Res. 1999-206, § 1-3)

Secs. 16-102-16-150. Reserved.

ARTICLE V. FUNDS

Sec. 16-151. Adopting the Shawnee County, Kansas Fund Balance Policy

The Board hereby adopts the Shawnee County, Kansas Fund Balance Policy (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street] or the Shawnee County Audit-Finance Department [200 S.E. 7th Street]) in order to provide adequate fund balances and reserves to ensure the continuation of necessary public services in the event of unforeseen circumstances.

(Code 2017; History: Res. 2017-80)

Sec. 16-152. County General Fund; Debt Service Division.

- (A) Effective January 1, 2002, the County tax levied Bond and Interest Fund will be discontinued and replaced by the Debt Service Division of the General Fund.
- (B) Effective January 1, 2002, any unappropriated balance remaining in the County tax levied Bond and Interest Fund will be transferred to the Debt Service Division of the General Fund.

(Code 2006; History: Res. 2001-186, §§ 1-2)

Sec. 16-153. County; Equipment Reserve Fund.

A County Equipment Reserve Fund to aid in financing the acquisition of equipment is hereby created.

(Code 2006; History: Res. 1996-98)

Sec. 16-154. County; Health Administration Fund.

(A) There is hereby created the Health Administration Fund. Said fund shall be used for the administration of the County Health Insurance program. Said fund shall be controlled and supervised by the County Auditor-Financial Administrator.

(Code 2006; History: H.R. 2005-163, §§ 1-5)

Sec. 16-155. County; Land Or Property Records Fund

- (A) Any County department desiring to utilize Land or Property Records Funds shall first submit a written request to the Land Records Committee by filing the same with the Register of Deeds Office. The request shall include an explanation of how the monies sought will be utilized for equipment or technological services relating to the land or property records maintained by the County.
- (B) The Land Records Committee shall review the request to insure that the funds are being sought for equipment or technological services relating to the land or property records maintained by the County. Within thirty (30) days of receiving the request, the Land Records Committee shall forward the request, along with a report of its findings as to the appropriateness of the request, to the Board for final action.
- (C) In addition to the procedures provided herein, Chapter 25, Article II, shall be adhered to for all purchases made with Land or Property Records Funds. (Code 2006; History: H.R Res. 2004-6, §§ 1-3)

Sec. 16-156. County; Risk Management Reserve Fund.

(A) A Shawnee County Risk Management Reserve Fund is hereby established.

- (B) Any expenditure from the Shawnee County Risk Management Reserve Fund shall require approval of the Board. The procedure for this approval shall be as follows:
 - (1) Expenditures Under One Thousand Dollars (\$1,000). For expenditures from this fund under One Thousand Dollars (\$1,000), the requesting department shall (in conjunction with the County's Purchasing Department if so desired) solicit at least two (2) written bids, and proceed with the necessary repair(s). The written bids shall be submitted, with invoice, to the County Financial Administrator, who shall request approval from the Board, and if so approved, shall make approval of such expenditures. The necessary repair(s) will be paid for from the budget of the department that obtained the repair(s) only if the department is other than a General Fund department.
 - (2) Exception. For such expenditures under One Thousand Dollars (\$1,000) that pertain to the repair and/or replacement of windows or glass, the requesting department may solicit at least two (2) telephone bids, which shall be documented on a bid tabulation form. This is an allowable exception to the requirement of written bids for these types of expenditures.
 - (3) Expenditures of One Thousand Dollars (\$1,000) or More. For expenditures from this fund of One Thousand Dollars (\$1,000) or more, the requesting department shall (in conjunction with the County's Purchasing Department if so desired) solicit at least two (2) written bids. The written bids shall be submitted for review by the County Financial Administrator, who shall present the matter (in conjunction with the requesting department if necessary) for approval by the Board prior to any repair. Copies of all bid documentation and payment invoices, as submitted to the County Financial Administrator, shall be provided to and maintained by the Purchasing Department.
- (C) The moneys in the Shawnee County Risk Management Reserve Fund shall be expended for the following purposes:
 - (1) Comprehensive damage to all Shawnee County vehicles; and,
 - (2) In addition to the above, collision damage to all Shawnee County Sheriff's vehicles.
- (D) Appropriations for the Shawnee County Risk Management Reserve Fund shall be as directed by the Board from time to time.
- (E) The Shawnee County Risk Management Reserve Fund shall be available to cover expenses that arise as set forth above.
- (F) The County Auditor-Financial Administrator is hereby directed to ensure that the amounts credited to and the amount on hand in the Shawnee County Risk Management Reserve Fund, and the amount expended therefrom, shall be included in each annual budget for the County.
- (G) Interest earned on the investment of moneys in the Shawnee County Risk Management Reserve Fund shall be credited to such fund.
- (H) In the event the provisions of this section conflict with the provisions Chapter 25, Article II of the Shawnee County Code, the more restrictive provisions contained herein shall be deemed controlling with respect to expenditures from the Shawnee County Risk Management Reserve Fund.

(Code 2006; History: Res. 1990-10, §§ 1-8)

Sec. 16-157. County; Shawnee County 911 Fund.

(A) There is hereby created a special fund account to be designated the Shawnee County 911 Fund. The Fund shall be administered as authorized under this Article for the purposes required or permitted under the Kansas 911 Act, as now existing or hereafter amended.

- (B) All monies received by Shawnee County derived from fees collected pursuant to the Kansas 911 Act shall be credited to and deposited in the Shawnee County 911 Fund.
- (C) The Shawnee County 911 Fund shall be a separate fund from the existing funds known as the 911 Landline and 911 Wireless Funds, and monies shall not be comingled into or between those funds. Any and all interest earned or accrued on monies in the Fund shall be retained in the Fund. All monies in the Fund shall be used only for purposes required or permitted under the Kansas 911 Act, as enacted or hereafter amended. (Code 2011; History: Res. 2011-165)

Sec. 16-158. County; Special County Building Fund.

- (A) There is hereby created the Special County Building Fund. Said fund shall be used to finance repairs to all County-maintained buildings which are used for governmental activities. Said fund shall be controlled and supervised by the County Auditor-Financial Administrator.
- (B) All requests for building repairs for \$1,500 or less shall not need Board of County Commission approval, but must be approved by both the Facilities Management Director and the Financial Administrator. If both parties do not authorize the expenditure, the request will require Board of County Commission approval.
- (C) All requests for repairs greater than \$1,500 will require Board of County Commission approval except for emergency purchases. When an emergency exists, the Facilities Management Director shall request approval for the purchase from the Commission Chairperson and shall also submit an emergency purchase form as outlined in the County's purchasing procedures.
- (D) The Facilities Management Director shall make all building fund requests to the County Commission.
 - (E) The Financial Administrator shall process all building fund purchases.
- (F) Subject to the terms of this section concerning county building funds, all other provisions of Chapter 25, Article II of the Shawnee County Code shall remain in full force and effect.

(Code 2006; History: H.R. 2005-163, §§ 1-5; rescinded and repealed by Res. 2010-19)

Sec. 16-159. County; Workers Compensation Reserve Fund.

There is hereby created the Workers Compensation Reserve Fund. Said fund shall be used for the purposes allowed under K.S.A. 44-505b and funded as required by law. Said fund shall be controlled and supervised by the County Auditor-Financial Administrator. (Code 2006; History: Res. 1990-96, § 1)

Sec. 16-160. Department of Corrections; Specialized Fund, Prisoner Medical Fund

Shawnee County is required by K.S.A. 19-1910 to provide for the medical costs of any person in the custody of the Department of Corrections who requires medical attention and is unable to pay for such services.

The Shawnee County Department of Corrections annual budget contains funds to pay for the medical expenses of said person in the custody of the Department of Corrections who require medical treatment. The expenditure of these funds for medical reimbursements vary from year to year. At the end of the county fiscal year any non-expended funds for these anticipated expenses are returned back to the county general fund.

The Department of Corrections desires to establish a permanent prisoner medical fund as follows:

- (A) Beginning with the 2015 fiscal year budget for the Department of Corrections, any monies remaining in the "Professional Services" line item in the Health Services budget (10DF118) at the end of fiscal year 2015 shall be placed in a specific job ledger, rather than refunded to the county general fund.
- (B) The Board of County Commissioners will continue to provide funds to the Department of Corrections in order for the Department of Corrections to fund the "Professional Services" item in the Health Services budget. Any monies remaining in the "Professional Services" expense line item in the Health Services budget at the end of each succeeding fiscal year shall be placed in a specific job ledger.
- (C) In the event the Department of Corrections needs funds, subsequent to the 2015 fiscal year, for payment of medical claims pursuant to K.S.A. 22-4612 and amendments thereto, that exceed that current year budget funds, the Department of Corrections shall utilize the available funding in the job ledger account to satisfy the payment of said medical claims for reimbursement.

(Code 2015; History: Res. 2015-115)

Sec. 16-161. Expocentre Building Maintenance Fund.

- (A) There is hereby created the Expocentre Building Maintenance Fund. Said fund shall be used to finance repairs to all County-maintained buildings on the Expocentre grounds. Said fund shall be controlled and supervised by the County Auditor-Financial Administrator.
- (B) All requests for building repairs for \$1,500 or less shall not need Board of County Commission approval, but must be approved by both the Facilities Management Director and the Financial Administrator. If both parties do not authorize the expenditure, the request will require Board of County Commission approval.
- (C) All requests for repairs greater than \$1,500 will require Board of County Commission approval except for emergency purchases. When an emergency exists, the Facilities Management Director shall request approval for the purchase from the Commission Chairman and shall also submit an emergency purchase form as outlined in the County's purchasing procedures.
- (D) The Facilities Management Director shall make all building fund requests to the County Commission.
 - (E) The Financial Administrator shall process all building fund purchases.
- (F) Subject to the terms of this section concerning county building funds, all other provisions of Chapter 25, Article II of the Shawnee County Code shall remain in full force and effect.

(Code 2006; History: H.R. 2005-163, §§ 1-5; rescinded and repealed by Res. 2010-19)

Sec. 16-162. Noxious Weed Capital Outlay Fund.

(A) There is hereby established a Noxious Weed Capital Outlay Fund for making capital expenditures incident to the control of noxious weeds.

(B) Any monies remaining in the noxious weed eradication fund at the end of any year for which a levy was made under K.S.A. 2-1318 may be transferred to the Noxious Weed Capital Outlay Fund.

(Code 2006; History: Res. 1982-162)

Sec. 16-163. Parks And Recreation Building Maintenance Fund.

- (A) All moneys credited to the Building Maintenance Fund shall be used to finance repairs, remodel, upgrade, and/or replace Shawnee County Parks and Recreation buildings and facilities. All expenditures shall only be for the purpose stated in this section and shall only be made in accordance with budget appropriations and the Shawnee County Purchasing resolution.
- (B) The Building Maintenance Fund shall be supported by a percentage of user fees collected by the respective Parks and Recreation Divisions of the County's General Fund and transferred to the Building Maintenance Fund.
- (C) Upon request of the Parks and Recreation Director and approval by the Board of County Commissioners, the Director of Audit Finance shall transfer no more than twenty-five (25%) of the total annual revenues collected of any fee fund specified in Paragraph (3) to the Building Maintenance Fund.
- (D) As part of the annual budget request, the Director of Parks and Recreation will submit to the Audit-Finance Director a long-term improvement plan that identifies the intended uses for the Building Maintenance Fund.

(Code 2014; History: H.R. Res. 2002-11; amended by H.R. Res. 2006-4, §§ 1-3, amended by H.R. Res. 2012-9; amended by H.R. Res. 2013-1)

Sec. 16-164. Parks and Recreation Revenue Revolving Fund

The Board of County Commissioners of the County of Shawnee, Kansas desires to establish a dedicated Shawnee County Parks and Recreation Revenue Revolving Fund for the purpose of operating Shawnee County Parks and Recreation programs and facilities.

- (A) Except as authorized by the Board of County Commissioners, all moneys credited to the Fund shall be used for park and recreation purposes. All expenditures shall only be for the purpose stated in this Article and shall only be made in accordance with budget appropriations and the Shawnee County purchasing resolution.
- (B) This is a dedicated fund that is replenished on an ongoing basis from various funding sources such as grants, sponsorships, advertising, program user fees and rental fees within the park and recreation system. The Fund shall be supported by fees collected by the Shawnee County Parks and Recreation Department and kept separate from the tax General Fund.

(Code 2014' History: H.R. Res. 2014-7)

Sec. 16-165. Parks and Recreation Vehicle and Equipment Fund.

- (A) All moneys credited to the Vehicle and Equipment Fund Shall be expended for the acquisition, maintenance and replacement of equipment used by the Parks and Recreation Department. All expenditures shall only be for the purposes stated in this section and shall only be made in accordance with budget appropriations and the Shawnee County purchasing resolution.
- (B) The Vehicle and Equipment Fund shall be supported by a percentage of user fees by the respective Parks and Recreation Divisions of the County's General Fund and transferred to the Vehicle and Equipment Fund.

- (C) Upon request of the Parks and Recreation Director and approval by the Board of County Commissioners, the Director of Audit Finance shall transfer no more than twenty percent (20%) of the total annual revenues collected of any fee fund specified in Paragraph (3) to the Vehicle and Equipment Fund.
- (D) As part of the annual budget request, the Director of Parks and Recreation will submit to the Audit-Finance Director a long-term improvement place that identifies the intended uses for the Vehicle and Equipment Fund.
 - (E) Fee funds subject to this section.
 - 1) 10PR000
 - 2) 10PR123
 - 3) 10PR124
 - 4) 10PR130
 - 5) 10PR131

(Code 2012; History: H.R. Res. 2012-9; amended by H.R. Res. 2013-1)

Sec. 16-166. Public Works; Road and Bridge Allocation Fund for Cities of the Third (3rd) Class

The road and bridge allocation fund is hereby created and funded in the amount of One Hundred Thousand and No/100 Dollars)\$100,000.00).

The fund shall be allocated to the cities of the third class by the proportion of their assessed value, but in no case shall the payment from this fund be less than a city would receive pursuant to K.S.A. 79-3425c. The timing of payments will be in the same manner as distribution of the special city and county highway fund motor vehicle payments are currently distributed.

The creation and continued existence of this fund is dependent upon Shawnee County Charter Resolution No. 2010-01 being approved by unanimous vote of The Board of County Commissioners of the County of Shawnee, Kansas; and the State of Kansas funding its statutory duties in full pursuant to the motor-fuel tax law as defined by K.S.A. 79-3401 *et seq*.

(Code 2010; History: Res. 2010-77)

Sec. 16-167. Public Works; Special Bridge Fund.

The Board of County Commissioners of the County of Shawnee, Kansas, is authorized and empowered by resolution to transfer annually from the road, bridge or street fund of said County, an amount not to exceed twenty-five percent (25%) of said fund to a special highway improvement fund.

(Code 2006; History: K.S.A. 68-141g)

Sec. 16-168. Public Works; Special Road and Bridge Machinery or Equipment Fund.

The Board of County Commissioners of the County of Shawnee, Kansas, is authorized and empowered by resolution to transfer annually from the road, bridge or street fund of said County, an amount not to exceed twenty-five percent (25%) of said fund to a special highway improvement fund

(Code 2006; History: K.S.A. 68-141g)

Sec. 16-169. Register Of Deeds' Change Fund.

There is hereby created a Register of Deeds' Office Change Fund in the amount of One Hundred Dollars (\$100) for the purpose of making change to the public for business transactions in the Register of Deeds' Office. This Fund shall be subject to the control and supervision of the County Register of Deeds.

(Code 2006; History: Res. 2001-23, § 1)

Sec. 16-170. Sheriff's Office; Checking Account.

The County Financial Administrator is authorized to establish a separate checking account with Commerce Bank and Trust for the Sheriff's Office Special Account No. 1. (Code 2006; History: Res. 2000-28, § 1)

Sec. 16-171. Sheriff's Office; Specialized Fund, Prisoner Medical Fund

Shawnee County is required by K.S.A. 19-1910 to provide for the medical costs of any person in the custody of the county Sheriff who requires medical attention and is unable to pay for such services.

The Shawnee County Sheriff's Office annual budget contains funds to pay for the medical expenses of said person in the custody of the Sheriff who require medical treatment. The expenditure of these funds for medical reimbursements vary from year to year. At the end of the county fiscal year any non-expended funds for these anticipated expenses are returned back to the county general fund.

The Sheriff desires to establish a permanent prisoner medical fund as follows:

- (A) Beginning with the 2015 fiscal year budget for the Sheriff's Office, any monies remaining in the "medical supplies" line item of the Sheriff's Office budget at the end of fiscal year 2015 shall be placed in a specific job ledger, rather than refunded to the county general fund.
- (B) The Board of County Commissioners will continue to provide funds to the Shawnee County Sheriff in order for the Sheriff to fund the "medical supplies" item in the budget. Any monies remaining in the "medical supplies" expense line item of the Sheriff's Office budget at the end of each succeeding fiscal year shall be placed in a specific job ledger.
- (C) In the event the Sheriff's Office needs funds, subsequent to the 2015 fiscal year, for payment of medical claims pursuant to K.S.A. 22-4612 and amendments thereto, that exceed that current year budget funds, the Sheriff shall utilize the available funding in the job ledger account to satisfy the payment of said medical claims for reimbursement. (Code 2015; History: Res. 2015-116)

Secs. 16-172 - 16-240. Reserved.

ARTICLE VI. PETTY CASH FUNDS

Sec. 16-241. Petty Cash Funds; Established.

The following petty cash funds are established:

<u>Department</u>	<u>Pe</u>	etty Cash
County Clerk	\$	100.00
County Counselor	\$	25.00
Department of Corrections	\$	100.00

Election Commissioner	\$ 100.00
Parks & Recreation Admin Office	\$ 100.00
Solid Waste	\$ 200.00
Sheriff	\$ 50.00
Treasurer	\$ 50.00
TOTAL	\$ 725.00

(Code 2006; History: Res. 2004-123; amended by Res. 2005-53; amended by Res. 2006-88; amended by Res. 2006-100; amended by Res. 2007-88; amended by Res. 2010-21; amended by Res. 2010-32; amended by Res. 2010-67; amended by Res. 2010-82; amended by Res. 2011-84; amended by Res. 2011-97; amended by Res. 2011-162; amended by Res. 2012-28; amended by Res. 2012-44; amended by Res. 2013-51; amended by Res. 2013-132; amended by Res. 2015-80; amended by Res. 2015-83; amended by Res. 2016-2)

Sec. 16-242. Same; Expenditures.

Expenditures from the above petty cash funds shall only be for administrative office expenses, and no expenditure shall be for more than Twenty-five Dollars (\$25). (Code 2006; History: Res. 2004-123; amended by Res. 2005-53; amended by Res. 2006-88; amended by Res. 2006-100; amended by Res. 2012-28; amended by Res. 2016-2)

Sec. 16-243. Same; Expenditure Prohibitions.

No petty cash fund may be used to pay regular employees or current accounts which are payable monthly.

(Code 2006; History: Res. 2004-123, § 3; amended by Res. 2005-53, § 3; amended by Res. 2006-88, § 3; amended by Res. 2006-100, § 2)

Sec. 16-244. Same; Reimbursements.

After each expenditure, the custodian of the fund shall submit a bill, receipt, and accompanying written request to the County Clerk for reimbursement of the petty cash fund. (Code 2006; History: Res. 2004-123, § 4; Res. 2005-53, § 4; amended by Res. 2006-88, § 4; amended by Res. 2006-100, § 4)

Sec. 16-245. Same; Reconciliation.

No less than five (5) days after the end of each month, the custodian of each fund shall submit an itemized and detailed reconciliation and statement of payments made out of each petty cash fund. The reconciliation shall set forth the total amount of existing cash funds in each petty cash fund, and a listing of any unreimbursed expenditures previously submitted to the County Clerk.

(Code 2006; History: Res. 2004-123, § 5; amended by Res. 2005-53, § 5; amended by Res. 2006-88, § 5; amended by Res. 2006-100, § 5)

Sec. 16-246. Same; Authorized.

This article sets forth all authorized petty cash funds under the supervision and control of the Board and any previously authorized petty cash fund resolutions in conflict herewith or not contained herein are rescinded. Additional petty cash funds may be authorized, and such petty cash funds shall be subject to the rules set forth in this article.

(Code 2006; History: Res. 2004-123, § 6; amended by Res. 2005-53, § 6; amended by Res. 2006-88, § 6; amended by Res. 2006-100, § 6)

ARTICLE VII. CHANGE DRAWER FUNDS

Sec. 16-281. Change Drawer Funds; Established.

The following change drawer funds are established:

<u>Department</u>		Change Drawer	
Appraiser	\$	50.00	
County Clerk			
Fish & Game	\$	50.00	
District Court Clerk	\$	300.00	
II Jul A I IID 10th Cu			
Health Agency LHD 10 th Street	Ф	100.00	
LHD 1	\$	100.00	
LHD 2	\$	100.00	
Community Clinics/Education	\$	150.00	
Business Office	\$	200.00	
Reception	\$	75.00	
Household Hazardous Waste	\$	50.00	
Parks & Recreation	_		
Administrative Office	\$	200.00	
Hillcrest Administration Office	\$	200.00	
Central Park Community Center	\$	50.00	
Crestview Community Center	\$	60.00	
Garfield Community Center	\$	50.00	
Hillcrest Community Center	\$	50.00	
Oakland Community Center	\$	50.00	
Shawnee North Community Center	\$	200.00	
Athletic/League Office	\$	200.00	
Special Event Fund	\$	400.00	
Bettis Family Sports Complex			
Admissions			
Gate #1	\$	400.00	
Gate #2	\$	400.00	
Concessions			
Stand #1	\$	500.00	
Stand #2	\$	500.00	
Lake Shawnee Marina			
Admissions	\$	300.00	
Concessions	\$	300.00	
Lake Shawnee Girls Softball Complex			
Admissions	\$	400.00	
Concessions	\$	400.00	
Lake Shawnee Campground	\$	200.00	
Midwest Health Aquatic Center	т		
Admissions	\$	500.00	
Concessions	\$	500.00	
Shawnee North Athletic Complex	Ψ	000.00	
Concessions	\$	400.00	
Shawnee North Family Aquatic Center	Ψ	100.00	
Admissions	\$	500.00	
Concessions	\$	500.00	
COHOCOSTOHO	Ψ	500.00	

Rossville Community Swimming Pool		
Admissions	\$	200.00
Concessions	\$	200.00
Mini-Train		
Concessions	\$	300.00
Admissions	\$	300.00
Carousel	\$	200.00
Dornwood		
Concessions	\$	300.00
Ruger Park		
Concessions	\$	200.00
Blaisdell Pool		
Concessions	\$	500.00
Admissions	\$	500.00
Garfield Pool		
Concessions	\$	200.00
Admissions	\$	200.00
Hillcrest Pool		
Admissions	\$	200.00
Concessions	\$	100.00
Oakland Pool		
Admissions	\$	100.00
Concessions	\$	50.00
Old Prairie Town		
Drugstore	\$	200.00
General Store	\$	200.00
Register of Deeds	\$	100.00
Treasurer	\$ '	7,050.00
Weed Department	\$	100.00
TOTAL	\$1	9,535.00

(Code 2012; History: Res. 2012-29; amended by Res. 2012-46; amended by Res. 2012-70; amended by Res. 2013-52; amended by Res. 2013-133; amended by Res. 2015-80; amended by Res. 2016-3; amended by Res. 2016-39; amended by Res. 2016-47; amended by Res. 2016-59; amended by Res. 2017-9; amended by Res. 2018-29;)

Sec. 16-282. Same; Expenditures.

The change drawer funds shall only be used to make change for customers or clients. Any purchases or expenditures shall be made from petty cash funds, not these change drawer funds.

(Code 2012; History: Res. 2012-29, § 2)

Sec. 16-283. Same; Exchanges.

The cash in the change drawers may be exchanged to replenish the smaller denominations used to make change. (Code 2012; History: Res. 2012-29, § 3)

Sec. 16-284. Same; Treasurer Allocation.

The Treasurer's office may allocate the balance of its change drawer between its courthouse office and its annex location, but must notify the Audit/Finance Department of the balance in each location.

(Code 2012; History: Res. 2012-29, § 4)

Sec. 16-285. Same; Audit.

Every change fund shall be subject to random audits by the Shawnee County Audit/Finance Department.

(Code 2012; History: Res. 2012-29, § 5)

Sec. 16-286. Same; Authorized.

This article sets forth all authorized change drawer funds under the supervision and control of the Board. Additional cash drawer funds may be authorized, and such cash drawer funds shall be subject to the rules set forth in this article.

(Code 2012; History: Res. 2012-29, § 6)

Secs. 16-287 - 16-290. Reserved.

ARTICLE VIII. FIXED ASSET AND INVENTORY SYSTEM

Sec. 16-291. Regulations Incorporated.

The Fixed Asset and Inventory System regulations adopted by the governing body of Shawnee County, Kansas, and prepared by the County consisting of Res. 1995-150, and amendments thereto, may be found in the office of the County Clerk, 200 S.E. 7th Street, Suite 107, Topeka, Kansas. (Code 2006)

Secs. 16-292 - 16-320. Reserved.

ARTICLE IX. GRANT PROCEDURE

Sec. 16-321. Grant Procedure.

- (A) Policies And Procedures For Grant Funding Adopted.
 - (1) From and after the effective date of this resolution, the following policies and procedures for grant funding shall apply to all Shawnee County Departments.
- (B) Grant Applications.
 - (1) All grant applications must be placed on the Board of County Commissioners' agenda for consideration. The following information should be provided:
 - (a) The amount being requested.
 - (b) How the grant funds will be used.
 - (c) The dollar or percentage match required of the County.
 - (d) The grant period.
 - (e) The renewal probability of the grant.
 - (f) Name of the employee who will serve as the project director of the grant.
 - (g) Any additional financial responsibility the County will bear for items such as fringe benefits, overtime pay, and miscellaneous expenses for which no reimbursement will be available pursuant to the grant.
 - (2) All grant applications, except for those submitted by the Shawnee County Health Agency, shall designate the Shawnee County Financial Administrator as the Financial/Fiscal Administrator of the grant. The Health Agency may designate

either the Shawnee County Financial Administrator or the Finance Officer of the Health Agency as the Financial/Fiscal Administrator of the grant.

(a) The Financial Administrator will not be responsible for issuing payments, depositing revenue, or filing monthly, quarterly, or other reports. The project director of the grant will be responsible for the foregoing activities.

(C) Grant Reporting.

- (1) The project director for the grant will complete all reimbursement request forms and required reports.
- (2) A copy of all grant applications, awards, forms, and reports shall be supplied to the Shawnee County Financial Administrator.

(D) Grant Audits.

- (1) Audit-Finance and the County's external auditing firm will have the authority to audit all grants.
- (2) Upon request, the project director of the grant shall supply Audit-Finance and the County's external auditors with all supporting documentation for a grant, such as receipts, expenditures, encumbrances, federal identification numbers, and fixed asset/inventory forms.

(E) Grant Administration.

- (1) The project director of the grant will be responsible for all phases of grant administration. All inquiries into such matters will be directed to the project director.
- (2) The project director shall be responsible for complying with all requirements of the granting agency as well as County policies and procedures.

(F) Funding Policies.

- (1) The County's matching of grant funds must receive approval by the Board of County Commissioners upon the approval of each grant.
- (2) The County will not match funds in any case where the grantor agency will provide one hundred percent (100%) funding for the grant project.
 - (a) Any unencumbered cash balance remaining in a grant fund at the time of the grant's closure will not be eligible for use without authorized approval of all grantor agencies involved.
 - (b) The County project director must contact Audit-Finance to arrange proper disbursement of unexpended grant balances within thirty (30) days of the grant's closure.

(G) Other Provisions.

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

(Code 2006; History: Res. 1995-11, §§ A-C; rescinded by Res. 2006-207)

Secs. 16-322 - 16-350. Reserved.

ARTICLE X. DECLARATION OF OFFICIAL INTENT PROCEDURE

Sec. 16-351. Declaration Of Official Intent Procedure.

Official Intent Declarations. In order to comply with the requirement of the Reimbursement Regulations concerning declarations of official intent to reimburse the County for previously paid project expenditures from the proceeds of subsequently issued debt, the governing body hereby authorizes the County Financial Administrator to make the County's declarations of official intent. The following procedures shall apply to such declarations of official intent:

- (1) Each such declaration shall be made substantially in the form as approved by the Board. Said form may be obtained at the office of the County Clerk;
- (2) Each such declaration shall be maintained in a file by the County Clerk and immediately shall be made part of the publicly available records of the County as prescribed in the Kansas Open Records Act (K.S.A. 45-215 *et seq.*), and shall be available for inspection by the general public during normal business hours;
- (3) Such declarations will not be made in cases where the County does not intend to ultimately reimburse such previous expenditures with the proceeds of subsequently issued debt, and the County Financial Administrator is hereby authorized and directed to consult with the County's bond counsel in order to ascertain the general and specific applicability of the Reimbursement Regulations to the County; and
- (4) The County Financial Administrator shall advise the governing body from time to time as to the declarations made and on the desirability and timing of the issuing of bonds or other debt for projects on which such declarations have been filed, including any recommendations as to timing which are necessary to meet the reimbursement period requirements set forth in the Regulations.

(Code 2006; History: Res. 1993-131, § 1)

Secs. 16-352-16-380. Reserved.

ARTICLE XI. MUNICIPAL INVESTMENT POOL

Sec. 16-381. Participation In Municipal Investment Pool.

- (A) Shawnee County hereby approves the establishment of an account in its name with the State for the purpose of transmitting local funds for investment by the State in the Municipal Investment Pool.
- (B) The individuals, whose signatures appear in Res. 2005-52 and amendments thereto, are officers or employees of the County and are each hereby authorized to transfer funds to the State for investment in the Municipal Investment Pool, and are each further authorized

to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

(C) Notice required by the Pooled Money Investment Board's Municipal Investment Pool Participant Policy shall be provided to:

Shawnee County Financial Administrator Shawnee County Courthouse 200 S.E. 7th, Room 201 Topeka, Kansas 66603

Telephone: (785) 233-8200 Ext. 4307

Facsimile: (785) 291-4941

(D) This section and its authorization shall continue in full force and effect until amended or revoked by Shawnee County and until the State receives a copy of any such amendment or revocation.

(Code 2006; History: Res. 2003-24, §§ 1-4; amended by Res. 2005-52, §§ 1-4)

Secs. 16-382-16-400. Reserved.

ARTICLE XII. TRANSIENT GUEST TAX LEVY

Sec. 16-401. Definitions.

As used in this article:

- (1) Person means an individual, firm, partnership, corporation, joint venture, or other association of persons.
- (2) Hotel, motel, or tourist court means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment, or various other personal services to transient guests, and which is kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests, and having more than two bedrooms furnished for the accommodation of such guests.
- (3) Transient guest means a person who occupies a room in a hotel, motel, or tourist court for not more than twenty-eight (28) consecutive days.
- (4) Business means any person engaged in the business of renting, leasing, or letting living quarters, sleeping accommodations, rooms, or a part thereof in connection with any hotel, motel, or tourist court located in the unincorporated area of Shawnee County.
- (5) Convention and tourism promotion means:
 - (a) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows, and corporate meetings and travel; and
 - (b) Support of those activities and organizations which encourage increased lodging facility occupancy.

(Code 2006; History: Charter Res. 2005-1, § 1.0)

Sec. 16-402. Transient Guest Tax.

- (A) The Board of County Commissioners hereby exempts itself from certain provisions of the transient guest tax act set forth in K.S.A. 12-1696 *et seq.* and K.S.A. 12-16,101.
- (B) Transient guest tax levied; effective date; rate of levy. Beginning on October 1, 2005, and continuing through September 30, 2015, a transient guest tax of six percent (6%) shall be levied upon the gross rental receipts derived from or paid by transient guests for lodging or sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel, or tourist court.
- (C) *Basis of tax*. The transient guest tax levied pursuant to this article shall be based upon the gross rental receipts collected by any business.
- (D) Collection and payment. The tax levied pursuant to this article shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly possible or practicable to the average equivalent therto. Each business collecting the tax levied hereunder shall be responsible for paying over the same to the Kansas State Department of Revenue in the manner prescribed by this article, and the Kansas State Department of Revenue shall administer and enforce the collection of such tax.
- (E) When tax is due and payable; reporting and recordkeeping requirements. The tax levied and collected pursuant to this article shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of November, 2005, but any person filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, may, with the approval of the secretary of revenue and upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time such person pays the retailers' sales tax. Each business shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.
- (F) Examination and inspection of books and records. The Secretary of Revenue of the Secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.
- (G) Failure to pay tax, file return; penalties. If any taxpayer shall fail to pay any tax levied, fail to file a return, fail to supply information necessary to determine the accuracy of the taxpayer's returns, files a false or fraudulent return, or willfully violates regulations of the Secretary of Revenue, then such taxpayer shall be subject to interest and penalties as set out in K.S.A. 12-1698a.
- (H) Administration and collection of tax. The administration and collection of said tax shall be by the Secretary of Revenue, as provided in subsection (c) of K.S.A. 12-1698 and herein.
- (I) Use of transient guest tax revenues. All transient guest tax revenues credited to the County Treasurer by the State Treasurer shall be deposited in the County general fund and, subject to lawful budget appropriations, may be used for the following purposes:

- (1) To contract with any agency, organization, or group of firms to promote conventions and tourism within the County;
- (2) To provide for the operation, maintenance, expansion, or development of County facilities connected with conventions and tourism;
- (3) To defray the cost of providing municipal services to convention and tourism functions, including Sheriff, Public Works, and Parks and Recreation Department functions;
- (4) To create innovative projects and activities promoting conventions and tourism; and
- (5) To promote the economic welfare of the County, including the attraction of industry.

(Code 2006; History: Charter Res. 2005-1, § 2.0)

Sec. 16-403. Same; Proceeds.

In accordance with the provisions of K.S.A. 19-101a(11), a portion of the proceeds of the transient guest tax levied herein shall be used to pay the principal of and interest upon bonds issued by any city located within Shawnee County under the authority of K.S.A. 12-1774, and amendments thereto. Prior to receiving any such payment from the County, a city shall submit a written request for such funds to the County Clerk certifying that it has outstanding bonds issued in accordance with K.S.A. 12-1774 and further stating the purpose and amount of the bonds. Upon receipt of such a request, the Board of County Commissioners shall forward to the requesting city a portion of the proceeds levied herein in an amount determined by the Board.

(Code 2006; History: Charter Res. 2005-1, § 3.0)

Secs. 16-404-16-420. Reserved.

ARTICLE XIII. ESTABLISHMENT OF PROCEDURES FOR THE REVIEW AND APPROVAL OF SHAWNEE COUNTY'S CAPITAL IMPROVEMENT PROGRAMS

Sec. 16-421. Purposes of Shawnee County's Capital Improvement Program.

The purposes of Shawnee County's Capital Improvement Program are to:

- 1. Match capital needs with limited resources, with an emphasis of the promotion of the safety, health and welfare of the public;
- 2. Focus attention on community goals and needs;
- 3. Optimize use of tax receipts and other legally available revenues;
- 4. Maintain and enhance quality of life;
- 5. Coordinate projects amongst various County Departments and with other governmental entities as is feasible;
- 6. Provide for orderly replacement of capital assets;
- 7. Establish basis for the issuance of debt related instruments:
- 8. Satisfy public capital market requirements; and
- 9. Encourage efficient government administration and communications.

Sec. 16-422. Capital Improvement Program Functions of Shawnee County Audit Finance Department And Shawnee County Clerk's Office.

- (A) The Shawnee County Audit Finance Department and the Shawnee County Clerk shall manage the review and approval processes for Shawnee County's Capital Improvement Programs in accordance with the procedures in this Article.
- (B) These two departments shall serve as the central point of contact for the County's external auditors, investment rating firms, other departments within Shawnee County, citizens, and other units of government on issues related to the development, coordination, justification and funding of Shawnee County's capital improvement projects.
- (C) The Shawnee Financial Administrator shall provide feedback to the Board of County Commissioners and general public on the rationale of project proposals, identify funding options and ensure that projects comply with General Accounting Principles (GAAP) and Governmental Accounting Standards Board (GASB).
- (D) Both departments shall coordinate Shawnee County's annual budget requests from the various County Departments for funding of capital related items that are to be presented to the Board of County Commissioners for funding or financing options.

Sec. 16-423. Procedure for Requesting A Capital Improvement Program

At the direction of the Board of County Commissioners, each Shawnee County department shall submit anticipated capital project requests for the next six (6) years to the Shawnee County Financial Administrator and County Clerk. The Shawnee County Financial Administrator shall then establish target limits for capital projects. After ascertaining that the requests are within the Audit Finance office's parameters, a preliminary Capital Improvement Program shall be forwarded to the requesting department by the Audit Finance Department.

Sec. 16-424. Review, Planning And Analysis Of Preliminary Capital Improvement By Requesting Department.

Upon receipt of a preliminary Capital Improvement Program, the requesting department shall review the same and formulate a detailed plan which shall include the following elements:

- 1. A program analysis that establishes the basic programmatic and functional requirements of the proposed program, project or facility.
- 2. Physical master planning that determines the proposed designs, facility planning or program planning and processes.
- 3. A funding feasibility analysis to identify and determine whether sufficient funding is available from internal department funds or the need exists for other potential funding sources, with suggestions of such sources, i.e., grants, gifts, debt etc.

The requesting department head/director shall submit the plan required by this section to the Shawnee County Financial Administrator and provide a copy to the Shawnee County Clerk.

Sec. 16-425. Finalization of Capital Improvement Plan

The Shawnee Financial Administrator and Shawnee County Clerk shall review the requesting department's plan. A finalized Capital Improvement Program will be prepared and forwarded, along with the current expense budget (or operating budget), the capital

budget and program to the Board of County Commissioners. The Financial Administrator will also submit a budget message to the Board of County Commissioners

Sec. 16-426. Consideration of Capital Improvement Program By Board Of County Commissioners.

Upon receipt from the Shawnee County Financial Administrator, the Capital Improvement Program shall be placed on the Board of County Commission's Agenda for consideration during a public hearing. The Board of County Commissioners shall have final authority to approve, reject or modify the Capital Improvements Program at their sole discretion.

(Code 2012; History: Res. 2012-42, §§ 1-6)

Secs. 16-427 - 16-440. Reserved.

CHAPTER 17. FIRE

Art. I. In General, §§ 17-1-17-50

Art. II. Fire Insurance Proceeds, §§ 17-51-17-100

Art. III. Open Burning, §§ 17-101 - 17-150

ARTICLE I. IN GENERAL

Secs. 17-1 - 17-50. Reserved.

ARTICLE II. FIRE INSURANCE PROCEEDS

Sec. 17-51. Procedure For Payment.

- (A) A lien shall arise in favor of Shawnee County on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by fire, explosion, or windstorm, which building or structure is located within the County.
- (B) The lien arises upon any unpaid tax, special *ad valorem* levy, special assessment, or other charge imposed upon real property by or on behalf of the County which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense, or other charge that has remained undischarged for at least one (1) year prior to the filing of a proof of loss.
- (C) Such special assessment shall include the cost of removal of the building or structure, less salvage value, pursuant to K.S.A. 40-3903(c), in the event certification is not made pursuant to K.S.A. 40-3906.
- (D) Payment of insurance proceeds as authorized in K.S.A. 40-3903(a) shall not exceed fifteen percent (15%) of the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure, caused by or arising out of any fire, explosion, or windstorm.

- (E) This article shall apply only to a covered claim payment which is in excess of seventy-five percent (75%) of the face value of the policy covering a building or other insured structure.
- (F) Payment made to the County pursuant to this article, after all amounts due the holder of a first real estate mortgage against the building or other structure pursuant to the terms of the policy and endorsements thereto are paid, shall be deposited into an interest-bearing account.
- (G) The County shall release the insured's proceeds and any interest which has accrued on such proceeds received within thirty (30) days after receipt of such moneys, unless the County has instituted proceedings, using the procedure under K.S.A. 12-1752, and amendments thereto. If the County has instituted legal proceedings, all moneys in excess of that necessary for the removal of the building or structure, less salvage value, and such other liens on the property as referenced in K.S.A. 40-3904, shall be paid to the insured.
- (H) The County shall institute legal proceedings using the procedure under K.S.A. 12-1752 in the event the enforcing officer of the County deems the removal of a building or structure damaged by fire, explosion, or windstorm is necessary for the health, safety, and welfare of the public.
- (I) The enforcing officer for Shawnee County shall be and is the County Zoning Administrator. The County Zoning Administrator may seek the advice of experts in the field of structural engineering.
- (J) The Board shall notify the Commissioner of Insurance upon adoption of this resolution.

(Code 2006; History: Res. 2001-111, §§ 1-10)

Secs. 17-52 - 17-100. Reserved.

ARTICLE III. OPEN BURNING

Sec. 17-101. Prohibitions.

- (A) It shall be unlawful, and a violation of this article, for any person to:
 - (1) Cause or permit the open burning of any wastes, structures, vegetation or any other materials on any premises within the unincorporated areas of Shawnee County, Kansas except as authorized by this article;
 - (2) Cause or permit open burning or agricultural burning without a permit;
 - (3) Refuse or neglect to comply with the conditions or limitations on or in any duly issued burning permit;
 - (4) Refuse or neglect to keep and maintain records required by this article;
 - (5) Refuse or neglect to make a burning permit or records required to be kept by this article available for inspection to the Fire Chief, the Fire Chief's designated representative or any law enforcement officer upon request;
 - (6) Impede, obstruct or hinder or to otherwise prevent or attempt to prevent, any fire chief or firefighter in the performance of duties in connection with the administration or and enforcement of this article; and/or
 - (7) Violate the terms and conditions of a burning ban issued by the Governor or Board.

(B) As used in this article, *open burning* means setting, starting, igniting, maintaining, spreading, fueling or failing to extinguish an open fire. An *open fire* is any outdoor fire other than a small fire in a non-combustible container, the primary purpose of which is to cook food, such as, but not limited to barbeque grills.

(Code 2006; History: H.R. Res. 1999-3, § I)

Sec. 17-102. Prohibition Exemptions.

- (A) The following open burning operations shall be exempt from the prohibition on open burning:
 - (1) Open burning carried out on a residential premise containing five (5) or less dwelling units and incidental to the normal habitation of the dwelling units, unless prohibited by any local authority with jurisdiction over the premises;
 - (2) Open burning for cooking or ceremonial purposes, on public or private lands regularly used for recreational purposes;
 - (3) Open burning for the purpose of crop, range, pasture, wildlife or watershed management in accordance with this article; or
 - (4) Open burning approved by the fire department having jurisdiction pursuant to § 17-102(B).
- (B) A person may conduct an open burning operation that is not otherwise exempt from the prohibition imposed by this article if the Fire Chief or the Fire Chief's designee finds that the open burning is:
 - (1) Necessary, which in the case of burning for the purpose of disposal of any materials, shall mean that there is no other practical means of disposal;
 - (2) In the public interest; and
 - (3) Not prohibited by state law or regulations.
- (C) Open burning operations for which an approval is required but which are deemed to be necessary and in the public interest include the following:
 - (1) The use of safety flares for disposal of flammable gases;
 - (2) Fires related to the training of government or industrial personnel in fire fighting procedures;
 - (3) Fires set for the removal of dangerous or hazardous liquid materials;
 - (4) Open burning of trees and brush from non-agricultural land clearing operations; and
 - (5) Open burning of clean wood waste from construction projects carried out at the construction site.

(Code 2006; History: H.R. Res. 1999-3, § II)

Sec. 17-103. Prima Facie Evidence.

It shall be prima facie evidence that the person who owns or controls property on which open burning has occurred has caused or permitted the open burning. (Code 2006; History: H.R. Res. 1999-3; § III)

Sec. 17-104. Fire Department Fee For Services.

(A) A fee for services may be assessed on any landowner as provided in § 17-104(B), whenever a fire department responds to investigate or extinguish a fire which has been set,

started, ignited, caused, maintained, conducted or spread in violation of this article, K.S.A. 65-3010 or K.A.R. 28-19-647, and amendments thereto. As used in this article, *fee for services* means the reasonable costs or expenses associated with the apparatus, equipment, material and personnel activated, summoned or responding to investigate or extinguish the fire.

- (B) A Fire Chief or a duly authorized representative of a Fire Chief of a responding fire department, upon a finding that a landowner, or any employee or agent thereof or any person or entity under such landowner's direction and control has violated any of the provisions of this article, K.S.A. 65-3010 or K.A.R. 28-19-647, or amendments thereto, may assess a fee for services as provided in this article upon such landowner. In determining the amount assessed, such official shall consider the person's prior violations of prohibitions against burning, whether the violation was committed knowingly, intentionally or recklessly and other aggravating or mitigating factors which bear upon the seriousness of the offense.
- (C) No fee for services shall be imposed pursuant to this article except upon the written invoice of the Fire Chief or duly authorized representative of the Fire Chief to the landowner against whom the fee for services is to be assessed. Such written invoice shall be served upon the landowner either personally or by certified mail, return receipt requested, and shall state the violation, the fee for services assessed and the right of the landowner to appeal to the governing body of the fire department. Where the invoice is mailed, service is complete upon mailing.
- (D) Any landowner, within twenty (20) calendar days after services, may make written request to the governing body of the fire department for a hearing. Where the invoice was mailed, the landowner shall have an additional three (3) calendar days to make a written request for a hearing. The governing body of the fire department may affirm, reverse or modify the invoice of the Fire Chief or the authorized representative of the Fire Chief assessing a fee for services pursuant to this article. In so doing, the governing body shall specify the reasons for its action in writing and shall promptly notify the landowner in person or by certified mail, return receipt requested, of its decision.
- (E) Any fee for services paid or recovered pursuant to the provisions of this article shall be remitted to the treasurer of the governing body of the fire department or fire district involved.

(Code 2006; History: H.R. Res. 1999-3, § IV)

Sec. 17-105. Unpaid Fees For Services.

- (A) The unpaid balance of any fee for services not paid within thirty (30) days after an invoice has been served or, where a hearing has been requested, within thirty (30) days after the governing body has notified the landowner of its decision shall be deemed delinquent and shall draw interest at a rate prescribed for delinquent taxes pursuant to K.S.A. 79-2968, as amended.
- (B) In a case where a fee for services invoice remains unpaid by December 31 of each year, the governing body of the fire department shall immediately notify the landowner against whom the fee for services was assessed in writing by certified mail, return receipt requested, that if the fee for services is not paid within thirty (30) days from the date of such notice of the amount remaining unpaid and any interest thereon shall be added to the fee for services amount and the total amount thereof shall become a lien upon the property upon which the violation occurred. A copy of the notice to the landowner, together with proof of notification, shall at the same time be filed with the County Register of Deeds and the County Clerk and if such amount is not paid within the next thirty (30) days, the County Clerk shall spread the amount of such statement upon the tax roll prepared by the County Clerk and such amount shall become a lien against the entire contiguous tract of land upon which the violation occurred and shall be collected as other taxes are collected.

(C) If any land subject to a lien imposed under this article is sold or transferred, the entire remaining balance of any fees for services plus any penalties assessed for nonpayment thereof shall become due and payable prior to the sale or transfer of ownership of the property, and upon collection shall be paid to the treasurer of the governing body of the fire department involved.

(Code 2006; History: H.R. Res. 1999-3, § V)

Sec. 17-106. Right To Enter Property.

For purposes of administering and enforcing this article, the Fire Chief, or a duly authorized representative of the Fire Chief, and law enforcement officers, shall have the right to enter private property:

- (1) To inspect lands or property actually or reported to be burned as the result of open burning or agricultural burning;
- (2) To inspect and investigate complaints of violations of this article;
- (3) To inspect burning permits; and
- (4) To observe the open burning or agricultural burning and the manpower and equipment available to control the burning.

(Code 2006; History: H.R. Res. 1999-3, § VI)

Sec. 17-107. Criminal Penalties.

Any person violating or failing to comply with any provisions of this article or attempting to violate or fail to comply with the provisions of this article, shall be guilty of a Class C misdemeanor.

(Code 2006; History: H.R. Res. 1999-3, § VII)

Sec. 17-108. Civil Remedies Preserved.

Nothing in this article shall be construed to abridge, limit or otherwise impair the right of any person to damages or other relief on account of injury to persons or property and to maintain any action or other appropriate proceedings therefore.

(Code 2006; History: H.R. Res. 1999-3, § VIII)

Sec. 17-109. Burning Permits.

- (A) Each person desiring to conduct any open burning operation shall first submit a written request for a burning permit to the fire department having jurisdiction on a form provided by such department.
- (B) Each burning permit shall be valid for such period of time as may be designated on the face thereof by the Fire Chief or the Fire Chief's designee issuing such permit.
- (C) The Fire Chief or his/her designee may revoke any burning permit upon thirty (30) days notice.
 - (D) Burning permits shall contain at least the following information:
 - The location of the proposed open burning, the landowner's name and address and the name, address and telephone number of the person responsible for the open burning;
 - (2) A description of the open burning including:
 - (a) The estimated amount and nature of material to be burned;
 - (b) The proposed frequency, duration and schedule of the burning;

- (c) The size of the area to which burning will be confined;
- (d) The method of igniting the material;
- (e) The location of any public roadways within one thousand (1,000) feet of the proposed burn;
- (f) The number of occupied dwellings within one thousand (1,000) feet of the proposed burn; and
- (g) Evidence that the open burning has been approved by appropriate health and/or environmental authority having jurisdiction over the area or that such approval is not required; and
- (3) The reason why the proposed open burning is necessary and in the public interest if the activity is not listed in § 17-102; and
- (4) Any special conditions or restrictions imposed by the Fire Chief or his/her designee.
- (E) Each person applying for a burning permit or requesting an exemption from the requirements of obtaining a burning permit shall be provided a copy of this article when requested.

(Code 2006; History: H.R. Res. 1999-3, § IX)

Sec. 17-110. Open Burning General Terms And Conditions.

- (A) Open burning shall be subject to the following conditions, except as provided in § 17-110(B):
 - (1) The person conducting the burning shall stockpile the material to be burned, dry it to the greatest extent possible before it is burned, and assure that it is free of matter that will inhibit good combustion;
 - (2) A person shall not burn heavy smoke-producing materials, including but not limited to heavy oils, tires and tarpaper;
 - (3) A person shall not initiate nor continue burning during the nighttime, which for the purposes of this article is defined as the period from two (2) hours before sunset until one (1) hour before sunrise without the prior express permission of the Fire Chief's designee. A person shall not add material to a fire after two (2) hours before sunset;
 - (4) A person shall not burn during inclement or foggy conditions or on very cloudy days, which are defined as days with more than 0.7 cloud cover and with a ceiling of less than two thousand (2,000) feet;
 - (5) A person shall not initiate or continue open burning or agricultural burning during periods when surface wind speed is less than five (5) m.p.h. or more than fifteen (15) m.p.h. without the express permission of the Fire Chief or the Fire Chief's designee;
 - (6) A person shall not burn within one thousand (1,000) feet of any occupied dwelling, unless the occupant of that dwelling has been notified before the burn and an adequate fire break separates the dwelling and the area or property to be burned;
 - (7) A person shall not burn within two hundred fifty (250) feet of any structure unless an adequate fire break separates the structure from the area or property to be burned or a sufficiently equipped and competent fire watch is established until the fire is extinguished;

- (8) A person shall not conduct a burn that creates a traffic or other safety hazard. If burning is to take place within one thousand (1,000) feet of a roadway, the person conducting the burn shall notify the Highway Patrol, Sheriff's Office, or other appropriate State or local traffic authority before the burning begins. If burning is to take place within one (1) mile of an airport, the person conducting the burn shall notify the airport authority before the burning begins;
- (9) The person initiating the burn shall insure that the burning is supervised by competent adults on site until the fire is extinguished; and
- (10) A person shall conduct an open burning operation under such additional conditions as the department may deem necessary including, but not limited to, conditions to prevent emissions which:
 - (a) May be injurious to human health, animal or plant life, or property; or
 - (b) May unreasonably interfere with the enjoyment of life or property; and
 - (c) The person conducting the open burning shall have in such person's possession the burning permit, or an exact photocopy thereof, pertaining to the open burning being conducted.
- (B) The Fire Chief or the Fire Chief's designee may issue a burning permit for an open burning operation that does not meet the conditions set forth in § 17-110(A) upon a clear demonstration that the proposed burning:
 - (1) Is necessary and in the public interest;
 - (2) Can be conducted in a manner that will not result in emissions which:
 - (a) May be injurious to human health, animal or plant life, or property; or
 - (b) May unreasonably interfere with the enjoyment of life or property; and
- (3) Will be conducted in accordance with state law and regulations and such conditions as the Fire Chief or Fire Chief's designee deems necessary. (Code 2006; History: H.R. Res. 1999-3, § X)

Sec. 17-111. Additional Requirements For Agricultural Open Burning.

The open burning of vegetation such as grass, woody species, crop residue and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management shall be conducted under the following conditions:

- (1) The person conducting the burn shall notify the local fire department(s) with jurisdiction over the area before the burning begins and once the fire is extinguished and the open burning operations concluded, unless the fire department has established a policy that such notifications are not required;
- (2) A person shall not conduct a burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give prompt and adequate notification to the Highway Patrol, Sheriff's Office or other appropriate State or local traffic control authorities before burning;
- (3) A person shall not conduct a burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give prompt and adequate notification to the appropriate airport authorities before burning;

- (4) The person initiating the burn shall insure that the burning is supervised by competent adults on site until the fire is extinguished and shall insure that sufficient manpower and equipment are on hand to control the open burning at all times;
- (5) The person conducting the open burning shall have in such person's possession the burning permit, or an exact photocopy thereof, pertaining to the open burning being conducted; and
- (6) A proper firebreak shall exist or be created for at least fifteen (15) feet on all sides of the area to be burned.

(Code 2006; History: H.R. Res. 1999-3, § XI)

Sec. 17-112. Record Keeping.

- (A) Whenever notice is required or has been provided under any provision of this article the person making such notification shall keep a record of the name of each person and agency notified, the telephone number dialed to provide notice or other means of notification employed, and the time and date of all notifications made.
- (B) Records made and kept pursuant to this article shall be made available upon request for inspection and copying by the Fire Chief, the Fire Chief's designee or any law enforcement office.
- (C) Records made pursuant to this article shall be kept and maintained for a period of twelve (12) months from the date of the fire. (Code 2006; History: H.R. Res. 1999-3, § XII)

Secs. 17-113 - 17-150. Reserved.

CHAPTER 18. FIREWORKS AND FIREARMS

Art. I. In General, §§ 18-1-18-50Art. II. Petition Procedures For Imposition Of Fireworks And/Or Firearms Restrictions, §§ 18-51-18-100

Art. III. Fireworks Restrictions, §§ 18-101-18-150

Art. IV. Firearms Restrictions, §§ 18-151-18-200

Note: See also Chapter 7, Business Regulations, Article VII, Temporary Sales of Fireworks.

ARTICLE I. IN GENERAL

Secs. 18-1-18-50. Reserved.

ARTICLE II. PETITION PROCEDURES FOR IMPOSITION OF FIREWORKS AND/OR FIREARMS RESTRICTIONS

Sec. 18-51. Petition Procedures; Montara Subdivisions.

- (A) For the purposes of this section, the term *Montara Subdivisions* shall include Montara Subdivision, Montara North Subdivision, Montara Subdivision No. 1, and Greenview Subdivision.
- (B) Upon receipt of a petition certified by the County Clerk as having been signed by at least sixty percent (60%) of the real property owners in the Montara Subdivisions, the Board shall conduct a public hearing to determine if fireworks and/or firearms restrictions should be enforced within the boundaries of said platted subdivisions. Each signature on the petition shall be verified by the petitioner(s).
- (C) A filing fee of One Hundred Dollars (\$100) must accompany the filing of each petition with the County Clerk.
- (D) Any public hearing shall be preceded by notice published once in the official County newspaper at least ten (10) days prior to the hearing.
- (E) Any petition requesting the imposition of fireworks and/or firearms restrictions must be related to the police power of the County and must not impair or violate constitutional rights or property rights. Upon filing, any petition shall be sent to the County Counselor to review for form and legality. If the County Counselor finds that the petition is unlawful, the petition shall not proceed to hearing before the Board. The County Counselor shall place into writing the reasons for the denial and submit the writing to the petitioner(s) and the Board.
- (F) Any such petition may request the Board to enact a resolution banning the discharge, explosion, or use of any fireworks within the Montara Subdivisions except for a period of time before and after the Fourth of July holiday.
- (G) The term *fireworks* shall include all items classified as fireworks by the United States Department of Transportation.
- (H) Any such petition may request the Board to enact a resolution banning the discharge of any firearm within the Montara Subdivisions except for purposes of self-defense.
- (I) The term *firearm* means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon. See 18 U.S.C.A. § 921 et seq.
- (J) The Board shall have the sole discretion whether to approve the restriction(s) requested in a properly filed petition.
- (K) Upon annexation by any city, any fireworks or firearms restrictions shall become void, and the subdivisions shall be subject to all laws and jurisdiction of the annexing city.
- (L) Should any court declare any section, clause or provision of this section to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this section. (Code 2006; History: H.R. Res. 2003-4, §§ 1-12)

ARTICLE III. FIREWORKS RESTRICTIONS

Sec. 18-101. Fireworks Restrictions; Montara Subdivisions.

- (A) For the purposes of this section, the term *Montara Subdivisions* shall include Montara Subdivision, Montara North Subdivision, Montara Subdivision No. 1, and Greenview Subdivision.
- (B) The term *fireworks* shall include all items classified as fireworks by the United States Department of Transportation.
- (C) The discharge, explosion, or use of any fireworks within the Montara Subdivisions is prohibited except between the hours of 8:00 A.M. and 10:00 P.M. on July 1-3 and between the hours of 8:00 A.M. and 12:00 P.M. (midnight) on July 4.
- (D) If any person is convicted of any violation of this section, the following fines and penalties shall be imposed:
 - (1) For the first violation, a fine in the amount of Fifty Dollars (\$50);
 - (2) For the second violation, a fine in the amount of Two Hundred Fifty Dollars (\$250); and
 - (3) For the third or any subsequent violation, a fine in the amount of One Thousand Dollars (\$1,000).
- (E) Upon annexation by any city, the fireworks restrictions herein shall become void, and the subdivisions shall be subject to all laws and jurisdiction of the annexing city.
- (F) Should any court declare any section, clause, or provision of this section to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional and shall not affect any other section, clause, or provision of this section. (Code 2006; History: H.R. Res. 2003-11, §§ 1-6)

Secs. 18-102 - 18-150. Reserved.

ARTICLE IV. FIREARMS RESTRICTIONS

Sec. 18-151. Discharge Of Firearms Prohibited; Montara Subdivisions.

- (A) For the purposes of this section, the term *Montara Subdivisions* shall include Montara Subdivision, Montara North Subdivision, Montara Subdivision No. 1, and Greenview Subdivision.
- (B) The term *firearm* means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon. *See* 18 U.S.C.A. § 921 *et seq*.
- (C) Except for purposes of self-defense, no firearm may be discharged in the Montara Subdivisions.
- (D) If any person is convicted of any violation of this section, the following fines and penalties shall be imposed:
 - (1) For the first violation, a fine in the amount of One Hundred Dollars (\$100);
 - (2) For the second violation, a fine in the amount of Two Hundred Fifty Dollars (\$250); and

- (3) For the third or any subsequent violation, a fine in the amount of One Thousand Dollars (\$1,000).
- (E) Upon annexation by any city, the firearms restrictions herein shall become void, and the subdivisions shall be subject to all laws and jurisdiction of the annexing city.
- (F) Should any court declare any section, clause, or provision of this section to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional and shall not affect any other section, clause, or provision of this section. (Code 2006; History: H.R. Res. 2003-12, §§ 1-6)

Sec. 18-152. Discharge of Firearms Regulated; Clarhan Farms Subdivision.

1. For the purposes of this resolution, the term "Clarhan Farms Subdivisions" shall mean "Clarhan Farms Subdivision, Clarhan Farms Subdivision No. 2, and Clarhan Farm Subdivision No. 3" all located in Shawnee County, Kansas and legally described as:

The Southwest quarter of Section 14, Township 12 South, Range 14 East of the 6th P.M.

- 2. The term "firearm" means any weapon which is designed to or may readily be converted to expel any projectile by the action of an explosive; or the frame or receiver of any such weapon. See 18 U.S.C.A. § 921 et seq.
- 3. Except for purposes of self-defense, no firearm may be discharged in Clarhan Farms Subdivisions.
- 4. If any person is convicted of any violation of this Resolution, the following fines and penalties shall be imposed:
 - a. For the first violation, a fine in the amount of One Hundred and No/100 Dollars (\$100.00);
 - b. For the second violation, a fine in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00); and
 - c. For the third or any subsequent violation, a fine in the amount of One Thousand and No/100 Dollars (\$1,000.00).
- 5. Upon annexation by any City, the firearms restrictions herein shall become void, and the subdivisions shall be subject to all laws and jurisdiction of the annexing City.
- 6. Should any court declare any section, clause, or provision of this Resolution to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional and shall not affect any other section, clause, or provision of this Resolution. (Code 2007; History: H.R. Res. 2007-5)

Secs. 18-153 - 18-200. Reserved.

CHAPTER 19. HAZARDOUS MATERIALS

Art. I. In General, §§ 19-1-19-50

Art. II. Release Of Hazardous Materials, §§ 19-51 – 19-90

Art. III. Hazard Identification Signs, §§ 19-91 – 19-120

ARTICLE I. IN GENERAL

Secs. 19-1-19-50. Reserved.

ARTICLE II. RELEASE OF HAZARDOUS MATERIALS

Sec. 19-51. Purpose.

For the purpose of promoting the public health, safety and welfare, it is hereby declared to be in the public interest to enact a means for recovery, through civil suit if required, the recoverable expenses incurred in taking an emergency action in response to a release or threatened release of hazardous materials.

(Code 2006; History: H.R. Res. 1989-12, § 1.0)

Sec. 19-52. Definitions.

- (A) *Emergency action* means all of the activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of any material into or upon the environment.
- (B) Governmental entities include the City of Topeka, the Board of County Commissioners of the County of Shawnee, Kansas, and any entity responding under a mutual aid agreement with the City of Topeka or the County.
- (C) *Person* shall include any individual, corporation, association, partnership, firm, trustee, or legal representative.
- (D) Recoverable expenses means those expenses that are reasonable, necessary and allocable to the emergency action. Recoverable expenses shall not include normal expenditures that are incurred in the course of providing what are traditionally local services and responsibilities, such as routine fire fighting. Expenses allowable for recovery may include, but are not limited to:
 - (1) Disposable materials and supplies acquired, consumed and expended for the emergency action;
 - (2) Compensation of employees for the time and efforts devoted specifically to the emergency action;
 - (3) Rental or leasing of equipment used for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment);
 - (4) Replacement, repair and/or cleaning costs for equipment utilized in the emergency action;
 - (5) Special technical services utilized in the response (e.g., costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the governmental entity);

- (6) Other special services utilized in the emergency action;
- (7) Laboratory costs for purposes of analyzing samples taken during the emergency action:
- (8) Any costs of cleanup, storage, or disposal of the released materials;
- (9) Costs associated with the services, supplies and equipment procured for an evacuation;
- (10) Medical expenses incurred as a result of response activities; and/or
- (11) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this article.
- (E) Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment.
- (F) Hazardous materials means those chemicals or substances which are physical hazards or health hazards as defined and classified in Article 80 of the UNIFORM FIRE CODE, whether the materials are in usable or waste condition. (Code 2015; History: H.R. Res. 1989-12, § 2.0)

Sec. 19-53. Liability.

Any and all persons responsible for a release or threatened release which results in an emergency action shall be liable to the governmental entities for the recoverable expenses resulting from the emergency action. *Persons responsible* shall include, but not be limited to, owners and/or those people or entities in control of any container(s) from which a hazardous substance is released.

(Code 2006; History: H.R. Res. 1989-12, § 3.0)

Sec. 19-54. Recovery Of Expense.

The staffs of the governmental entities involved in the emergency action shall keep a detailed record of their recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify those expenses to the appropriate legal counsel and shall request the legal counsel bring a civil action for recovery of the recoverable expenses against any and all persons responsible for the emergency action. Not less than thirty (30) days before filing a civil action, legal counsel shall submit a written, itemized claim for the total certified expenses incurred by the governmental entities in responding to the emergency action to the responsible party with a written notice that unless the amount is paid in full to the respective governmental entities within thirty (30) days after the date of the mailing of the claim and notice, legal counsel will file a civil action for the stated amount. Moneys recovered under this article shall be credited to the appropriate funds of the governmental entity from which moneys were expended in carrying out the emergency action.

(Code 2006; History: H.R. Res. 1989-12, § 4.0)

Sec. 19-55. Rescission.

This article is not contractual and may be rescinded by a majority vote of either the governing body of the City of Topeka or the County. This is not an interlocal cooperation agreement as contemplated in K.S.A. 12-2901 *et seq.* or K.S.A. 12-3901 *et seq.* (Code 2006; History: H.R. Res. 1989-12, § 5.2)

Sec. 19-56. County Home Rule; Incorporated Areas Of The County.

This article is not to be construed as conflicting with the provisions of K.S.A. 19-101a(5) which confers home rule powers and shall be applicable to all incorporated and unincorporated areas of the County.

(Code 2006; History: H.R. Res. 1989-12, § 6.0)

Secs. 19-57 - 19-90. Reserved.

ARTICLE III. HAZARD IDENTIFICATION SIGNS

Sec. 19-91. Signage Requirement; Uniform Fire Code.

Hazard identification signs shall be placed at all entrances to locations where hazardous substances are stored or used in quantities requiring a permit under § 4.108 and amendments thereto of the UNIFORM FIRE CODE, 1988 Edition. If at any location there is more than one (1) storage facility as defined in the UNIFORM FIRE CODE, hazard identification signs shall be posted on each facility in accordance with fire department regulations. At the principal public entrance of each facility, a diamond-shaped sign identifying the substances located at the site in accordance with the NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) STANDARD 704, and amendments thereto, shall be posted. Such signs shall be posted in a conspicuous manner and in accordance with fire department requirements. (Code 2006; History: H.R. Res. 1992-12, § 1)

Sec. 19-92. National Fire Protection Association (NFPA) 704.

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 704, STANDARD SYSTEM FOR IDENTIFICATION OF THE FIRE HAZARDS OF MATERIALS, 1985 Edition, and amendments thereto, adopted and published by the National Fire Protection Association, Inc., is hereby incorporated by reference and made a part of this article. (Code 2006; History: H.R. Res. 1992-12, § 2)

Secs. 19-93-19-120. Reserved.

CHAPTER 20. INFORMATION TECHNOLOGY

Art. I. In General, §§ 20-1-20-50

Art. II. Computer Software, §§ 20-51-20-100

Art. III. Electronic Media; Communication Services; Use Of County Property, \$\$ 20-101-20-140

Art. IV. Purchase Of Equipment And Service Contracts, §§ 20-141 - 20-190

Art. V. Wireless Telephones, §§ 20-191-20-230

ARTICLE I. IN GENERAL

Sec. 20-1. Information Technology; Name Change.

The Shawnee County Data Processing Department is renamed the Shawnee County Department of Information Technology and may be informally referred to by the initials "I" "T."

(Code 2006; History: Res. 1998-115, § 1)

Sec. 20-2. Adoption of The Shawnee County IFAS Data Backup and Retention Policy

- (A) The Board of County Commissioners of the County of Shawnee, Kansas has adopted the IFAS data Backup and Retention Policy, as maintained by the Shawnee County Technology Department.
- (B) The Shawnee County Information Technology Department shall be responsible for implementing, reviewing and updating the policy as necessary. (Code 2010; History: Res. 2010-81)

Sec. 20-3. Adoption of the Shawnee County Information Technology Policy.

The Board hereby adopts the Shawnee County Information Technology Policy (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street] or the Shawnee County Information Technology Department [200 S.E. 7th Street]) in order to safeguard the County's information technology systems and increase employee productivity. (Code 2017; History: Res. 2017-80)

Secs. 20-4-20-50. Reserved.

ARTICLE II. COMPUTER SOFTWARE

Sec. 20-51. Computer Software.

- (A) Software not specifically approved by the County Department of Information Technology shall not be installed in the A:drive, C:drive or CD-ROM on any County-owned personal computer.
- (B) All software presently on any County computer that has not been approved shall be removed immediately.
- (C) No person shall install any software on a County computer except personnel from or otherwise authorized by the Department of Information Technology.

- (D) The Department of Information Technology shall remove all games and other novelties from all personal computers owned by the County.
- (E) All personal computers purchased after the enactment of this section shall be subject to this section including the removal of all games.
- (F) Each department head shall be responsible for overseeing the use of each computer in their department.
- (G) The Department of Information Technology reserves the right to spot-check each computer owned by the County regardless of department.
- (H) Anyone found in violation of this section may be subject to appropriate discipline as determined by the department head or elected official, including termination, depending upon the seriousness of the violation.

(Code 2006; History: Res. 1995-158, §§ 1-8)

Sec. 20-52. Non-Employee Computer Resources Use Policy.

- (A) Creation of user accounts for access to County computer resources is generally limited to County employees only. In certain cases, accounts may be created for individuals not directly employed by the County. The criteria for creating and maintaining accounts for such individuals will be as follows:
 - (1) Individuals must be providing a service for the County at the direct request of a department head or elected official;
 - (2) Individuals must sign an acknowledgement of both receipt and review of the County's electronic media policy, Chapter 20, Article III of the Shawnee County Code, and agree to be bound by those provisions and terms prior to the creation of any account. Individuals must also receive and review § 20-51 regulating the use of software on personal computers purchased by the County;
 - (3) Any accounts that are created will be maintained solely at the pleasure of the Board and may be terminated at any time, with or without cause, by the Board, at its sole discretion;
 - (4) Accounts will be terminated as soon as the individual who received such account access completes their work for the County. The department head or elected officials who requested such access will be responsible for advising the Information Technology Department that the service provider has completed provision of the service for which they were retained and that the access should be cancelled; and
 - (5) Connection of privately owned computing equipment to the County's computing facilities will only be through a virtual private network allowing limited access to specified County computers, databases and resources only. This is required in order to limit the risk of virus infection or equipment malfunction from affecting County equipment.
- (B) The provisions of this section shall take precedence over any inconsistent provisions found in § 20-51 and Chapter 20, Article III of the Shawnee County Code and, where necessary, the provisions should be read together and applied in a manner that serves the purpose and intent of all three.

(Code 2006; History: Res. 2003-23, §§ A-B)

ARTICLE III. ELECTRONIC MEDIA; COMMUNICATION SERVICES; USE OF COUNTY PROPERTY

Sec. 20-101. Electronic Media And Communication Services.

The following procedures apply to all electronic media and communication services, which are:

- (1) Accessed on or from County premises; accessed using County computer equipment, or via County-paid access methods; and used in a manner which identifies the individual with the County; and
- (2) Accessed or used during the employees' scheduled work hours. (Code 2006; History: Res. 2000-111, § 1.0)

Sec. 20-102. Same; Procedures.

- (A) Electronic media and communication services may not be used for knowingly transmitting, retrieving or storing any communications of a discriminatory or harassing nature, or which are derogatory to any individual or group, or which are obscene or X-rated communications, or are of a defamatory or threatening nature, or for "chain letters," or for any other purpose which is illegal or against County policy or contrary to the County's interest.
- (B) Electronic media and communication services are primarily for County business use. Limited, occasional or incidental use of electronic media or communication services (sending or receiving) for personal, non-business purposes is understandable and acceptable as is the case with personal phone calls. However, employees need to demonstrate a sense of responsibility and may not abuse the privilege.
- (C) Electronic information created or communicated by an employee using e-mail, word processing, utility programs, spreadsheets, voice-mail, telephones, Internet access, *etc.*, will not generally be monitored by the County, and we respect our employees' wish to work without "Big Brother" looking over their shoulder. However, the following conditions should be noted:
 - (1) The County may routinely monitor usage patterns for both voice and data communications (e.g., number called or site accessed; call length; times of day calls). Reasons include cost analysis/allocation and the management of County technological voice/data resources;
 - (2) Requests to monitor pattern use for voice and data communications may be made by the head of department and must be authorized by the County Counselor;
 - (3) The County also reserves the right, in its discretion, to review any employee's electronic files and messages and usage to the extent necessary to ensure that electronic media and communication services are being used in compliance with the law and with this and other County policies; and
 - (4) Employees should therefore not assume electronic communications are totally private and confidential and each head of department shall have authority to determine that department's policy regarding transmission of highly sensitive information.
- (D) Employees must respect the confidentiality of other people's electronic communications. Examples of unauthorized acts include, but are not limited to:

- (1) Attempting to read, "hack" into other systems or other people's logins;
- (2) "Cracking" passwords;
- (3) Breaching computer or network security measures; or
- (4) Monitor electronic files or communications of other employees or third parties except by explicit direction of County management per § 20-102(C).
- (E) Each employee who uses any security measures on County-supplied electronic media must provide the employee's head of department or the head of department's designee with a sealed hard copy record of all of the employee's passwords and encryption keys (if any) for County use if required. This hard copy record shall be retained in a secure location and shall be used in cases when the employee is not available.
- (F) No e-mail or other electronic communications shall be knowingly sent which attempt to hide the identity of the sender, or represent the sender as someone else or from as someone not representing the County.
- (G) Electronic media and communication services should not be used in a manner that is likely to cause network congestion or significantly hamper the ability of other people to access and use the system.
- (H) Anyone obtaining electronic access to outside sources' or individuals' materials must respect all copyrights and may not copy, retrieve, modify or forward copyrighted materials except as permitted by the copyright owner or utilize a single copy for reference use only.
- (I) Any messages or information sent by an employee to one or more individuals via an electronic network (e.g., bulletin board, on-line service, or Internet) are statements identifiable and attributable to the County. While some users may include a personal "disclaimer" in electronic messages, it should be noted that there would still be a connection with the County, and the statement might still be legally imputed to the County. All communications sent by employees via a network must comply with this and other County policies, and may not disclose any confidential or proprietary County information.
- (J) Network services and World Wide Web sites can and do monitor access and usage and can identify at least which County department—and often which specific individual—is accessing their services. Thus accessing a particular bulletin board or web site leaves County-identifiable electronic "tracks" even if the employee merely reviews or downloads the material and does not post any message.
 - (K) Proper use of Internet access includes, but is not limited to the following:
 - (1) Downloading job-related information;
 - (2) Sending and receiving job-related e-mail messages and file attachments;
 - (3) Making business arrangements;
 - (4) Searching job-related databases; or
 - (5) Using the Internet for occasional, brief personal communication, where those do not violate any other provisions of this article or, in the view of officials and department heads, do not interfere with County business.
- (L) Any employee found to be abusing the privilege of County-facilitated access to electronic media or communication services shall be subject to disciplinary action and risk having the employee's privilege(s) withdrawn.
- (M) Heads of department shall have authority to impose any additional rules applicable within their department only and not inconsistent with this article. (Code 2006; History: Res. 2000-111, § 2.0)

Sec. 20-103. Use Of County Property.

- (A) County property is primarily for County business use. Limited, occasional or incidental use of County property for personal, non-business purposes is understandable and acceptable. However, employees need to demonstrate a sense of responsibility and may not abuse the privilege. Abuse of the privilege shall be against County policy.
- (B) Department heads and elected officials are authorized to use their discretion in determining what is reasonable personal use of County property.
- (C) The prohibitions under this article extend to all County property, except as expressly provided in any applicable collective bargaining agreement between Shawnee County and any of the unions representing County employees.

(Code 2006; History: Res. 2000-111, § 3.0)

Sec. 20-104. Discipline.

Anyone found in violation of this article may be subject to appropriate discipline as determined by the department head or elected official and consistent with applicable collective bargaining agreements, up to and including termination, depending upon the severity of the violation.

(Code 2006; History: Res. 2000-111, § 4.0)

Sec. 20-105. Applicability Of Provisions.

- (A) This policy statement and guidelines are not intended, nor shall they be construed as being inconsistent with § 10-201. Moreover, for purposes of this article, reasonable personal use of County property shall be defined as use that is limited in scope and insubstantial in nature and not in the furtherance of employees' private enterprise or business.
- (B) This policy statement and guidelines do not intend to unilaterally change the terms and conditions of employment negotiated with the several labor unions representing County employees. Therefore, if any of the terms of this policy and guidelines are in conflict with the terms and conditions of employment in any of the collective bargaining agreements between the Board and any of the unions representing its employees, the terms of the collective bargaining agreement will prevail over the terms of this policy and guidelines statement as to the employees covered by that agreement.

(Code 2006; History: Res. 2000-111, § 5.0)

Sec. 20-106. Miscellaneous Provisions.

All current County employees and employees hired hereafter shall be required to read this article and sign an acknowledgment that they read and fully understand the contents and intent of this article. The Acknowledgment Form is attached as Exhibit "A" to Res. 2000-111, a copy of which may be found in the office of the County Clerk (200 S.E. 7th Street). Each employee's executed Acknowledgment Form shall be filed in the employee's permanent personnel file within the Human Resources Department. Signature of the Acknowledgement Form required by this article shall constitute an enforceable agreement between the employee and the Board.

(Code 2006; History: Res. 2000-111, § 6.0)

Sec. 20-107. Effective Date.

This article shall become effective immediately and enforceable upon each employee's signature of the Acknowledgment Form.

(Code 2006; History: Res. 2000-111, § 7.0)

Sec. 20-108. Inconsistent Provisions.

The provisions in this article shall take precedence over any inconsistent provision in any prior County resolution, except as provided in § 20-105. (Code 2006; History: Res. 2000-111, § 8.0)

Secs. 20-109-20-140. Reserved.

ARTICLE IV. PURCHASE OF EQUIPMENT AND SERVICE CONTRACTS

Sec. 20-141. Computer Resources; Definitions.

Computer resources means all hardware or equipment which contains any of the following capabilities:

- (1) Capability to store and retrieve data from an auxiliary storage media other than the device's own working memory area;
- (2) Capability to store instruction or procedure sets formulated and controlled by the device operator;
- (3) Capability to execute actions or modify its state of being as a result of direct electrical impulses or signals emanating from a device meeting the criteria of either § 20-141(1) or § 20-141(2); or
- (4) Devices, except those defined in § 20-141(3), costing Two Hundred Fifty Dollars (\$250) or less, when new, shall be exempt from this section provided it shall not be attached to or require data transmitted via a magnetic or electronic media from the County's primary computer system to be functional.

(Code 2006; History: Res. 1982-131, § 1)

Sec. 20-142. Computer Resources; Purchases.

The following procedure shall be used for the acquisition of computer resources within the County:

- (1) All departments, divisions, agencies or groups governed by the Board, seeking to acquire services through the utilization of computer resources shall prepare, in cooperation with the Information Technology Department, a project request statement describing the project in sufficient detail to determine the goal to be accomplished, a cost analysis and the impact the project may have on current services and future development plans as well as alternative cost comparisons if the request is to utilize resources not already available through the Information Technology Department. The Information Technology Department will review each request and respond within forty-five (45) days. If the request for services requires the acquisition of new or additional computer resources, the Information Technology Department, in coordination with the Purchasing Department, shall be responsible for such acquisitions.
- (2) If the response is not to the satisfaction of the requesting agency, then the requesting agency may submit a written appeal to the Information Technology Department for further review and study. The Information Technology Department shall cause to be prepared a written response to the appealing agency stating the Director's determination.

(Code 2006; History: Res. 1982-131, § 2)

Sec. 20-143. Telecommunications Equipment.

- (A) All purchases of new telecommunications equipment should be made only by the Department of Information Technology. All requests for new equipment should be submitted to the Department of Information Technology.
- (B) Any department that currently is leasing any telecommunications equipment should file a copy of the lease with the Department of Information Technology. All future leases for telecommunications equipment shall be negotiated by the Department of Information Technology with final approval by the Board.
- (C) Long distance carriers shall be recommended by the Department of Information Technology for all County departments for approval by the Board.
- (D) All negotiation and contact with pay phone companies for installation and maintenance purposes, shall now be performed exclusively by the Department of Information Technology. Any problems with pay phones should be reported to the Department of Information Technology.
- (E) All problems with any telecommunications equipment should be reported to the Department of Information Technology. It shall be the Department of Information Technology's duty to inform the company responsible for repairing the equipment.
- (F) Department heads and elected officials shall be able to review the actual billing records for any and all telephones within their department.
- (G) Anyone found in violation of this section may be subject to appropriate discipline as determined by the department head or elected official, including termination, depending upon the seriousness of the violation.

(Code 2006; History: Res. 1995-183, §§ 1-7)

Sec. 20-144. Wireless Phones And Service Contracts.

- (A) The purchase of any wireless phone and service contract for any County employee or official shall first be approved by the Board meeting in regular session.
- (B) After approval by the Board, the Information Technology Department shall be responsible for purchasing all wireless phones and their service contracts from a Board approved wireless company or companies.

(Code 2006; History: Res. 2001-196, §§ 3-4)

Secs. 20-145-20-190. Reserved.

ARTICLE V. WIRELESS TELEPHONES

Sec. 20-191. Use Of Wireless Telephones; Policy

(A) County owned wireless communications devices are provided to County employees in order to improve customer services and to enhance business efficiency. Wireless communications devices are not a personal benefit and may only be used during the course of County business; even this use should be limited to calls, emails and text messages that cannot wait until the employee is back in their office.

- (B) Use of wireless communications equipment while operating an automobile or any piece of motorized equipment, including personal wireless communications devices, are prohibited. This prohibitions shall not apply to any employee providing law enforcement or emergency managements services.
- (C) Employees should bear in mind that wireless communications can be intercepted and should take precautions when discussing confidential information.

Sec. 20-192. Establishing New Service

- (A) Department Heads, elected or appointed, should evaluate those employees within their respective departments that need to be issued a County wireless communications device. After which, the department head will need to submit a written request to the Board of County Commissioners to establish new service. This request should include the following:
 - (1) The employee's position;
 - (2) Type of equipment requested (standard cell phone, or smart phone, etc.);
 - (3) Estimated monthly usage:
 - (4) Is text messaging / internet usage required, if so estimated monthly use; and
 - (5) Funding source, i.e. grant funded

Sec. 20-193. Accountability

- (A) It will be the duty of each department head, or their designee, to access the County's cellular service provider's website at least monthly to download their department's wireless communications bill. Employees are responsible for all calls made from the wireless communications device(s) assigned to them. In addition, employees are responsible for the safety of the wireless communications device(s) assigned to them.
- (B) County provided wireless communications device and wireless service are to be only used for County business, excluding emergency situations. All other usage will make the employee responsible for payment of personal communications and subject to disciplinary action as set forth in the Human Resources Policy Manual for Shawnee County.
- (C) Department heads are responsible for reviewing all wireless communications bills of their staff to insure property usage of County owned wireless communications equipment. Misuse shall be reported to the Board of County Commissioners.

Sec. 20-194. Termination of Service

It is the responsibility of the Department Head to ensure that all County owned wireless communications devices are returned before an employee's employment is terminated. Additionally, it is the Department head's responsibility to reassess an employee's need for County provided wireless communications device.

(Code 2006; History: Res. 2001-161, §§ 1-2; amended by Res. 2009-138, §§ 1-2; amended by Res. 2011-51; amended by Res. 2013-107.)

Sec. 20-195-20-230. Reserved.

CHAPTER 21. PARKS AND RECREATION

- Art. I. In General, §§ 21-1-21-50
- Art. II. County Parks General Rules And Regulations, §§ 21-51 21-100
- Art. III. Operation Of Motor Vehicles, §§ 21-101 21-130
- Art. IV. Boating/Skiing On Lake Shawnee, §§ 21-131 21-170
- Art. V. Fishing At Lake Shawnee, §§ 21-171 21-210
- Art. VI. Camping At Lake Shawnee, §§ 21-211-21-250
- Art. VII. Shelter Reservations, §§ 21-251 21-290
- Art. VIII. Aquatic Facilities, §§ 21-291-21-340
- Art. IX. Tennis And Volleyball Courts, §§ 21-341 21-370
- Art. X. Ball Diamonds And Game Fields, §§ 21-371 21-400
- Art. XI. Community Centers, §§ 21-401-21-440
- Art. XII. Golf Courses, §§ 21-441-21-480
- Art. XIII. Old Prairie Town §§ 21-481-21-500
- Art. XIV. Helen Hocker Theatre §§ 21-501 21-520
- Art. XV. Quasi-Public Organizations, §§ 21-521-21-530
- Art. XVI. West Lawn Memorial Gardens,, §§ 21-531 21-550
- Art. XVII. Penalties, §§ 21-551-21-575
- Art. XVIII. Park Police Department, §§ 21-576 21-600
- Art. XIX. Reserved, §§ 21-601 21-999

ARTICLE I. IN GENERAL

Sec. 21-1. Exemption From K.S.A. 19-2823.

- (A) Shawnee County, Kansas hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 19-2823 and provide substitute and additional provisions as hereinafter set forth in this resolution. Such reference provision is applicable to Shawnee County but not applicable uniformly to all counties.
- (B) Shawnee County, Kansas is herewith authorized to acquire and improve real and personal property for park and recreational purposes and issue and sell its General Obligation Bonds to provide funds to pay the cost of the same.

(Code 2006; History: Charter Res. 1977-6)

Sec. 21-2. Exemption From K.S.A. 19-2853 Through K.S.A. 19-2858.

That the provisions of K.S.A. 19-2853 through K.S.A. 19-2858 which provide for the establishment of a County Board of Park Commissioners shall not apply to Shawnee County.

(Code 2006; History: Charter Res. 1978-16)

Sec. 21-3. Adoption of Shawnee County Parks and Recreation Master Plan

- (A) The Board of County Commissioners of the County of Shawnee, Kansas hereby adopt the Shawnee County Parks and Recreation Master Plan to guide the future development and redevelopment of the County's parks, open space, and recreation system over the next ten (10) years, and
- (B) Begin the initial step to accreditation through the National Recreation and Park Association's (NPRA) Commission for Accreditation of Park and Recreation Agencies (CAPRA).

(Code 2014; History: Res. 2014-82)

Sec. 21-4. Shawnee County Parks and Recreation Advisory Board By-laws.

The Board of Commissioners hereby approves the Shawnee County Parks and Recreation Advisory Board By-Laws (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street] or the Shawnee County Parks and Recreation Department [3137 SE 29th Street])

(Code 2011; History: Res. 2011-143)

Sec. 21-5. Cereal Malt Beverages On Parks/Recreation Property.

See Chapter 4, Alcoholic Beverages, Article III, County Property. (Code 2006)

Secs. 21-6-21-51. Reserved.

ARTICLE II. COUNTY PARKS GENERAL RULES AND REGULATIONS

Sec. 21-52. Identification Of Parks To Which These Rules Pertain.

(A) Shawnee County Parks and Recreation parks and facilities include, but are not limited to: Lake Shawnee and the surrounding parkland, Lake Shawnee Golf Course, Forbes Public Golf Course, Cypress Ridge Golf Course, Shawnee North Community Park, Shawnee South Community Park, Wakarusa Park, Nana's Park, Aaron Douglas Park, Adams Park, Aquarian Acres Park, Auburndale Park, Austin Park, Bentley Park, Big Shunga Park, Bishop Park, Boswell Park, Brookfield Park, Central Park, Charles Curtis Greenway, Chesney Park, Children's Park, Clarion Woods Park, Clyde O'Bracken Park, Collins Park, Crestview Park, Country Club Park, Cushinberry Park, Dornwood Park, Eastborough Park, Eastgate Park, Edgewater Park, Edgewood Park, Elmhurst Green, Fairway Park, Family Park, Felker Park, Frank Warren Park, Freedom Valley Park, Gage Park, Garfield Park, Giles Park, Grant-Bradbury Park, Gwendolyn Brooks Park, Highland Crest Park, Hillcrest Park, Hillsdale Park, Holiday Park, Horne Park, Horseshoe Bend Park, Hughes Park, Indian Hills Park, Jayhawk Park, Kansas and N. KS Ave. Streetscapes, Lakewood Park, Major Palm Park, Matthews Park, McKinley Park, Meadowood Park, Medford Park, Motorcycle Area, Oakland-Billard Park, Oakland (Little) Park, Oak Parkway, Oakwood Hills Park, Old Prairie Town at Historic Ward Meade Park, , Pinecrest Park, Rice Park, Ripley Park, Romig Park, Rueger Park, Samuel Jackson Park, Santa Fe Park, Seabrook Park, Seward Ave. Boat Ramp, Sherwood Park, Shimer Park, Shunga Parkway Park, Sims Park, Skyline Park, Terra Heights, Tudor Park, Veteran's Park, Ward Parkway Park, Washburn Park, Wells Park, Welton Grove Park, Westboro Park, Willow Park, Woodall Park, Riverfront Park, Lauren's Bay Park, abandoned lots, traffic circles and medians, roadways, and parking lots within these areas.

(Code 2012; History: Res. 2004-35, § 1.1; amended by Res. 2005-30, § 1.1; amended by Res. 2005-189, § 1.1, amended by Res. 2011-9; amended by Res. 2011-170)

Sec. 21-53. Law Enforcement.

- (A) The Director of Shawnee County Parks and Recreation is assisted by Park Police and other authorized persons to preserve order and make arrests for violations of law or these rules.
- (B) It shall be unlawful for any person within any park area or park facility to disobey any lawful order, request, or demand given by any Shawnee County Parks and Recreation official or any peace officer of competent jurisdiction.
- (Code 2012; History: Res. 2004-35, § 1.2; amended by Res. 2005-30, § 1.2; amended by Res. 2005-189, § 1.2, amended by Res. 2011-170)

Sec. 21-54. Posting Of Special Rules.

- (A) The Director of Shawnee County Parks and Recreation or duly authorized designee may post signs and notices governing the use of parks and recreational facilities.
- (B) The Director of Shawnee County Parks and Recreation is authorized to establish rules and regulations for participation in all department sponsored activities and special events.
- (Code 2012; History: Res. 2004-35, § 1.3; amended by Res. 2005-30, § 1.3; amended by Res. 2005-189, § 1.3, amended by Res. 2011-170)

Sec. 21-55. Special Uses Of The Parks.

- (A) The Director of Shawnee County Parks and Recreation or authorized designees have the authority to grant special uses for park and recreation facilities.
- (B) Lake or parks closings for special events must have the approval of the Director of Shawnee County Parks and Recreation and the Board of County Commissioners.
- (C) Tents, canopies, awnings, and other temporary structures are prohibited except in designated areas at the Campground or upon special written approval by the Director of Shawnee County Parks and Recreation for use during special events.
- (Code 2012; History: Res. 2004-35, § 1.4; amended by Res. 2005-30, § 1.4; amended by Res. 2005-189, § 1.4, amended by Res. 2011-170)

Sec. 21-56. Parks Are Game Sanctuaries.

Shawnee County parks are game sanctuaries. Hunting, shooting, killing, trapping, injuring, pursuing, or molesting in any way any bird or animal on or within the parks is unlawful except when special permission for trapping has been authorized by the Director of Shawnee County Parks and Recreation.

(Code 2012 History: Res. 2004-35, § 1.5; amended by Res. 2005-30, § 1.5; amended by Res. 2005-189, § 1.5, amended by Res. 2011-170)

Sec. 21-57. Removal Or Disturbance Of Plant Life Is Prohibited.

The removal or disturbance of plant life is prohibited. Such items or pieces of plant life shall include, but are not limited to: pine cones, acorns, walnuts, chestnuts, shredded tree bark, tree twigs, tree branches, flowers, Osage oranges, and hedge balls.

(Code 2012; History: Res. 2004-35, § 1.6; amended by Res. 2005-30, § 1.6; amended by Res. 2005-189, § 1.6, amended by Res. 2011-170)

Sec. 21-58. Hours.

All parks and recreation facilities are closed from 11:00 P.M. to 6:00 A.M. unless engaged in camping, boating, fishing, or special authorized activities. Such special activities must have the prior written authorization from the Director of Parks and Recreation or a duly authorized designee.

(Code 2012; History: Res. 2004-35, § 1.7; amended by Res. 2005-30, § 1.7; amended by Res. 2005-189, § 1.7, amended by Res. 2011-170)

Sec. 21-59. Carrying Or Possession Of Firearms Is Prohibited.

Air guns, spring guns, paint ball guns, potato guns; anything that launches a projectile is prohibited.

(Code 2006; History: Res. 2004-35, § 1.8; amended by Res. 2005-30, § 1.8; amended by Res. 2005-189, § 1.8, amended by Res. 2011-170)

Sec. 21-60. Disorderly Conduct Prohibited.

Disorderly conduct in the way of drunkenness, use of unlawful drugs or narcotics, engaging in brawling or fighting, the playing of loud music, personal exposure by removing clothing on any park property where persons are not properly sheltered, use of vile, offensive, obscene, or abusive language or gestures, or engaging in noisy conduct that might cause alarm or anger to other park visitors is unlawful.

(Code 2006; History: Res. 2004-35, § 1.9; amended by Res. 2005-30, § 1.9; amended by Res. 2005-189, § 1.9, amended by Res. 2011-170)

Sec. 21-61. Swimming And Wading Prohibited.

Swimming and wading are prohibited except in the Lake Shawnee Swim Beach, marked swimming areas at the Lake Shawnee Campground, the Shawnee Boat and Ski area, and at the pools located at the Shawnee North Community Park, Gage Park, Crestview Park, Garfield Park, Oakland-Billard Park, and Hillcrest Park. Wading is allowed while fishing at Lake Shawnee.

(Code 2012; History: Res. 2004-35, § 1.10; amended by Res. 2005-30, § 1.10; amended by Res. 2005-189, § 1.10, amended by Res. 2011-170)

Sec. 21-62. Scuba Diving Prohibited.

Scuba diving is prohibited without the prior written authorization from the Director of Parks and Recreation or a duly authorized designee.

(Code 2006; History: Res. 2004-35, § 1.11; amended by Res. 2005-30, § 1.11; amended by Res. 2005-189, § 1.11, amended by Res. 2011-170)

Sec. 21-63. Pets Must Be Controlled By Leash.

Pets are not allowed inside any building operated by Shawnee County Parks and Recreation unless such animal is part of a department-sponsored activity. This does not apply to Seeing Eye dogs or other service animals.

(Code 2006; History: Res. 2004-35, § 1.12; amended by Res. 2005-30, § 1.12; amended by Res. 2005-189, § 1.12, amended by Res. 2011-170)

Sec. 21-64. Animal Waste Must Be Removed From The Park.

Animal waste must be removed from the parks.

(Code 2006; History: Res. 2004-35, § 1.13; amended by Res. 2005-30, § 1.13; amended by Res. 2005-189, § 1.13, amended by Res. 2011-170)

Sec. 21-65. Fires.

Building, starting, or maintaining fires in the open or in any place except where the proper provisions have been made by Shawnee County Parks and Recreation officials is prohibited.

(Code 2012; History: Res. 2004-35, § 1.14; amended by Res. 2005-30, § 1.14; amended by Res. 2005-189, § 1.14, amended by Res. 2011-170)

Sec. 21-66. Camping In The Parks.

Camping is prohibited except in the areas designated as public camping areas by Shawnee County Parks and Recreation officials.

(Code 2012; History: Res. 2004-35, § 1.15; amended by Res. 2005-30, § 1.15; amended by Res. 2005-189, § 1.15, amended by Res. 2011-170)

Sec. 21-67. Ice Skating.

Ice skating on frozen Public Fishing Areas is lawful only when authorized in designated areas through notification by means of signs and public news media from Shawnee County Parks and Recreation officials.

(Code 2012; History: Res. 2004-35, § 1.16; amended by Res. 2005-30, § 1.16; amended by Res. 2005-189, § 1.16, amended by Res. 2011-170)

Sec. 21-68. Solicitations.

No person shall solicit or advertise for sale on park property any product, item, or service.

(Code 2006; History: Res. 2004-35, § 1.17; amended by Res. 2005-30, § 1.17; amended by Res. 2005-189, § 1.17, amended by Res. 2011-170)

Sec. 21-69. Operation Of Any Business Or Service.

Operation of any business or service on park property is prohibited without approval of Shawnee County Parks and Recreation officials.

(Code 2012; History: Res. 2004-35, § 1.18; amended by Res. 2005-30, § 1.18; amended by Res. 2005-189, § 1.18, amended by Res. 2011-170)

Sec. 21-70. Private Docks, Buoys, And Boat Racks.

Private docks, buoys, and boat racks may not be placed on any Public Fishing Area without written authorization from the Director of Shawnee County Parks and Recreation.

(Code 2012; History: Res. 2004-35, § 1.19; amended by Res. 2005-30, § 1.19; amended by Res. 2005-189, § 1.19, amended by Res. 2011-170)

Sec. 21-71. Fees.

Fees for use of Shawnee County Parks and Recreation facilities and for participation in department-sponsored activities are not established by this article. A schedule of current fees will be available to the public in the Parks and Recreation Administration Office.

(Code 2012; History: Res. 2004-35, § 1.20; amended by Res. 2005-30, § 1.20; amended by Res. 2005-189, § 1.20, amended by Res. 2011-170)

Sec. 21-72. Horses.

Horses are prohibited from being led or ridden in any improved areas, parks, areas around shelters and rental facilities, playgrounds, picnic areas, or recreation trails. (B) Horse trailers must be unloaded and loaded in parking lots. All manure must be cleaned from parking area and removed from the park.

(Code 2012; History: Res. 2004-35, § 1.21; amended by Res. 2005-30, § 1.21; amended by Res. 2005-189, § 1.21, amended by Res. 2011-170)

Sec. 21-73. Metal Detecting.

Metal detecting is allowed in unimproved areas of the parks. Any ground disturbed must be returned to its original state. Only man made materials found may be removed from the parks.

(Code 2012; History: Res. 2004-35, § 1.22; amended by Res. 2005-30, § 1.22; amended by Res. 2005-189, § 1.22, amended by Res. 2011-170)

Sec. 21-74. The Director Of Parks And Recreation.

The Director of Shawnee County Parks and Recreation or a duly authorized designee reserves the right to deny participation in any of the department's parks, facilities, or programs to any person if his or her participation would be detrimental to the department's objective of providing safe and quality activities.

(Code 2012; History: Res. 2004-35, § 1.23; amended by Res. 2005-30, § 1.23; amended by Res. 2005-189, § 1.23, amended by Res. 2011-170)

Sec. 21-75. Smoking.

Smoking is prohibited inside of all Shawnee County Parks and Recreation buildings and inside the fenced confines of all sports and aquatic facilities. (Code 2012; History: Res. 2011-170)

Secs. 21-76-21-101. Reserved.

ARTICLE III. OPERATION OF MOTOR VEHICLES

Sec. 21-102. Motor Vehicle Travel Limited To Improved Roads/Parking Areas.

Parking, driving, or operating any motor vehicle on any trail, dam, beach, playground, picnic ground, shelter ground, or on other grass-covered areas is permitted only when signs are posted authorizing such use or with authorization from the Director of Parks and Recreation or an authorized designee.

(Code 2006; History: Res. 2004-35, § 2.1; amended by Res. 2005-30, § 2.1; amended by Res. 2005-189, § 2.1, amended by Res. 2011-170)

Sec. 21-103. Vehicles Shall Be Parked Within Marked Stalls Where Provided.

Vehicles shall be parked within marked stalls where provided.

(Code 2006; History: Res. 2004-35, § 2.2; amended by Res. 2005-30, § 2.2; amended by Res. 2005-189, § 2.2, amended by Res. 2011-170)

Sec. 21-104. Laws Of The State Of Kansas Also In Effect.

All laws of the State of Kansas pertaining to the operation of motor vehicles are hereby adopted and incorporated by reference herein the same as though set out at length herein, insofar as they are not inconsistent with the provisions hereinbefore set out.

(Code 2006; History: Res. 2004-35, § 2.3; amended by Res. 2005-30, § 2.3; amended by Res. 2005-189, § 2.3, amended by Res. 2011-170)

Secs. 21-105-21-131. Reserved.

ARTICLE IV. BOATING/SKIING ON LAKE SHAWNEE

Sec. 21-132. Definitions.

- (A) Vessel means every description of watercraft other than a float tube or a seaplane on the water, used or capable of being used as a means of transportation on water.
- (B) Motorized vessels means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.
- (C) Personal watercraft are motorized vessels which use an inboard motor powering a jet pump as its primary source of propulsion and which is designed to be operated by a

- person sitting, standing, or kneeling on the vessel rather than the conventional manner of sitting, standing, or kneeling inside the vessel.
- (D) Power boats are motorized vessels which use either an inboard or outboard motor as their primary source of propulsion and are designed so that the operators and passengers are sitting, standing, or kneeling inside the vessel.
- (E) Owner means a person, other than a lien holder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing a payment of performance of an obligation, but the term excludes a lessee under a lease not intended as security.
- (F) Person means an individual, partnership, firm, corporation, association, or other entity.
- (G) Operate means to navigate or otherwise use any vessel.
- (H) Operator means the person who operates or has charge of the navigation or use of any vessel.
- (I) Ski area means all of the area of Lake Shawnee, hereinafter referred to as the Lake, north of the buoys which extend from a point situated approximately four hundred (400) yards south of the east side of the dam thence westerly across the Lake to the point on the north side of the cove which is about four hundred (400) yards south of the west end of the dam.
- (Code 2006; History: Res. 2004-35, § 3.1; amended by Res. 2005-30, § 3.1; amended by Res. 2005-189, § 3.1, amended by Res. 2011-170)

Sec. 21-133. General Rules.

- (A) All persons keeping, maintaining, operating, or riding in private or rented vessels do so entirely at their own risk.
- (B) Operating any vessel in a reckless or unsafe manner is prohibited.
- (Code 2006; History: Res. 2004-35, § 3.2; amended by Res. 2005-30, § 3.2; amended by Res. 2005-189, § 3.2, amended by Res. 2011-170)

Sec. 21-134. Licensing Application For License; Exemptions.

- (A) It shall be unlawful to operate any vessel upon the Lake unless duly licensed as provided, and then only in strict accordance with this article. Parks and Recreation officials have the right not to issue licenses for vessels that in their opinion do not meet minimum standards.
- (B) Persons desiring to keep, have, and maintain any vessel upon the Lake shall make application for that privilege to the Director of Shawnee County Parks and Recreation. It shall be unlawful for any person to operate a vessel on the Lake without having obtained a valid Lake Shawnee season or daily license and paid the required fee prior to operating such vessel on the Lake. However, any vessel whose owner is the United States, a state, or a sub-division thereof shall be exempt from the requirements of this rule.
- (C) No vessel shall be licensed to any person less than eighteen (18) years of age.
- (D) The Director of Shawnee County Parks and Recreation reserves the power to grant any owner and/or operator of a vessel participating in a regatta, boating tournament, or other special event exemption for the requirement to obtain a Lake Shawnee license. Such authorization is not automatic and is given exclusively at the discretion of the Director of Parks and Recreation. All other rules and laws apply to the owners and operators of such vessels unless otherwise exempt by law.

(Code 2012; History: Res. 2004-35, § 3.3; amended by Res. 2005-30, § 3.3; amended by Res. 2005-189, § 3.3, amended by Res. 2011-170)

Sec. 21-135. Season Licenses.

- (A) A Lake Shawnee boating license will only be issued when a current and valid State of Kansas boating registration certificate is presented at the time of purchasing your Lake Shawnee boating license (if such registration is required for the applicant's type of boat by the State of Kansas).
- (B) If an application for a season license is approved, a season license certificate and two (2) permit decals will be issued.
- (C) All season licenses shall expire on December 31 of the year of issuance.
- (Code 2006; History: Res. 2004-35, § 3.4; amended by Res. 2004-215, § 1; amended by Res. 2005-30, § 3.4; amended by Res. 2005-189, § 3.4, amended by Res. 2011-170)

Sec. 21-136. Daily Licenses.

- (A) No daily licenses will be issued unless the applicant possesses and presents a valid Kansas boating registration certificate, or a certificate issued by any state other than Kansas, if such registration is required for the applicant's type of vessel by the laws of the State of Kansas.
- (B) If an application for a daily license is approved, a daily license certificate will be issued.
- (C) All daily licenses shall be valid and in full effect from 8:00 A.M. on the date set forth in the certificate and shall become void at 8:00 A.M. on the day immediately following the said date.
- (D) Daily licenses shall be available at all times for inspection on the vessel for which issued, whenever such vessel is in operation.
- (Code 2006; History: Res. 2004-35, § 3.5; amended by Res. 2005-30, § 3.5; amended by Res. 2005-189, § 3.5, amended by Res. 2011-170)

Sec. 21-137. Lost Or Damaged Decals Must Be Replaced.

If said license and/or one (1) or both permit decals should be lost or damaged, the licensee must purchase a replacement set from Shawnee County Parks and Recreation.

(Code 2006; History: Res. 2004-35, § 3.6; amended by Res. 2005-30, § 3.6; amended by Res. 2005-189, § 3.6, amended by Res. 2011-170)

Sec. 21-138. License Transfer.

- (A) A Lake Shawnee boating license is not transferable from either person-to-person or boat-to-boat.
- (B) If a person sells a vessel after the current year's permit has been installed, the person may remove the permit stickers from the boat being sold and bring them to the Parks and Recreation administration office to transfer the permit over to a new boat. The person will be required to pay only the sticker replacement fee and not the full price of a new permit.
- (Code 2006; History: Res. 2004-35, § 3.7; amended by Res. 2005-30, § 3.7; amended by Res. 2005-189, § 3.7, amended by Res. 2011-170)

Sec. 21-139. Minimum Age Requirements For Vessel Operators.

- (A) It shall be unlawful for any person under sixteen (16) years of age to operate any motorized or wind powered vessel. Exception stated in § 21-138(B).
- (B) Any person twelve (12) through fifteen (15) years of age may operate a sailboat fourteen (14) feet in length or less when said person is under the direct and audible supervision of an adult instructor. The instructor will be held accountable for the conduct and safety of the operator.
- (C) It shall be unlawful for any person under the age of twelve (12) years to operate any manually propelled vessel. All persons under the age of twelve (12) must be accompanied by a person at least sixteen (16) years of age in the vessel at all times. Youth in attendance at day camps and programs operated by Shawnee County Parks and Recreation and other organizations/camps may operate paddleboats and canoes under the direct and audible supervision of adult supervisors or counselors with the prior approval of the Director of Parks and Recreation or a designee.

(Code 2006; History: Res. 2004-35, § 3.8; amended by Res. 2005-30, § 3.8; amended by Res. 2005-189, § 3.8, amended by Res. 2011-170)

Sec. 21-140. Operating Restrictions.

- (A) Operating any vessel on any part of the Lake where boating is forbidden as indicated by markers, buoys, or other signs is prohibited.
- (B) All motorized vessels entering and operating on the Lake between sunrise and sunset shall proceed in a counter clockwise direction of travel.
- (C) Only motorized vessels may operate in the ski area between sunrise and sunset. Topeka Rowing Association rowing craft may be launched from its dock located in the hazard area west of its building and must immediately proceed south within one hundred (100) feet to the shoreline out of the ski area.
- (D) Operating within one hundred (100) feet of the shoreline and docks except at minimum speed is prohibited.
- (E) Passing within one hundred (100) feet of another craft, following within one hundred (100) feet of a vessel's wake, or within one hundred (100) feet of a person being towed is prohibited.
- (F) The ski jump located in the northeast cove of the Lake may only be used between the hours of sunrise and 9:00 A.M. Users must be members of the Shawnee Boat and Ski Club and be trained in the safe use of a ski jump. The County will set special rules and times for official ski tournaments.
- (G) The maximum speed limit of any vessel is thirty-five (35) miles per hour.
- (H) Persons may not operate any vessel on the Lake outside the ski area at a speed that creates a wake and/or wash.
- (I) Persons may not operate any vessel at a speed that creates a wake and/or wash between sunset and sunrise.
- (Code 2006; History: Res. 2004-35, § 3.9; amended by Res. 2005-30, § 3.9; amended by Res. 2005-189, § 3.9, amended by Res. 2011-170)

Sec. 21-141. Open Boating From September 15 Through April 14.

- (A) The line of No Wake boating is removed from the middle of the Lake. During this time all vessels will be allowed to use the entire Lake.
- (B) During this time period, §§ 21-139(C) and 21-139(H) will not apply. All other boating rules and regulations will remain in effect.
- (C) All Lake coves will be No Wake areas during open boating.

(Code 2006; History: Res. 2004-35, § 3.10; amended by Res. 2005-30, § 3.10; amended by Res. 2005-189, § 3.10, amended by Res. 2011-170)

Sec. 21-142. Water Skis, Surfboards, And Flotation Devices.

- (A) No person may operate any vessel in such a manner as to cause any marking buoy, vessel or other object, or any person to enter between the towing vessel and any person or object being towed.
- (B) Tow ropes are restricted to a maximum length of seventy-five (75) feet.
- (C) Skiing starts may not be made from boat docks or the shoreline unless otherwise specified.
- (D) It shall be unlawful for the operator of any motorized vessel to leave the motor of said vessel running, except when in neutral, while any person is climbing aboard or leaving the vessel and entering the water.
- (E) Towing any inflatable flotation devices such as inner tubes or rubber rafts, unless such device was designed and manufactured to be towed behind a vessel, is prohibited.
- (F) All vessels towing skiers or flotation devices must display an orange flag and hold it up when their watercraft skier is down in the water.
- (Code 2006; History: Res. 2004-35, § 3.11; amended by Res. 2005-30, § 3.11; amended by Res. 2005-189, § 3.11, amended by Res. 2011-170)

Sec. 21-143. Abandoned Vessels.

- (A) All vessels must be removed from the Lake premises by November 1 of each year, or the vessel will be deemed to be abandoned.
- (B) Allowing any vessel to drift on the Lake unoccupied is prohibited. Any vessel found unattended on the Lake shall be deemed to be abandoned.
- (C) Any vessel that is found moored anywhere upon the Lake or its shoreline or that is found anywhere within park areas and that such vessel is unattended shall have affixed to it a notice advising the owner that such vessel must be removed from the premises within forty-eight (48) hours from the time such notice is issued. Any Parks and Recreation official or any peace officer of competent jurisdiction may issue such notice. It shall be unlawful for the owner of any vessel with such notice affixed thereto to fail to remove such vessel from the park areas within this time period. It shall be unlawful for any person other than any official authorized to issue such notices or the owner of such vessel to remove, deface, or mutilate such notice. At the end of this time period, such vessel shall be deemed to be abandoned.
- (D) The fact that such vessel being found abandoned shall be cause for Parks and Recreation officials to remove such vessel and the trailer or device used for transporting such vessel, if any, from the area in which it is found and said vessel be stored by Parks and Recreation. Towing and storage fees shall be assessed against the owner of the vessel. If the vessel is not claimed by the owner within thirty (30) days, said vessel shall be disposed of as directed by the Board.
- (Code 2006; History: Res. 2004-35, § 3.12; amended by Res. 2005-30, § 3.12; amended by Res. 2005-189, § 3.12, amended by Res. 2011-170

Sec. 21-144. Law Enforcement Officers; Pursuit/Emergency Situations.

(A) Any Parks and Recreation official or any peace officer of competent jurisdiction operating any vessel, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law may disregard the provisions of this article.

- (B) The foregoing provisions shall not relieve any Parks and Recreation official or any peace officer of competent jurisdiction from the duty to navigate with due regard for the safety of all persons.
- (Code 2006; History: Res. 2004-35, § 3.13; amended by Res. 2005-30, § 3.13; amended by Res. 2005-189, § 3.13, amended by Res. 2011-170)

Sec. 21-145. Marina Boat Rental Rules.

- (A) Each person riding in a rental boat must be seated in the seat provided.
- (B) All rental boats must be returned to the Marina unless weather conditions prevent such return. In such case, all rental equipment issued including personal flotation devices, oars, and paddles must be returned to the Marina.
- (C) Rental fees are posted at the Marina.
- (Code 2006; History: Res. 2004-35, § 3.14; amended by Res. 2005-30, § 3.14; amended by Res. 2005-189, § 3.14, amended by Res. 2011-170)

Secs. 21-146-21-171. Reserved.

ARTICLE V. PUBLIC FISHING AREAS

Sec. 21-172. Fishing License Requirements.

- (A) Any person fishing at Shawnee County Parks & Recreation Public Fishing Areas including Lake Shawnee, Westlake, Central Park pond, Clarion Woods Park, Ward-Martin Creek, and Freedom Valley pond, must possess a current State of Kansas Fishing License or Special License when applicable. All Kansas Department of Wildlife and Parks, and Shawnee County Parks & Recreation regulations apply.
- (B) Anglers must have their license(s) in their possession when engaged in fishing.
- (C) All persons exempt from the fishing license requirements of the State of Kansas must have proof of exemption in their possession. All persons so exempt shall not be exempt from the requirements stated in §§ 21-172(A) and 21-172(B) regarding Special Trout Permits when applicable.
- (D) Special Fishing licenses expire December 31 of each year and are not transferable when special licenses are applicable.
- (E) Any person not exempt from the fishing license requirements of the State of Kansas must possess and present a valid State of Kansas fishing license in order to purchase a special fishing license.
- (Code 2012; History: Res. 2004-35, § 4.1; amended by Res. 2004-215, § 1; amended by Res. 2005-30, § 4.1; amended by Res. 2005-189, § 4.1, amended by Res. 2011-170)

Sec. 21-173. Trout License Requirements.

(A) In 2005, the Board of County Commissioners entered into an agreement with the Kansas Department of Wildlife and Parks (KDWP). In an effort to reduce barriers to boating and fishing, KDWP using federal funds from the U.S. Sportfish Restoration Act, leased the fishing rights from Shawnee County for Lake Shawnee. During the period of this agreement neither the purchase nor the possession of Lake Shawnee Fishing or Boating licenses were required. On September 10, 2007, the Board of Commissioners approved C260-2007, and on December 20, 2010 approved C478-2010 that allowed KDWP to lease all boating and fishing rights including Trout. This current agreement between Shawnee County and KDWP is a three (3) year

- agreement and can be terminated with thirty (30) days notice. The reinstatement of Lake Shawnee Fishing and Boating licenses would become effective immediately upon the termination of the agreement. The possession of valid State of Kansas licenses and permits are still required. (Code 2012; History: Res. 2005-189)
- (B) Any person fishing for any species of trout at must possess a current State or Special Trout License.
- (Code 2012; History: Res. 2004-35, § 4.2; amended by Res. 2005-30, § 4.2; amended by Res. 2005-189, § 4.2, amended by Res. 2011-170)

Sec. 21-174. Lawful Fishing.

- (A) Taking of any fish by means other than use of a maximum of two (2) poles with tines and hooks or by bow and arrow (see § 21-178) is prohibited.
- (B) Baiting fish by dumping grain or any other fish attracting substance into the Public Fishing Areas is prohibited.
- (C) No guiding or guide services are allowed to operate on Lake Shawnee.
- (Code 2012; History: Res. 2004-35, § 4.3; amended by Res. 2005-30, § 4.3; amended by Res. 2005-189, § 4.3, amended by Res. 2011-170)

Sec. 21-175. Minnows And Baitfish.

Persons shall not fish with white sucker or carp minnows, or put any surplus minnows in the Public Fishing Areas. The taking of any baitfish from the Public Fishing Areas is unlawful.

(Code 2012; History: Res. 2004-35, § 4.4; amended by Res. 2005-30, § 4.4; amended by Res. 2005-189, § 4.4, amended by Res. 2011-170)

Sec. 21-176. Posting Of Special Rules.

Regulations posted at the Public Fishing Areas will advise if the area is closed to fishing, or if special creel limits have been established.

(Code 2012; History: Res. 2004-35, § 4.5; amended by Res. 2005-30, § 4.5; amended by Res. 2005-189, § 4.5, amended by Res. 2011-170)

Sec. 21-177. Restricted Fishing.

- (A) Lake Shawnee Junior. Only persons under the age of sixteen (16) or sixty-five (65) or over may fish at Lake Shawnee Junior.
- (B) Fishing is prohibited in the Botanical Garden, Lake Shawnee Golf Course, and Forbes Golf Course ponds.
- (Code 2006; History: Res. 2004-35, § 4.6; amended by Res. 2005-30, § 4.6; amended by Res. 2005-189, § 4.6, amended by Res. 2011-170)

Sec. 21-178. Length And Creel Limits.

Public Fishing Areas follow the length and daily creel limits set by the State of Kansas published in the Kansas Department of Wildlife & Parks (KDWP), Kansas Fishing Regulations Summary. The daily creel limit refers to fish caught from midnight to midnight on any given day.

(Code 2012; History: Res. 2004-35, § 4.7; amended by Res. 2005-30, § 4.7; amended by Res. 2005-189, § 4.7, amended by Res. 2011-170)

Sec. 21-179. Bow And Arrow Fishing Requirements And Restrictions.

- (A) Lake Shawnee is open to the taking of non-sport fish by the means of bow and arrow during the open fishing season for the taking of such fish, subject to the limitations set forth in §§ 21-178(B) and 21-178(C).
- (B) All areas within a distance of fifty (50) yards of any other person or occupied area are hereby declared to be closed to bow and arrow fishing at Lake Shawnee.
- (C) It shall be unlawful to fish by means of bow and arrow at Lake Shawnee from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise.
- (D) Bow and arrow fishing is not allowed at Public Fishing Areas within the city limits.
- (Code 2012; History: Res. 2004-35, § 4.9; amended by Res. 2005-30, § 4.8; amended by Res. 2005-189, § 4.8, amended by Res. 2011-170)

Sec. 21-180. Ice Fishing.

Ice fishing at Public Fishing Areas is lawful only when authorized in designated areas through notification by means of signs and public news media from the Parks and Recreation officials.

(Code 2012; History: Res. 2004-35, § 4.10; amended by Res. 2005-30, § 4.9; amended by Res. 2005-189, § 4.9, amended by Res. 2011-170)

Sec. 21-181. Heated Fishing Dock.

Standard hours for the Heated Fishing Dock at Lake Shawnee are 8:00 A.M. to 8:00 P.M. seven (7) days a week from December 1 through March 31. Mild or severe weather conditions may determine the early or delayed opening or closing of this facility and will be left to the discretion of the Director of Parks and Recreation or an authorized designee.

(Code 2012; History: Res. 2004-35, § 4.11; amended by Res. 2005-30, § 4.10; amended by Res. 2005-189, § 4.10, amended by Res. 2011-170)

Sec. 22-182. Public Fishing Areas Hours.

Standard hours for Public Fishing Areas within the City limits are 6A.M. – 11P.M. Bank fishing at Lake Shawnee is permitted 24 hours a day.

(Code 2012; History: Res. 2011-170)

Secs. 21- 183 - 21-211. Reserved.

ARTICLE VI. CAMPING AT LAKE SHAWNEE

Sec. 21-212. General Rules.

- (A) All Shawnee County Parks and Recreation rules and regulations apply to campers.
- (B) All persons entering the campground must register at the entrance booth.
- (C) All vehicles in campground must display current camper or visitor tag.
- (D) Camping area is restricted to campers and authorized visitors only. All facilities including the Swimming Area are exclusively for the use of campers.

- (E) Registered campers are responsible for the conduct of their children, others camping with them, and their visitors. Violation of rules by these individuals and others may be grounds to revoke the camping privileges of the camper.
- (F) The campground will be closed to visitors between the hours of 10:00 P.M. and 9:00 A.M.
- (G) Quiet hours will be from 10:00 P.M. to 7:00 A.M.
- (H) No more than one (1) camping unit per site except in sites designed and designated for more than one camping unit and tent.
- (I) All tents and personal property must be set up immediately behind the designated and marked sites.
- (J) No fireworks are allowed in the campground, unless sponsored by Shawnee County Parks and Recreation.
- (K) SPACE OCCUPIED signs shall be used only as directed by campground staff.
- (L) Sleeping outside a camping unit or tent is prohibited.
- (M) Camping units fifty (50) feet or less are allowed in the campground.
- (N) Antennas shall not be higher than twenty (20) feet above the ground.
- (O) Campsites must be kept in a clean and orderly fashion. Failure to pick up debris and other trash items from the site may be grounds to revoke the camping privileges of the camper.
- (P) No person shall establish a permanent residence or mailing address at the campground.
- (Q) No person camping in the campground shall be exempt from the fishing and boating license requirements or any other laws of Shawnee County or State of Kansas merely by virtue of the fact that such is a properly registered camper. These persons are required to obtain Shawnee County and State of Kansas fishing and boating licenses unless otherwise exempted by law.
- (R) Cereal malt beverage may only be consumed at campsites or picnic shelter, as permitted by § 4-83.
- (S) The attaching of any lines or ropes to trees is prohibited, this includes: shelter lines, animal leashes, etc.
- (T) Picnic tables may not be removed from campsites or shelter areas.
- (Code 2006; History: Res. 2004-35, § 5.1; amended by Res. 2005-30, § 5.1; amended by Res. 2005-189, § 5.1, amended by Res. 2011-170)

Sec. 21-213. Individual Reservations.

- (A) Reservations will be accepted for arrival dates of May 15 through September 15 of each year, except for the period beginning the weekend preceding July 4 through the weekend following July 4.
- (B) Reservations must be for a minimum of two (2) nights.
- (C) The first two (2) nights must be paid by credit card when reservation is made.
- (D) Refunds will not be issued for unused reservations.
- (Code 2012; History: Res. 2004-35, § 5.2; amended by Res. 2005-30, § 5.2; amended by Res. 2005-189, § 5.2, amended by Res. 2011-170)

Sec. 21-214. Group Reservations.

- (A) Group reservations will be accepted for camping groups of fifteen (15) or more units.
- (B) Reservations must be made for a minimum of two (2) nights.
- (C) Reservations must be made at least thirty (30) days in advance.

(D) Group reservations will not be accepted for Memorial Day weekend, Labor Day weekend, or the period beginning the weekend preceding July 4 through the weekend following July 4.

(Code 2006; History: Res. 2005-189, § 5.3, amended by Res. 2011-170)

Sec. 21-215. Fees And Permits.

- (A) Current fees will be posted at the campground.
- (B) An overnight camping permit is only valid for the specific site purchased and expires at noon on the day following its effective date; except on Sundays, Memorial Day, Independence Day, and Labor Day, when it expires at 2:00 P.M. All fees are due at time of campsite occupancy and by noon of any subsequent days.
- (C) All fees are non-refundable.
- (D) Use of campground is allowed only by persons using tents, sleeping vans, sleeping buses, travel trailers, recreational vehicles, or other manufactured or converted camping unit.
- (E) All camping units must be clean, for human habitation, and in good repair.
- (F) Camping permits will not be issued to persons only using automobiles or trucks not with camping units.
- (G) Valid camping permits must be properly displayed on camping units in the campground.
- (H) No one under eighteen (18) years of age will be issued a camping permit.
- (Code 2006; History: Res. 2004-35, § 5.3; amended by Res. 2005-30, § 5.3; amended by Res. 2005-189, § 5.4, amended by Res. 2011-170)

Sec. 21-216. Camping Term Limits For Persons And Camping Units.

- (A) No person may stay longer than thirty (30) days. The camping unit must be removed from the campground at the end of thirty (30) days.
- (B) Any person leaving the campground after camping and removing his or her camping unit or tent must be gone a minimum of five (5) days before returning to the campground.
- (Code 2006; History: Res. 2004-35, § 5.4; amended by Res. 2005-30, § 5.4; amended by Res. 2005-189, § 5.5, amended by Res. 2011-170)

Sec. 21-217. All Vehicles And Trailers Must Be Properly Registered.

No person shall operate or park at the Campground any motor vehicle, motor home, or trailer for which the laws of the State of Kansas require registration without a current tag attached.

(Code 2006; History: Res. 2004-35, § 5.5; amended by Res. 2005-30, § 5.5; amended by Res. 2005-189, § 5.6, amended by Res. 2011-170)

Sec. 21-218. Parking Of Vehicles And Camping Units.

- (A) All camping units must park or be set up in spaces or sites as directed by campground personnel.
- (B) Campers will be allowed to park one (1) vehicle in addition to their camping unit at their campsite. Any additional vehicles will be parked as directed by campground staff. Campers will be allowed to park one (1) boat or utility trailer where designated by staff.

- (C) Visitors shall park vehicles in areas designated by campground staff. All visitors must check in at the campground office prior to entering the campground. Visitor parking in vacant sites will not be allowed.
- (Code 2006; History: Res. 2004-35, § 5.6; amended by Res. 2005-30, § 5.6; amended by Res. 2005-189, § 5.7, amended by Res. 2011-170)

Sec. 21-219. Disposal Of Trash And Waste.

- (A) All wastewater must be drained into a closed container.
- (B) All trash must be deposited in receptacles provided.
- (Code 2006; History: Res. 2004-35, § 5.7; amended by Res. 2005-30, § 5.7; amended by Res. 2005-189, § 5.8, amended by Res. 2011-170)

Sec. 21-220. All Animals Must Be Controlled On A Leash.

- (A) All animals must be controlled on a leash ten (10) feet in length or less, and under the direct and immediate control of the owner.
- (B) Animals must be confined inside camping unit or tent during quiet hours and at any time owner is not at the campground.
- (Code 2006; History: Res. 2004-35, § 5.8; amended by Res. 2005-30, § 5.8; amended by Res. 2005-189, § 5.9, amended by Res. 2011-170)

Sec. 21-221. Appliances And Propane Gas Tanks.

- (A) No person may place or permit any electrical appliance to remain outside their camping unit. This rule includes but is not limited to refrigerators.
- (B) No person may permit any propane gas tank or similar object to remain outside such camping unit unless such object is securely attached to the exterior of the camping unit. This restriction does not apply to propane gas grills kept in close proximity to the camping unit.
- (Code 2006; History: Res. 2004-35, § 5.9; amended by Res. 2005-30, § 5.9; amended by Res. 2005-189, § 5.10, amended by Res. 2011-170)

Sec. 21-222. Swimming Area And Beach.

- (A) All persons shall use the swimming area and surrounding dock, beach and sidewalks entirely at their own risk.
- (B) The swimming area at the Campground shall be closed between sunset and sunrise or at any other time Parks and Recreation officials deem necessary.
- (C) Glass or sharp objects of any kind are not allowed in the swimming area or on the beach
- (D) No animals are allowed in the swimming area or on the beach.
- (E) Conduct in the swimming area or on the beach, which may result in injury to self or to others, is unlawful.
- (F) No person shall permit any child ten (10) years or younger to use the swimming area or surrounding area unless such child is supervised by a parent, guardian, or responsible companion eighteen (18) years of age or older.
- (G) Inner tubes or other swimming aids that interfere with other swimmers' use of the swimming area are prohibited.
- (Code 2006; History: Res. 2004-35, § 5.10; amended by Res. 2005-30, § 5.10; amended by Res. 2005-189, § 5.11, amended by Res. 2011-170)

ARTICLE VII. SHELTER RESERVATIONS

Sec. 21-252. General Rules.

- (A) The Lake Shawnee Event Center, Shelter No. 6, Shelter No. 3, Reynolds Lodge, The Garden House, Gazebo No. 1, Gazebo No. 2, Pergola, Reinisch Rose Garden & Doran Rock Garden, Big Gage, Westlake Shelter, Snyder's Cabin, Crestview Shelter, Lakewood Shelter, Garfield Shelter, Garfield South Porch, Carousel Room, and Children's Party House are available for year round rentals. Shelter No. 1, Shelter No. 2, Shelter No. 4, Shelter No. 5, the Yacht Club, Shawnee North Shelter, Steak Grill, and Corral #2 are available for rental April 1 through October 31.
- (B) Reservations may be made in person or by contacting Shawnee County Parks and Recreation.
- (C) Effective January 1, 2012, reservations for the following two (2) years may be made from the current date and year.
- (D) Shelters are not reserved for December 24, 25, 31, or January 1.
- (E) Silly string, confetti or other similar products are prohibited.
- (F) No tents, canopies, carnival rides or blow-ups are permitted without special permission from Director or designee.
- (G) Cereal Malt Beverages and Alcohol are permitted at rental facilities (except Children's Partyhouse, Reinisch Rose Garden and Doran Rock Garden).
- (H) Weekday reservations (Monday Thursday) must be made by the prior Friday noon. Weekend reservations Friday – Sunday must be made by the previous Wednesday noon.
- (Code 2012; History: Res. 2004-35, § 6.1; amended by Res. 2005-30, § 6.1; amended by Res. 2005-189, § 6.1, amended by Res. 2011-170)

Sec. 21-253. Time Periods; Reservations.

- (A) Shelter No. 1, Shelter No. 2, Shelter No. 3, Shelter No. 4, Shelter No. 5, Shelter No. 6, the Yacht Club, Shawnee North Shelter, Westlake Shelter, Snyder's Cabin, Crestview, Lakewood, Garfield, Garfield South Porch, Children's Party House, Steak Grill, and Corral #2 reservations are taken for two (2) time periods: 10:00 A.M. to 3:30P.M. and 5:30 P.M. to 10:30 P.M. Those wishing to have the shelter all day will pay the fee for both time periods.
- (B) The Garden House, Reynolds Lodge, and Big Gage reservations are taken for one (1) time period Saturdays, Sundays, and Holidays, 8:00 A.M. to 10:30 P.M.
- (C) The Garden House, Reynolds Lodge and Big Gage reservations are taken for two (2) time periods, Monday through Friday, 8:00 A.M. to 3:30 P.M. and 5:30 P.M. to 10:30 P.M. Those wishing to have the shelter all day will pay the fee for both time periods.
- (D) Gazebo No. 1, Gazebo No. 2, and the Pergola are taken for two (2) time periods every day, 8:00 A.M. to 3:30 P.M, and 5:30 P.M. to 10:30 P.M.
- (E) The Lake Shawnee Event Center reservations are taken for two (2) time periods Monday through Thursday, 8:00 A.M. to 3:30 P.M. and 5:30 P.M. to 10:30 P.M.
- (F) The Lake Shawnee Event Center is reserved Friday, Saturday, Sunday, and Holidays for one (1) time period, 8 A.M. to 10:30 P.M.

- (G) The Reinisch Rose Garden & Doran Rock Garden is reserved for four (4) time periods Friday, Saturday, and Sunday, 9:00 A.M. to 11 A.M., 12:00 P.M. to 2:00 P.M., 3:00 to 5:00 P.M., and 6:00 P.M. to 8:00 P.M.
- (E) Holiday fees are for reservations made for Memorial Day, July Fourth, Labor Day, and Thanksgiving Day.
- (Code 2012; History: Res. 2004-35, § 6.2; amended by Res. 2005-30, § 6.2; amended by Res. 2005-189, § 6.2, amended by Res. 2011-170)

Sec. 21-254. Payment.

Payment must be made in full at the time of reservation.

(Code 2012; History: Res. 2004-35, § 6.3; amended by Res. 2005-30, § 6.3; amended by Res. 2005-189, § 6.3, amended by Res. 2011-170)

Sec. 21-255. Requests For Waiver.

Requests for waiver of the reservation fee must be submitted in writing to the Director of Shawnee County Parks and Recreation.

(Code 2012; History: Res. 2004-35, § 6.6; amended by Res. 2005-30, § 6.4; amended by Res. 2005-189, § 6.4, amended by Res. 2011-170)

Sec. 21-256. All Persons Renting Park Facilities Shall Assume Liability.

All persons renting park facilities shall assume liability for any damage done to buildings, grounds, or equipment, and are responsible for the conduct of others attending their function.

(Code 2006; History: Res. 2004-35, § 6.7; amended by Res. 2005-30, § 6.5; amended by Res. 2005-189, § 6.5, amended by Res. 2011-170)

Sec. 21-257. All Groups With Members Under Eighteen (18) Years.

All groups with members under eighteen (18) years of age must provide adequate adult supervision.

(Code 2006; History: Res. 2004-35, § 6.8; amended by Res. 2005-30, § 6.6; amended by Res. 2005-189, § 6.6, amended by Res. 2011-170)

Sec. 21-258. Smoking.

Smoking is prohibited in shelters.

(Code 2012; History: Res. 2004-35, § 6.9; amended by Res. 2005-30, § 6.7; amended by Res. 2005-189, § 6.7, amended by Res. 2011-170)

Sec. 21-259. Rental Capacities.

Rental capacities have been determined and published to insure the safe and efficient operation of shelter house rentals in regards to fire safety, restroom capacities, and park availability for all users of Shawnee County Parks. Shelter rental includes the properly leased shelter and the patios and decks adjoining said structure.

(Code 2006; History: Res. 2004-35, § 6.10; amended by Res. 2005-30, § 6.8; amended by Res. 2005-189, § 6.8, amended by Res. 2011-170)

Secs. 21-260-21-291. Reserved.

ARTICLE VIII. AQUATIC FACILITIES

Sec. 21-292. General Rules.

The following list of rules and regulations has been instituted by Shawnee County Parks and Recreation for the benefit and safety of those persons using such facilities at the Lake Shawnee Swimming Beach, Shawnee North Family Aquatic Center, Rossville Community Swimming Pool, Garfield Pool, Hillcrest Pool, Blaisdell Pool, Crestview Pool, and Oakland Pool. Any violation of these rules is unlawful.

(Code 2012; History: Res. 2004-35, § 7.1; amended by Res. 2005-30, § 7.1; amended by Res. 2005-189, § 7.1, amended by Res. 2011-170)

Sec. 21-293. Authority To Close Aquatic Facilities.

The Director of Shawnee County Parks and Recreation or a duly authorized designee shall have the authority to close the aquatic facilities when the safety or health of participants is endangered.

(Code 2012; History: Res. 2004-35, § 7.2; amended by Res. 2005-30, § 7.2; amended by Res. 2005-189, § 7.2, amended by Res. 2011-170)

Sec. 21-294. Glass Containers Or Sharp Objects Prohibited.

Glass containers or sharp objects of any kind are not allowed in the aquatic facilities. (Code 2006; History: Res. 2004-35, § 7.3; amended by Res. 2005-30, § 7.3; amended by Res. 2005-189, § 7.3, amended by Res. 2011-170)

Sec. 21-295. Swimming Is Permitted.

Swimming is permitted only when facility is open for business.

(Code 2006; History: Res. 2004-35, § 7.4; amended by Res. 2005-30, § 7.4; amended by Res. 2005-189, § 7.4, amended by Res. 2011-170)

Sec. 21-296. Closing Time.

The aquatic facilities will close promptly at posted hours or at other times as deemed necessary.

(Code 2006; History: Res. 2004-35, § 7.5; amended by Res. 2005-30, § 7.5; amended by Res. 2005-189, § 7.5, amended by Res. 2011-170)

Sec. 21-297. Conduct.

Conduct which may result in injury to self or to others, or that is deemed unsafe by authorized personnel is strictly prohibited.

(Code 2006; History: Res. 2004-35, § 7.6; amended by Res. 2005-30, § 7.6; amended by Res. 2005-189, § 7.6, amended by Res. 2011-170)

Sec. 21-298. Swimming In Restricted Areas Is Prohibited.

Swimming in restricted areas is prohibited.

(Code 2006; History: Res. 2004-35, § 7.7; amended by Res. 2005-30, § 7.7; amended by Res. 2005-189, § 7.7, amended by Res. 2011-170)

Sec. 21-299. Children Ten (10) Years And Younger.

No child ten (10) years of age or younger will be admitted unless accompanied and supervised by parent, guardian, or responsible companion sixteen (16) years of age or older

(Code 2006; History: Res. 2004-35, § 7.8; amended by Res. 2005-30, § 7.8; amended by Res. 2005-189, § 7.8, amended by Res. 2011-170)

Sec. 21-300. Animals Or Pets Prohibited.

No animals or pets will be allowed in the aquatic facilities unless written approval is obtained from the Director of Shawnee County Parks and Recreation.

(Code 2012; History: Res. 2004-35, § 7.9; amended by Res. 2005-30, § 7.9; amended by Res. 2005-189, § 7.9, amended by Res. 2011-170)

Sec. 21-301. Fireworks Prohibited.

No fireworks are allowed in the aquatic facilities unless sponsored by Shawnee County Parks and Recreation.

(Code 2006; History: Res. 2004-35, § 7.10; amended by Res. 2005-30, § 7.10; amended by Res. 2005-189, § 7.10, amended by Res. 2011-170)

Sec. 21-302. Smoking Prohibited.

Smoking is prohibited in the aquatic facilities.

(Code 2006; History: Res. 2004-35, § 7.11; amended by Res. 2005-30, § 7.11; amended by Res. 2005-189, § 7.11, amended by Res. 2011-170)

Sec. 21-303. Appropriate Clothing Must Be Worn.

Appropriate clothing must be worn.

(Code 2006; History: Res. 2004-35, § 7.12; amended by Res. 2005-30, § 7.12; amended by Res. 2005-189, § 7.12, amended by Res. 2011-170)

Sec. 21-304. Reservations; Aquatic Facilities.

Aquatic facilities may be reserved with approval of the Director of Shawnee County Parks and Recreation or a duly authorized designee. Fees will be determined in accordance with operational standards of each facility.

(Code 2006; History: Res. 2004-35, § 7.13; amended by Res. 2005-30, § 7.13; amended by Res. 2005-189, § 7.13, amended by Res. 2011-170)

ARTICLE IX. TENNIS AND SAND VOLLEYBALL COURTS

Sec. 21-342. General Rules.

- (A) Courts are to be used for the play and/or instruction of Tennis and Volleyball only.
- (B) Only smooth, non-marking soled shoes may be worn on tennis courts.
- (C) Bicycles, roller skates, skateboards, roller blades, motorized vehicles, or any other wheeled vehicle is prohibited on court surfaces.
- (Code 2012; History: Res. 2004-35, § 8.1; amended by Res. 2005-30, § 8.1; amended by Res. 2005-189, § 8.1, amended by Res. 2011-170)

Sec. 21-343. Hours, Usage, And Availability Of Courts.

- (A) Courts and designated game fields are available for open activity at all times between the hours of 6:00 A.M. and 11:00 P.M. except for special events, lessons, and leagues sponsored by Shawnee County Parks and Recreation.
- (B) Court usage is first come, first serve.
- (C) Court usage is limited to one (1) hour if players are waiting.
- (Code 2006; History: Res. 2004-35, § 8.2; amended by Res. 2005-30, § 8.2; amended by Res. 2005-189, § 8.2, amended by Res. 2011-170)

Sec. 21-344. Tennis Court Lights.

- (A) Any players using the court lights must turn off such lights prior to leaving the courts unless such court is in use.
- (B) Lights must be turned off by 11:00 P.M. when park closes.
- (C) Tennis court lights are not in operation from December 1 through February 28.
- (Code 2006; History: Res. 2004-35, § 8.3; amended by Res. 2005-30, § 8.3; amended by Res. 2005-189, § 8.3, amended by Res. 2011-170)

Sec. 21-345. Tennis And Volleyball Facilities.

(A) Tennis courts at Lake Shawnee and North Community Park and sand volleyball facilities may be reserved with approval from the Director of Parks & Recreation or a duly authorized designee. Fees will be determined in accordance with operational standards of each facility.

(Code 2012; History: Res. 2005-189, § 8.4, amended by Res. 2011-170)

Secs. 21-346 - 21-371. Reserved.

ARTICLE X. BALL DIAMONDS AND GAME FIELDS

Sec. 21-372. General Rules.

- (A) Ball diamonds, soccer and football game fields may be used by reservation only. Reservations may be made in person or by contacting Shawnee County Parks and Recreation Athletics Staff.
- (B) No animals, bicycles, motorcycles, or motor vehicles are allowed on the ball diamonds and game fields.
- (Code 2012; History: Res. 2004-35, § 9.1; amended by Res. 2005-30, § 9.1; amended by Res. 2005-189, § 9.1, amended by Res. 2011-170)

Sec. 21-373. Tournaments And League Play.

- (A) Tournaments and league play may be played by reservation only.
- (B) Reservations may be made by contacting Shawnee County Parks and Recreation Athletics Staff at least two (2) weeks in advance.
- (C) Reservations are made on a first come, first serve basis. Reservations for adult slow-pitch softball tournaments may be made after February 1 for that year. All other reservations are taken on a year round basis.
- (D) Tournament play may begin no earlier than 7:00 A.M. Saturdays and Sundays and run no later than 11:00 P.M. both days.
- (E) Diamonds will be prepared for play by Shawnee County Parks and Recreation prior to play in the mornings.
- (F) Tournament directors may charge a gate fee for spectators of the tournament with the written authorization of the Director of Parks and Recreation.
- (G) Concession facilities are operated exclusively by Shawnee County Parks and Recreation unless authorized in writing by the Director of Parks and Recreation.
- (H) Deposit must be paid at time of reservation.
- (I) All music played during such reservations shall be appropriate for all age groups and shall not include selections that contain profanity nor sexual connotations.
- (J) All reservations are subject to cancellation when Shawnee County Parks & Recreation so determines that the reservation should be cancelled. Upon cancellation, any funds or fees shall be returned.
- (K) No alcoholic beverages including beer are allowed on parkland property. Shawnee County Parks & Recreation reserves the right to withhold any deposit for violating this code.
- (L) Shawnee County Parks & Recreation will attempt to provide a rainout date when necessary.
- (Code 2012; History: Res. 2004-35, § 9.2; amended by Res. 2005-30, § 9.2; amended by Res. 2005-189, § 9.2, amended by Res. 2011-170)

Sec. 21-371. Responsibilities, Tournament Directors/Participating Teams.

If any of the following responsibilities are not met, part or all of the deposit may be forfeited:

- (1) Tournament director is responsible for securing any insurance for tournaments if such insurance is desired. The management of the tournament is the responsibility of the tournament directors.
- (2) Any person or group who reserves a ball diamond or game field is responsible for picking up all litter on ball diamond, game field, parking lot, and surrounding areas
- (3) Any person or group who reserves a ball diamond or game field is responsible for any damage that occurs to County property. The person or group will pay any physical damage in excess of deposit amount.
- (Code 2006; History: Res. 2004-35, § 9.3; amended by Res. 2005-30, § 9.3; amended by Res. 2005-189, § 9.3, amended by Res. 2011-170)

Sec. 21-374. Shawnee County Is Not Responsible For Accidents.

Shawnee County is not responsible for accidents or injury of participants involved in a tournament. Shawnee County is not responsible for any damage, breakage, or loss of any equipment involved in a tournament.

(Code 2006; History: Res. 2004-35, § 9.4; amended by Res. 2005-30, § 9.4; amended by Res. 2005-189, § 9.4, amended by Res. 2011-170)

Sec. 21-375. All Other Rules And Regulations Also In Force.

All rules and regulations of Shawnee County Parks and Recreation apply to all persons using any softball or baseball complexes and game fields.

(Code 2012; History: Res. 2004-35, § 9.5; amended by Res. 2005-30, § 9.5; amended by Res. 2005-189, § 9.5, amended by Res. 2011-170)

Sec. 21-376. Ball Diamonds And Game Fields.

Ball diamonds and game fields may be reserved with approval of the Director of Shawnee County Parks & Recreation or a duly authorized designee. Fees will be determined in accordance with operational standards of each facility.

(Code 2012; History: Res. 2005-189, § 9.6, amended by Res. 2011-170)

Secs. 21-377 - 21-401. Reserved.

ARTICLE XI. COMMUNITY CENTERS

Sec. 21-402. General Rules.

- (A) Conduct, which may cause injury or offend others, is strictly prohibited.
- (B) All posted signs must be obeyed.

(Code 2012; History: Res. 2004-35, § 10.1; amended by Res. 2005-30, § 10.1; amended by Res. 2005-189, § 10.1, amended by Res. 2011-170)

Sec. 21-403. Activities At Community Centers.

The Director of Shawnee County Parks and Recreation or authorized designees have priority and may schedule all activities in the community centers.

(Code 2012; History: Res. 2004-35, § 10.2; amended by Res. 2005-30, § 10.2; amended by Res. 2005-189, § 10.2, amended by Res. 2011-170)

Sec. 21-404. Hours.

Hours of operation are posted in the community centers and the Parks and Recreation Activity Brochure.

(Code 2006; History: Res. 2004-35, § 10.3; amended by Res. 2005-30, § 10.3; amended by Res. 2005-189, § 10.3, amended by Res. 2011-170)

Sec. 21-405. Rental Procedures And Policies.

- (A) The personnel at each facility will determine the times that rooms and gyms are available for rental.
- (B) Rooms will be reserved on a first come, first serve basis for normal operating hours only. A room rental request for time the center is normally closed will require permission from the Facility Director. Reservations must be made at least ten (10) days prior to the reservation date.
- (C) Reservations may be made at the Community Center office or by telephone. The reservation is not complete until the reservation form is completed and signed by the group representative and all fees have been paid.
- (D) Groups reserving a specific room will only be allowed usage of that room and restroom facilities.
- (E) Whenever group members are under eighteen (18) years of age, adult supervision must be provided.
- (F) Organizations or groups using a facility may not use it as a mailing address, phone number, or storage area.
- (G) Groups using the building must be in compliance with all rules and regulations of the Community Center and Shawnee County Parks and Recreation. In case of emergency, all persons in the center will comply with the instructions given by staff members. Staff members shall have the authority to terminate the reservation under any circumstances.

(Code 2012; History: Res. 2004-35, § 10.4; amended by Res. 2005-30, § 10.4; amended by Res. 2005-189, § 10.4, amended by Res. 2011-170)

Sec. 21-406. Smoke Free Facilities.

All Shawnee County Parks & Recreation Community Centers are smoke free facilities.

(Code 2012; History: Res. 2004-35, § 10.5; amended by Res. 2005-30, § 10.5; amended by Res. 2005-189, § 10.5, amended by Res. 2011-170)

Secs. 21-407 - 21-441. Reserved.

ARTICLE XII. GOLF COURSES

Sec. 21-442. General Rules.

- (A) The golf course is to be used exclusively for the playing of golf or golf related activities. Any exceptions to this rule must be issued in writing by the Director of Parks and Recreation.
- (B) Players and guests use golf courses at their own risk.
- (C) The Director of Parks and Recreation, the Golf Course Superintendent, or a duly authorized designee shall have the right to close the golf course to play when conditions warrant.
- (D) Golf course annual fees are available for sale in the pro shops at Lake Shawnee and Forbes. Annual fees sold at Lake Shawnee will be limited to two hundred twenty-five (225) maximum and Forbes will be limited to fifty (50) maximum.
- (E) All players must register at the pro shop before playing.
- (F) All golfers will be paired with other golfers to form a foursome or a fivesome whenever possible and whenever such an arrangement has not already been made. No more than five (5) players will be permitted to a group. No more than four (4) players will be permitted in a group before 8:00 A.M. without permission of facility management.
- (G) Non-playing persons are allowed on the golf course only when accompanied by players. Players shall be responsible for the conduct of guest(s). Children less than six (6) years of age are not permitted on the course neither walking nor in a golf cart.
- (H) Prepaid gift certificates issued by the pro shops will be honored at face value when the holder presents said certificate(s) at the time of purchase of pro shop merchandise only. Gift certificates will become void twelve (12) months after date of issuance.
- (I) All activities within the clubhouse shall conclude at the time of closing unless approved by the facility management.
- (J) Honorary life memberships to the Shawnee County golf courses may be issued at the discretion of the Director of Parks and Recreation to those persons who have demonstrated their desire and willingness to promote the development and growth of the golf courses with major contributions on a continuing basis. This membership is limited to the person issued and is nontransferable.
- (K) Pets are not allowed on the golf course at any time.
- (L) The Directory of Parks & Recreation is responsible for the establishment of fees, including temporary adjustments to offer specials as deemed necessary.
- (Code 2006; History: Res. 2004-35, § 11.1; amended by Res. 2005-30, § 11.1; amended by Res. 2005-189, § 11.1, amended by Res. 2011-170)

Sec. 21-443. Tee Times.

- (A) Tee time reservations will be accepted on a year round basis.
- (B) Saturday, Sunday, and holiday reservations for tee times will be accepted four (4) days in advance by telephone only. Telephone calls will be received at the pro shop beginning at 8:00 A.M. to accept reservations.
- (C) Weekday tee times will be available for reservation starting four (4) days in advance by phone or in person.

- (D) League players may reserve their tee time during their designated weekday league time up to seven (7) days in advance by phone or in person.
- (E) No person may make more than one (1) tee time reservation per day.
- (F) Frost/weather delay policy dictates that tee times will be pushed back in order when the courses experience rain, weather, or frost delays. Groups will go off in their tee time order when the course opens.
- (G) Persons failing to cancel any tee time reservation prior to 6:00 P.M. on the day preceding the day of the tee time and failing to honor the tee time may be restricted from the privilege of reserving tee times for two (2) weeks from the date of said tee time.
- (Code 2006; History: Res. 2004-35, § 11.2; amended by Res. 2005-30, § 11.2; amended by Res. 2005-189, § 11.2, amended by Res. 2011-170)

Sec. 21-444. Conduct Of Players; Proper Golf Attire/Equipment.

- (A) Each player must have at least four (4) clubs and a golf bag.
- (B) All players shall begin play at the 1st tee unless otherwise directed by a golf course official.
- (C) All players must replace their divots and repair their ball marks.
- (D) Players may not have more than one (1) ball in play at a time.
- (E) Players may hit practice balls only in designated practice areas.
- (F) Players must allow faster players to play through. Course officials reserve the right to enforce this rule. The times noted on the scorecard are the recommended playing time per hole.
- (G) All sand bunkers must be raked after each use.
- (H) Proper clothing (appropriate golf shoes, slacks or shorts, and shirts) is required for golf course play.
- (I) Driving range balls must be left on the driving range.
- (J) The Director of Parks and Recreation, the Golf Course Superintendent, and the Golf Pro/Manager have the authority to eject players from the course and clubhouse for play that is deemed harmful to the course, to oneself, to others, or to the safe and efficient conduct of play on the course, and for violation of the rules and regulations governing the golf course and play. Ejection for a period of time to exceed one (1) day must be authorized by the Director of Parks and Recreation. Refunds of daily green fees, cart fees, trail fees, or membership fees will not be granted.
- (K) Loud or foul language or profanity is not allowed on the course.
- (L) All persons must sign in at the pro shop prior to playing the course.
- (M) Alcoholic beverages may not be brought onto the premises without the prior permission of facility management.
- (Code 2006; History: Res. 2004-35, § 11.3; amended by Res. 2005-30, § 11.3; amended by Res. 2005-189, § 11.3, amended by Res. 2011-170)

Sec. 21-445. Golf Cars And Pull Carts.

- (A) Golf cars and pull carts are not allowed within fifty (50) feet of any green or tee unless on cart path.
- (B) Operators of golf cars must keep the cars on the golf car paths at those times designated by the Golf Course Superintendent, facility management, or authorized designee.

- (C) Persons desiring to rent and/or operate a golf car must have in their possession a valid driver's license.
- (D) No person shall operate a golf car that is carrying more than two (2) occupants including the operator and/or more than two (2) golf bags. Pull carts are not permitted on nor may they be towed from golf cars.
- (E) Reservations for golf cars will be made only for persons who are involved in tournaments or special events and/or persons who would be unable to play golf without the use of a golf car.
- (F) Coolers are not allowed on golf cars except as allowed by golf course officials.
- (G) All golf cars and carts must be returned to the place where they were rented.
- (H) Golf car owners purchasing a yearly trail fee must display the dated yearly sticker (non-transferable) on the rear bumper of the golf car.
- (Code 2006; History: Res. 2004-35, § 11.4; amended by Res. 2005-30, § 11.4; amended by Res. 2005-189, § 11.4, amended by Res. 2011-170)

Sec. 21-446. Tournaments; Scotch-Foursomes; Other Special Events.

- (A) Tournaments may only be scheduled by the Golf Pro/Manager at the golf course.
- (B) The Golf Pro/Manager or other golf course officials shall serve as course marshals to see that play is progressing in an orderly manner.
- (C) Tournaments will not begin prior to two (2) hours after the first starting tee time.
- (D) The Golf Pro/Manager and the Director of Parks & Recreation may authorize Tournaments that begin with players on each hold of the golf course, also known as shotguns.
- (Code 2006; History: Res. 2004-35, § 11.5; amended by Res. 2005-30, § 11.5; amended by Res. 2005-189, § 11.5, amended by Res. 2011-170)

Sec. 21-447. Waiver Of Green Fees; Eligibility.

Green fees will be waived for the following:

- (A) One (1) Men's Club and one (1) Women's Club invitational tournaments may be held each year;
- (B) High school and collegiate teams are allowed to hold dual meets, practice, and invitational tournaments at Lake Shawnee and Forbes as schedule permits;
- (C) All persons participating in the Junior Golf Programs conducted by the County or the Golf Pro/Manager;
- (D) All members of the Professional Golf Association, Golf Course Superintendents Association, and the Director of Parks and Recreation; and
- (E) Iindividuals as designated by the Director of Parks and Recreation.
- (Code 2006; History: Res. 2004-35, § 11.6; amended by Res. 2005-30, § 11.6; amended by Res. 2005-189, § 11.6, amended by Res. 2011-170)

Sec. 21-448. Rain Check Policy.

- (A) Rain checks will be issued in the event that weather becomes inclement after the player has paid green fees. The value of the rain check will be determined by the conditions listed below:
 - (1) If the player has paid the green fee but has not teed off the fourth (4th) tee, one hundred percent (100%) of the green fee will be credited on the rain check;

- (2) A rain check for the second nine (9) will be issued if the player has not teed off the twelfth (12th) tee. A second nine (9) rain check may only be used when a first nine (9) green fee is purchased; or (3) If a player has paid for nine (9) holes, a rain check will be issued if the player has not teed off the fourth (4th) tee.
- (B) The rain check will be issued in the form of a credit on the next round of golf. Money will not be refunded.

(Code 2006; History: Res. 2004-35, § 11.7; amended by Res. 2005-30, § 11.7; amended by Res. 2005-189, § 11.7, amended by Res. 2011-170)

Sec. 21-449. ADA Accessibility.

- (A) In an effort to balance the needs of our handicapped patrons and our needs to maintain public golf facilities at our high standards, the following procedures for handicapped golf car usage will be implemented:
 - (1) Requests must contain a written physician statement with recommendation for golf car usage;
 - (2) Golf car operators must remain beyond ten (10) feet from greens and tees;
 - (3) The golf cars will not be operated between the green and any adjoining bunkers;
 - (4) A Kansas authorized "Handicap" vehicle license plate, sticker, or sign are recommended for obtaining golf car handicap status;
 - (5) The Director of Parks and Recreation can grant permission to waive any or all of the above requirements;
 - (6) Golf cars must remain on car paths during inclement weather and other times as required by the Golf Course Superintendent;
 - (7) A handicap flag will be provided by County Parks and Recreation. The operator will be responsible for displaying the handicap flag while on the golf course; and (8) Handicap flag and bracket will be installed by the golf course maintenance staff on the golf car at a location that is acceptable by the owner.
 - (B) Abuse or misuse of these privileges will be grounds for revocation of these privileges.
 - (C) All patrons granted handicapped status will be given a copy of the above rules and regulations for their usage.

(Code 2006; History: Res. 2004-35, § 11.8; amended by Res. 2005-30, § 11.8; amended by Res. 2005-189, § 11.8, *amended* by Res. 2011-170)

Secs. 21-450 - 21-481. Reserved.

ARTICLE XIII. OLD PRAIRIE TOWN (INCLUDES MULVANE GENERAL STORE, TOWN SQUARE, POTWIN DRUG STORE, AND MANSION)

Sec. 21-482. General Rules.

- (A) Conduct, which may cause injury to or offend others, is strictly prohibited.
- (B) All posted signs must be obeyed.

(Code 2012; History: Res. 2011-170)

Sec. 21-483. Activities at Old Prairie Town

The Director of Parks and Recreation or authorized designees have priority a nd may schedule all activities at Old Prairie Town.

(Code 2012; History: Res. 2011-170)

Sec. 21-484. Hours.

- (A) Hours of facilities are posted and in the Parks & Recreation Activity Brochure.
- (B) Grounds are open 8:AM to Dusk.
- (C) Mulvane General Store and Potwin Drug Store hours are 10AM-4PM, Monday Saturday, 12PM 4PM, Sunday.

(Code 2012; History: Res. 2011-170)

Sec. 21-485. Rental Procedures and Policies.

- (A) The personnel at each facility will determine the time that facilities are available for rental.
- (B) Facilities will be reserved on a first come, first serve basis for normal operating hours only.
- (C) Reservations will be made in person or by phone.
- (D) A non-refundable \$75 deposit is required for weddings and reception packages. (Code 2012; History: Res. 2011-170)

Sec. 21-486. Tours.

- (A) Guided tours of historic buildings are 10AM, 12PM, and 2PM, Monday Friday; 12PM, 2PM –Saturday-Sunday.
- (B) Groups of 15 or more by reservation only. (Code 2012; History: Res. 2011-170)

Sec. 21-487. Smoke Free Facilities

(A) All facilities at Old Prairie Town are smoke free facilities. (Code 2012; History: Res. 2011-170)

Secs. 21-488 - 21-501. Reserved.

ARTICLE XIV. HELEN HOCKER CENTER FOR THE PERFORMING ARTS

Sec. 21-502. General Rules.

- (A) Conduct, which may cause injury to or offend others, is strictly prohibited.
- (B) All posted signs must be obeyed.
- (C) If there are special needs i.e. wheelchair, notify staff at the time of reservation.
- (D) Show, dates and times are subject to change without notice. (Code 2012; History: Res. 2011-170)

Sec. 21-503. Hours.

(A) Theatre office hours are 9AM – 5PM. (Code 2012; History: Res. 2011-170)

Sec. 21-504. Ticket Sales.

- (A) Tickets go on sale two to three weeks prior to the opening of any production and may be purchased in advance in person or phone during regular office hours.
- (B) Helen Hocker Theatre reserves the right to re-sell tickets if patron does snot arrive within 2 minutes of show time.
 - (C) Tickets are non-refundable.
- (D) After business hours, remaining tickets will be sold at the door (Code 2012; History: Res. 2011-170)

Sec. 21-505. Smoke Free Facilities.

(A) Helen Hocker Theatre is a smoke free facility. (Code 2012; History: Res. 2011-170)

Secs. 21-506 - 21-521. Reserved.

ARTICLE XV. QUASI-PUBLIC ORGANIZATIONS

Sec. 21-522. Quasi-Public Organizations.

- (A) Shawnee Boat and Ski Club, Shawnee County Amateur Baseball Association (SCABA), Shawnee County Girls Softball Association (SCGSA), the Shawnee Yacht Club, the Topeka Quarter Midget Association, and the Topeka Rowing Association are quasi-public organizations and are operated to promote youth athletics, sailing, boating and rowing, and other wholesome activities in the Shawnee County Parks. The respective Boards of Directors establish the rules, regulations, and fees governing these organizations. Updated copies of these rules and regulations shall be kept on file in the Shawnee County Parks and Recreation administration office. Parks and Recreation acknowledges these organizations' rules, regulations, and fees insofar as they are not in contradiction to Shawnee County Parks and Recreation and Shawnee County rules, regulations, and fees.
- (B) Current lease agreements, proof of adequate insurance, the organizations rules and regulations, and list of current officers for each group must be on file in the Parks and Recreation office.

(Code 2012; History: Res. 2003-281; amended by Res. 2005-30, § 12; amended by Res. 2005-189, § 12, amended by Res. 2011-170)

Secs. 21-520 - 21-528. Reserved.

ARTICLE XVI. WEST LAWN MEMORIAL GARDENS

Sec. 21-532. Lots

- (A) All lots shall be held and used for burial of human remains, which is defined to include keeping graves filled, seeded, and turf maintained.
- (B) Shawnee County shall have the right to remove any erection or enclosure or anything which it deems detrimental to general good appearance of the grounds or which

shall, in the judgment of the Director of Parks and Recreation or his designee, prevent the easy or proper care of the lot.

- (C) No transfer or assignment of any lot or any interest therein shall be valid without securing the notarization of the transfer by the Director of Parks and Recreation or his designee. A processing fee of \$50 will be charged for any transfer of name on a deed, due to family status, or sale of a lot. Lots with grave markers thereon larger than two (2) feet by four (4) feet or of any size shall not be divided or transferred.
- (D) All lots sold in the cemetery shall be filled and seeded flat so as to be level with the surrounding surface of the lot. No mound shall be permitted on any grave.
- (E) All Veteran burials must have proof of Honorable Discharge to receive free burial in Veterans Field of Honor.
 - (F) All funeral homes are required to place temporary grave marker on burial sites.
- (G) Standard internment requires standard outside receptacle (minimum two-piece box).
- (H) No additional cremains receptacle required for burial other than receptacle containing cremains.

(Code 2012; History: Res. 2011-170)

Sec. 21-533. Grave Decorations

- (A) Cemetery approved vases are vases that are fixed to the grave markers by the manufacturer.
- (B) Shawnee County assumes no responsibilities for flower arrangements or decorations.
- (B) No Shepherd hooks, or any other hanging baskets are allowed.
- (C) No glass containers or decorations are allowed.
- (D) All flowers, cut and artificial, are permitted, but are required to be displayed and secured in approved vases. All flowers and decorations not in approved vases will be removed as mowing and maintenance responsibilities require.
- (E) Parks and Recreation personnel will remove all flowers and decorations not in or secured to approved vases one (1) week after Memorial Day.
- (F) All winter decorations not secured in approved vases will be removed after March 1.
- (G) Owners must obtain written approval from the Director of Parks & Recreation prior to placing any permanent plant materials such as shrubs, trees, flowers, etc.
- (H) All decorations (flowers, signs, personal items, memorials, etc.) must be secured to approved vases. Hanging decorations in trees or bushes is prohibited. Physical structures or materials are not allowed beside the grave marker this includes any fencing or edging material. Mulching material or gravel is not allowed.
- (I) All floral decorations whether natural or artificial, shall be subject to the County's written policies. These policies are posted or on file and available for inspection in the Cemetery Parks & Recreation Administration Office. The Cemetery may remove all floral designs (artificial or natural), flowers, weeds, trees, shrubs, or plants of any kind from the Cemetery as soon as, in the judgment of the County, they become unsightly or diseased, or if they do not conform to the Cemetery's policies.

(Code 2012; History: Res. 2011-170)

Sec. 21-534. Single Graves

- (A) For the accommodation of those who do not wish to purchase family lots, certain portions of the ground have been set apart to be sold as single graves.
- (B) In the case of the purchase of a lot and the removal of a body from a single grave thereto, the usual price of disinterment and re-interment will be charged and the

amount paid for the ground or single grave will be allowed toward the removal charge.

- (C) Single graves may contain:
 - a. One (1) regular casket burial,
 - b. Two (2) cremation burials,
 - c. One (1) regular casket burial and one (1) cremation burial, and
 - d. One (1) regular adult casket burial and one (1) infant burial.

(Code 2012; History: Res. 2011-170)

Sec. 21-535. Interments

- (A) All interments fees shall be paid prior to the graveside service. Exceptions are military services.
- (B) Graves for adults shall be not less than five (5) feet in depth, and for children, not less than four (4) feet in depth.
- (C) When interments are to be made, notice shall be given to the cemetery 24 hours prior to time of such interment, giving the size of box to be used and, if on a private lot, the location of grave.
- (D) No interment of any body other than of an immediate relative or heir of any lot owner shall be made on any lot without the written permission of such lot owner being filed with the cemetery, and no lot owners shall allow interments to be made in their lots for remuneration.
- (E) Prices for opening and closing graves do not include tent, chairs, grass matting or lowering device.
- (F) All services times are to be no later than 4 p.m.
- (G) All burials shall be made in concrete vaults, or metal vaults; except that infants may be buried in wooden boxes.
- (H) No interments shall be made on Sunday, or County-recognized Holidays.
- (I) No person, firm, or corporation, other than recognized and approved licensees or the personnel of the cemetery shall be permitted to install containers or vaults in the cemetery.
- (J) Any indigent burials will take place Monday through Friday, with a graveside service of 11 a.m. graveside in a space selected at the discretion of the County. Opening and closing of these graves will be at no cost Monday through Friday prior to 1p.m.

(Code 2012; History: Res. 2011-170)

Sec. 21-536. Grave Markers

- (A) The County shall have the right to reset any grave markers that are deemed detrimental to the appearance of the grounds, or which shall prevent proper care of the lot.
- (B) Any grave marker placed on a lot with an existing above ground memorial must be placed at ground level. Any bench bearing a name will be considered a memorial.
- (C) All temporary markers that are provided by the funeral homes at the time of interment shall be removed after one (1) year by the County, and family must provide permanent grave marker.
- (D) All lots are 3'4" or 3'6"wide and the width of a grave marker will not be greater that 36". Double markers will be no greater than 60"for two spaces.
- (E) No bevel markers allowed. All markers must be flush with the grass level.
- (F) All slabs or collars for government markers, benches, bronze markers, etc. must be made of granite. No concrete is allowed.

- (G) All inverted vases must be in a grave marker. Vases are not allowed to be placed separately.
- (H) One (1) memorial is two (2) grave markers are allowed per grave space lot if two (2) burials are in lot. and is to be placed in the middle of the grave and flush with the turf.
- (I) All photos of persons, or things, must be an integral part of bronze and granite markers. Such photos and things not secured to approved vases, attached separately to the markers, or covered with glass or metal will not be allowed.

(Code 2012; History: Res. 2011-170)

Sec. 21-537. Visitation

- (A) Entry to the cemetery is dawn to dusk.
- (B) Pets must be controlled by leash.
- (C) Persons accompanied by dogs running at large shall not be admitted.
- (D) Pet waste must be removed from the cemetery.
- (E) The Director of Parks & Recreation or his designee may, at his or her discretion, refuse admission into the grounds of all trespassers and improper persons and may, at his or her discretion, expel those who may violate any of the rules governing the cemetery.
- (F) The driveways shall not be considered public thoroughfares. (Code 2012; History: Res. 2011-170)

Sec. 21-538. Pet Burials

- (A) Only dog and cat burials will be allowed.
- (B) Pets must be brought to the cemetery in burial container at time of burial. (Code 2012; History: Res. 2011-170)

Secs. 21-539 - 21-551. Reserved.

ARTICLE XVII. PENALTIES

Sec. 21-552. Penalties.

- (A) The Director of Parks and Recreation or a duly authorized designee may suspend, forfeit, cancel, or revoke any licenses or privileges granted within Shawnee County Parks and Recreation facilities or may refuse to grant the same for a period not to exceed one (1) year after the violation. The action of the Director of Parks and Recreation shall be in writing and mailed to the last known address of the violator, and shall state whether the action is in lieu of, or in addition to, the penalties provided herein.
- (B) Whenever in these rules and regulations, the decision of the Director of Parks and Recreation is provided for in suspending, forfeiting, canceling, or revoking licenses or privileges within Shawnee County Parks and Recreation facilities, or refusing to grant Commissioners on or before the fifth (5th) day following the day notice of said decision is given, except where the fifth (5th) day falls on a Sunday, a legal holiday, or a day when the County Courthouse is closed, then appeal may be made on the following day. The appeal shall be filed with the County Clerk; shall substantially set forth the grievance of the party appealing; and shall be heard and determined, unless taken under advisement, at the next regular meeting of the Board of Commissioners.

(C) Section 8-142 of the Shawnee County Code states fines for the violations of the applicable Shawnee County resolutions.

(Code 2012; History: Res. 2003-281; amended by Res. 2005-30, § 13; amended by Res. 2005-189, § 13, amended by Res. 2011-170)

Secs. 21-553 - 21-576. Reserved.

ARTICLE XVIII. ESTABLISHMENT OF THE SHAWNEE COUNTY PARK POLICE DEPARTMENT

Sec. 21-577. Shawnee County Park Police Department Established.

There is hereby created the Shawnee County Park Police Department. The Department shall be directed by a Chief of Police who shall be appointed by the Director of the Shawnee Parks and Recreation Department (Director). The Department shall be a distinct law enforcement agency, separate from the Shawnee County Sheriff's Office. However, nothing in this resolution shall preclude or prevent the Shawnee County Park Police Department from aiding or assisting other law enforcement agencies.

Sec. 21-578. Chief of Shawnee County Park Police.

The Chief of Police shall have immediate direction and control of the Police Department subject to such resolutions, park regulations and orders as the Board of County Commissioners or the Director may prescribe. The Chief of Police shall have all powers, rights, authorities and jurisdiction as by law vested by the State of Kansas for law enforcement officers. The Chief of Police may adopt policies and standard operating procedures for the Department. The Chief of Police shall receive a salary to be fixed by the Board of County Commissioners. The Chief of Police shall remain in office at the sole pleasure of the Board of County Commissioners.

Sec. 21-579. Selection of Officers.

The members of the Shawnee County Park Police Department other than the Chief of Police shall be selected from a list of eligible candidates prepared by the Shawnee County Human Resources Department in accordance with the rules and regulations as the Board of County Commissioners may prescribe. All officers shall remain employed as police officers at the pleasure of the Chief. Each member of the Shawnee County Park Police Department shall before entering upon their duties, subscribe to an oath that they will faithfully, without favor, perform the duties of their office. Salaries of each member of the Police Department shall be set by the Board of County Commissioners.

Sec. 21-580. Powers and Duties of Shawnee County Park Police Officers.

The officers constituting the Shawnee County Park Police Department shall be and are hereby vested with all the power and authority given to them as law enforcement officers under the laws of the State of Kansas in enforcing criminal laws of the State of Kansas. Shawnee County Park Police Department Officers shall also enforce Shawnee County Resolutions and Shawnee County Parks and Recreation Department's Rules and Regulations within Shawnee County Parks and Recreation Department Facilities. It shall be the duty of each such officer to use their best endeavors to prevent the commission of offenses against the laws of the state and against the resolutions and park regulations of Shawnee County. Such officers shall not receive any fee or other compensation for any services rendered in the performance of their duty other than the salary paid by the County, nor shall they receive a fee as a witness in any case rising under the criminal laws of the state or under the resolutions or park regulations of the County.

Sec. 21-581. Uniform, Badges and Arms.

The Chief of Police shall prescribe the uniforms and badges for the members of the Police Department and further direct the manner in which the members of said force shall be armed in accordance with Kansas law.

(Code 2012; History: H.R. Res. 2012-2, §§ 1-5)

Secs. 21-582 - 21-601. Reserved.

ARTICLE XIX. RESERVED

Secs. 21-602 - 21-999. Reserved

CHAPTER 22. PROFESSIONAL SERVICES

Art. I. In General, §§ 22-1-22-50

Art. II. Professional Services, §§ 22-51-22-100

ARTICLE I. IN GENERAL

Sec. 22-1. Outside Counsel; Exemption From K.S.A. 28-319.

Shawnee County, Kansas, under authority of K.S.A. 19-101a and K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, K.S.A. 28-319, and amendments thereto.

(Code 2006; History: Charter Res. 1987-1, § 1)

Sec. 22-2. Personal Property Tax Collection.

That within the jurisdictional limits of Shawnee County, Kansas, K.S.A. 79-2018 shall be amended to delete the following words: "by persons no longer residents of such county," so that within said jurisdiction and as applicable to said jurisdiction the statute in question shall read as follows:

"The Board of County Commissioners of any county having a population of more than one hundred thousand (100,000) may employ attorneys or other persons to assist the County Counselor in the collection of personal property taxes remaining unpaid from and after the date the same became a judgment. . . . The employment of such attorney or other persons shall be in writing and shall be a contingent fee basis, but in no event shall the fees and charges for said collections exceed the sum of fifty percent (50%) of the amount collected. Any taxes so collected shall be credited ratably to the funds for which said taxes where levied and the cost of collecting shall be apportioned and charged ratably against the funds for which such taxes were collected."

(Code 2006; History: Charter Res. 1974-1, § 1)

ARTICLE II. PROFESSIONAL SERVICES

Sec. 22-51. Selection And Employment; Policy.

All qualified persons or firms shall be afforded the fullest opportunity to be considered for selection and employment as architects, engineers and appraisers in connection with the projects undertaken by the County.

(Code 2006; History: H.R. Res. 2000-1, § 1)

Sec. 22-52. Same; Purpose.

The purpose of this article is to provide procedures which will effectuate the County policy with respect to selection and employment of architects, engineers and appraisers, as that policy was declared in § 22-51.

(Code 2006; History: H.R. Res. 2000-1, § 2)

Sec. 22-53. Same; Procedure, Filing Of Statement.

- (A) Any person or firm desiring to be considered for selection and employment as architects, engineers and appraisers in connection with projects undertaken by the County shall place on file with the County Clerk a statement containing the following information:
 - (1) History of the firm;
 - (2) Education and experience of key personnel;
 - (3) Firm experience including references and similar projects within the class of services in which interest is expressed;
 - (4) Types of work which the person or firm is seeking or is interested in performing; and
 - (5) Other qualifications deemed pertinent by the person or firm submitting the statement.
- (B) Any person or firm shall update the aforesaid filing every five (5) years and said filing shall be date-stamped by the County Clerk. Those filings older than five (5) years shall not be considered for selection. The County Clerk shall notify each person or firm in writing that a new filing is required ten (10) days prior to the end of five (5) years. If no notice is given, persons or firms shall have the right to be considered.

(Code 2006; History: H.R. Res. 2000-1, § 3) Sec. 22-54. Same; Compilation Of Lists.

The County Clerk shall compile lists of those persons or firms desiring consideration for selection and employment of architects, engineers or appraisers, said list to include the qualifications of such persons and firms, and to be classified by the type of services sought to be performed. However, for projects involving Federal monies, the Bureau of Management and Budget will furnish the County Clerk with the "List of Prequalified Consultants" established by the Kansas Department of Transportation or a similar list of architects furnished by the State architects office and either list may be used for the project.

(Code 2006; History: H.R. Res. 2000-1, § 4)

Sec. 22-55. Same; Board And County Clerk To Be Informed Of Contract.

When any department head desires to contract for professional services of any type referred to in this article, such department head shall obtain approval from the Board and the information shall then be transmitted to the County Clerk.

(Code 2006; History: H.R. Res. 2000-1, § 5)

Sec. 22-56. Same; Notification Of Prospective Applicants.

The County Clerk shall notify those persons or firms on the appropriate list compiled pursuant to § 22-53 of this article that a selection will be made. The notification shall include a short statement of the scope of the project and the specific qualifications required. The notice shall also request interested persons or firms to provide a brief description of the specific qualifications or abilities they possess which will be required by the project. The notification shall be transmitted by first class mail and shall be mailed no less than one (1) week prior to the scheduled date of the selection interviews provided for in § 22-57. The department head shall furnish details of the scope of the project stating the type of project, location and size prior to the selection interview.

(Code 2006; History: H.R. Res. 2000-1, § 6)

Sec. 22-57. Same; Interview By Selection Of Committee Officials.

A Selection Committee for the selection of architects and engineers is to be composed of the head of the department for whom the project is to be undertaken or which has primary responsibility for said project; the County Engineer or a Public Works Department engineer designated by the County Engineer; the Facilities Management Director or a designee; and the Director of Information Technology or a designee. This Selection Committee shall conduct a review of submittals provided by the persons or firms seeking/desiring to be selected. Any interviews deemed necessary shall be conducted by the Selection Committee. At the discretion of the Board, one (1) Commissioner may attend all interviews. The Selection Committee shall then establish an "Order of Preference" of the firms for negotiating. The Commissioner attending the interviews shall refrain from participating in the formulation of the order of preference. This order of preference shall be submitted to the Board by the Selection Committee as a written report. The County Engineer or the Committee's Public Works Department engineer shall advise the Board of the standards and criteria whereby the persons or firms were considered. The Board shall make up the committee for the selection of appraisers. The Board will conduct a review of submittals provided by the persons or firms being selected and shall conduct any interviews deemed necessary. The Board will establish an "Order of Preference" of the firms or persons for negotiating.

(Code 2006; History: H.R. Res. 2000-1, § 7)

Sec. 22-58. Same; Waiver Of Notification And Interview.

Upon a determination that an emergency exists or that it is in the best interest of the County, the Board may waive the notification and interviews hereinbefore provided, and make a selection from a list of qualified persons or firms submitted by the Committee described in § 22-57.

(Code 2006; History: H.R. Res. 2000-1, § 8)

Sec. 22-59. Same; Notification Of Contract.

The person or firm first in "Order of Preference" shall be notified of this status and requested to submit a detailed proposal including an estimated cost, plus net fee. The Negotiation Committee, to be appointed by the Board or its designee, shall negotiate with the person or firm to draft a satisfactory contract for services. If contract terms cannot be satisfactorily negotiated with the person or firm selected, then the Committee will open negotiations with the next person or firm in the "Order of Preference." The process will continue with successive persons or firms on the "Order of Preference" list until a person or firm capable of performing the desired services for an acceptable fee has been determined. After an agreement is reached, the Negotiation Committee shall review the agreement with the County Counselor. The proposal will then be considered by the Board for final approval. The County shall notify those persons or firms not selected, in writing.

(Code 2006; History: H.R. Res. 2000-1, § 9)

Sec. 22-60. Outside Legal Counsel; Expert Witnesses; Abstract Services

The procedures required by Chapter 25, Article II of the Shawnee County Code shall not apply to the County Counselor's Office for payment of expert witness services, outside legal counsel, real estate title abstract services in connection with tax foreclosures, or costs for other legal matters. All contracts for outside legal counsel must be approved by the County Counselor prior to their effectiveness. The procedures required by Chapter 25, Article II of the Shawnee County Code shall not apply to purchase of contracts of insurance. The procedures required by Chapter 25, Article II of the Shawnee County Code shall not apply to professional services.

(Code 2006; History: H.R. Res. 2002-11, § [J])

Secs. 22-61-22-100. Reserved.

CHAPTER 23. PUBLIC HEALTH AND SAFETY

- Art. I. In General, §§ 23-1-23-50
- II. Federally Qualified Health Center Board, §§ 23-51 23-80 Art.
- III. Nuisances Within Unincorporated Areas Of County, §§ 23-81-23-130Art.
- Art. IV. Slaughterhouses, §§ 23-131-23-160
- Art. V. Environmental Code, §§ 23-161 - 23-400
- VI. Stormwater Pollution Prevention, §§ 23-401-23-450Art.
- VII. Standards For Noise In Unincorporated Areas, §§ 23-451 23-470 Art.

ARTICLE I. IN GENERAL

Sec. 23-1. Display Of License Plates On Vehicles; Fines And Penalties.

- (A) Every vehicle, motor vehicle, and motorized bicycle parked, stopped, standing, or operated on the streets, public areas, park grounds, public or private parking lots, or other publicly accessible areas within the unincorporated area of Shawnee County shall display a valid state license plate as required by the laws of the State of Kansas.
 - (B) It shall be unlawful to display on any vehicle described in § 23-1(A):
 - (1) Any license plate not lawfully issued to such vehicle;

- (2) Any expired license plate;
- (3) Any suspended, revoked or canceled license plate;
- (4) Any stolen license plate;
- (5) Any altered, defaced, or fictitious license plate;
- (6) Any license plate without the current registration decal attached to it as required by state law;
- (7) Any state license plate that is not securely attached to the rear of the vehicle (unless such vehicle is a truck tractor), with the correct side up and in a manner that makes it clearly visible and legible; or
- (8)Any accessible parking placard which is fictitious, altered, defaced, canceled, revoked, or suspended.
- (C) It shall be unlawful for any person to allow any state license plate registered to such person to be used in any unlawful manner.
- (D) If any person is convicted of any violation of this section, the following fines and penalties shall be imposed:
 - (1) For the first violation, a fine in the amount of Fifty Dollars (\$50);
 - (2) For the second violation, a fine in the amount of Two Hundred Fifty Dollars (\$250); and
 - (3) For the third or any subsequent violation, a fine in the amount of One Thousand Dollars (\$1,000).
- (E) This section shall not impair the Shawnee County Sheriff's authority to remove abandoned or unattended vehicles in accordance with K.S.A. 8-1102.
- (F) Upon annexation by any City, the provisions herein shall become void, and the annexed area shall be subject to all laws and jurisdiction of the annexing City.
- (G) Should any court declare any section, clause, or provision of this section to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional and shall not affect any other section, clause, or provision of this section. (Code 2006; History: H.R. Res. 2004-10, §§ 1-7)

Secs. 23-2-23-50. Reserved.

ARTICLE II. FEDERALLY QUALIFIED HEALTH CENTER BOARD

See Chapter 9, Councils, Committees And Boards, Article XII, Federally Qualified Health Center Board (formerly the Shawnee County Health Agency Board).

Secs. 23-51-23-80. Reserved.

ARTICLE III. NUISANCES WITHIN UNINCORPORATED AREAS OF COUNTY

Sec. 23-81. Definitions.

For purposes of this article, the following words and phrases are defined as follows:

(1) *Nuisance* is any condition which:

- (a) Injures or endangers the comfort, repose, health, safety, or welfare of the public;
- (b) Offends decency;
- (c) Is offensive to the senses;
- (d) Unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch, or drainage;
- (e) In any way renders another person insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of another;
- (2) Abandoned vehicle shall mean any motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control. Any vehicle which is wrecked or partially wrecked or dismantled or inoperative for a period of thirty (30) days or longer shall in such case constitute a prima facie presumption that the last registered owner thereof has abandoned such vehicle regardless of whether the physical possession of such vehicle remains in technical custody or control of such owner;
- (3) Owner shall mean any person who alone or jointly or severally with others:
 - (a) Shall have record legal title to any property or structure thereon with or without accompanying actual possession thereof;
 - (b) Shall have charge, care, or control of any property or structure thereon as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner; or
 - (c) In the case of a vehicle, is the last registered owner;
- (4) *Premises* shall mean a lot, plot, or parcel of land including structures located thereon;
- (5) *Property* means any real property lying within unincorporated areas of Shawnee County which is not a street or highway:
- (6) *Implement of husbandry* means every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways;
- (7) Vehicle means a machine other than an implement of husbandry propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transports persons or property or pulls machinery and shall include, without limitation, an automobile, truck trailer, motorcycle, buggy and wagon; and
- (8) *Livestock* means cattle, swine, horses, sheep, goats, poultry, fowl, all creatures of the ratite family that are not indigenous to this state, including but not limited to ostriches, emus and rheas, and domesticated deer, domesticated rabbits, llamas and alpacas.

(Code 2006; History: H.R. Res. 2001-4, § 1)

Sec. 23-82. Maintaining A Nuisance.

Maintaining a nuisance is, by act or by failure to perform a legal duty, intentionally causing or permitting a nuisance to exist, however, the maintenance of livestock as defined herein shall not be deemed as maintaining a nuisance.

(Code 2006; History: H.R. Res. 2001-4, § 2)

Sec. 23-83. Permitting A Nuisance.

Permitting a nuisance to exist is knowingly permitting lots, parcels, or pieces of real property under the control of the offender, including the streets and alleys in front of and abutting such lots and pieces of land to be used or allowed to remain in such condition as to allow a nuisance condition to exist.

(Code 2006; History: H.R. Res. 2001-4, § 3)

Sec. 23-84. Maintaining/Permitting A Nuisance; Nuisance Conditions.

The maintaining or permitting any of the following conditions to be or remain on any lot or parcel of ground in any platted subdivision of the County or any parcel of land four (4) acres or less adjacent to an occupied residence, located outside the corporate limits of a city, is hereby declared to be and constitute a nuisance. However, this article shall be enforceable with regard to abandoned vehicles, when such is found to constitute a nuisance in accordance with this article, where such nuisance occurs in any unincorporated area of the County, regardless of the acreage of the property on which such nuisance is located, or whether such property is in a platted subdivision. This enumeration shall not be deemed or construed to be conclusive, limiting, or restrictive:

- (1) Rank grass, weeds or other obnoxious vegetation when such growths reach at least eighteen inches (18") in height. However, landscaping in the form of: (a) native, wildflower, or drought tolerant plantings, sometimes referred to as xeriscaping, or (b) vegetable or flower gardens located on residential, commercial, or industrial developed property, shall be permitted so long as the same is maintained in a manner so as to appear cared for or cultivated. Evidence of care and cultivation includes proper pruning, mowing and/or trimming, separation barriers, marked borders, cutting or removal of unattended vegetation, adequate watering (if needed for proper care), and the absence of any noxious weeds as defined by Kansas law. All such landscaping shall conform to the fencing and setback regulations provided in Shawnee County Comprehensive Zoning Regulations;
- (2) Placement, storage, or accumulation of garbage, rubbish, trash, refuse, junk and other materials, metals, plumbing fixtures, appliances, auto parts, junked, wrecked, inoperable or abandoned vehicles, lumber or other litter and furniture, stuffed furniture, clothing, or other household items which creates an unsightly appearance. This provision applies without limitation to homeowners, renters, landlords, tenants, antique dealers, contractors, pawnbrokers, plumbers, precious metal dealers, secondhand goods dealers, or any other business, whether or not outside storage of items and materials is authorized by the zoning ordinances of the County and whether or not the building, land, or property is occupied by human beings;
- (3) Any condition which provides harborage for rats, mice, or other vermin;
- (4) The carcasses of animals or fowl not disposed of within a reasonable time after death;

- (5) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, industrial wastes, or other substances which are injurious to overland flow or ground water;
- (6) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- (7) Any building where exterior surfaces, other than decay-resistant surfaces, are not protected from the weather, elements and decay by paint or other protective covering or treatment;
- (8) Any vacant or unoccupied structure, which is not secured or is in a condition that allows access by any person; or
- (9) Any structure which has been burnt and which has not been removed or repaired within a reasonable time after the fire giving rise to the damage.

(Code 2006; History: H.R. Res. 2001-4, § 4, amended by H.R. Res. 2005-3, §1)

Sec. 23-85. Same; Abandoned Vehicles.

No person, firm, corporation, partnership, or other business entity shall, knowingly or unknowingly, maintain or permit a nuisance to exist. However, with regard to vehicles, except as provided in this article, it shall be unlawful to permit rusted, wrecked, junked, partially dismantled, inoperative, or abandoned vehicles to be parked, stored, or left on any property within unincorporated areas of Shawnee County for a period in excess of thirty (30) days unless such vehicle is:

- (1) Completely enclosed within a building or surrounded by a lawful and aesthetically pleasing wood, brick, or stone fence, or screened by natural objects, plantings, or other appropriate means so that the vehicle will not be visible from the main traveled way of any adjoining street or highway; and
- (2) Kept and maintained on racks or blocks with at least eighteen inches (18") of clearance between the bottom of the vehicle and the ground so as to prevent rodent harborage and breeding; or
- (3) So stored or parked on private property in connection with and as necessary to a duly licensed business or commercial enterprise operated and conducted pursuant to law.

(Code 2006; History: H.R. Res. 2001-4, § 5)

Sec. 23-86. Penalty.

Violation of this article shall be a Class B misdemeanor. (Code 2006; History: H.R. Res. 2001-4, § 6)

Sec. 23-87. Authority To Inspect And Examine.

The Shawnee County Health Agency, in accordance with K.S.A. 65-159, is hereby authorized to inspect and examine at any and all times all buildings, lots, parcels, or pieces of real property within the unincorporated areas of the County for the purpose of determining the conditions which may affect the public health, safety, and welfare as a nuisance.

(Code 2006; History: H.R. Res. 2001-4, § 7)

Sec. 23-88. Notice To Remove Or Abate Nuisance.

When the Shawnee County Health Agency or Shawnee County Weed Department determines that a nuisance exists with respect to rank grass, weeds or other vegetation, then the determining agency shall forthwith issue notice requiring the owner or agent of the owner of the premises, to remove and abate from said premises the nuisance as described within ten (10) days, said notice to be served by personal service or restricted mail. If the property is unoccupied and the owner a non-resident, notice shall be sent by restricted mail to his or her last known address. If the owner or agent shall fail to comply with the requirements of said notice, then the County shall proceed to have the nuisance abated and rank grass, weeds or other vegetation cut.

(Code 2006; History: H.R. Res. 2001-4, § 8)

Sec. 23-89. Same.

With regard to all other nuisances not described in § 23-88 of this article, where a violation of this article is found by the Shawnee County Health Agency, a violation notice shall be sent to the person, firm, corporation, partnership, or other business entity or individual known to be in violation, which notice shall be in writing and contain:

- (1) An order to abate the nuisance within ten (10) calendar days of the date of the violation notice or request a hearing within ten (10) calendar days of the date of the violation notice. A list of persons to contact shall be included;
- (2) The location of the nuisance, if such nuisance is stationary;
- (3) A description of what constitutes the nuisance;
- (4) A statement that if the nuisance is not abated as directed and no request for hearing is made within ten (10) calendar days of the date of the violation notice, the County shall seek the remedy of an administrative penalty of Fifty Dollars (\$50) per day and/or abate the nuisance and assess the costs of the abatement to the landowner and against the property if the assessment is not paid, in accordance with this article;
- (5) A statement that the administrative penalty will continue to accrue for each day the nuisance condition continues to exist past the ten (10) day abatement period, for a period of not to exceed five (5) calendar days;
- (6) A statement that the owner, occupant, person in lawful possession, or agent may stop the accrual of the administrative penalty by abating the nuisance and advising the Shawnee County Health Agency of the abatement. A list of persons to contact will be included;
- (7) A statement that if the nuisance is not abated following the administrative penalty period, the County may seek the remedy of prosecution and enforcement for failure to comply with the administrative order and for maintaining a nuisance under this article and will abate such nuisance and assess the cost thereof against the property and pursue any other remedies available;
- (8) Notification to the responsible party of his/her right to a hearing as herein provided, prior to the County abating said alleged violation; and
- (9) Where the notice requires removal of abandoned, junk, dismantled, or unlicensed vehicles from private property, such notice is to be made to:
 - (a) The landowner;
 - (b) The person in lawful possession or charge of the property upon which such vehicle is located; and

(c) The most recent registered owner of the vehicle, which is in violation of this article.

(Code 2006; History: H.R. Res. 2001-4, § 9)

Sec. 23-90. Administrative Penalty.

There shall be an administrative penalty assessed for each day a nuisance condition continues to exist after expiration of the ten (10) calendar days allowed for abatement of the nuisance. The administrative penalty shall be in the amount of Fifty Dollars (\$50) per day and shall in no event exceed five (5) days. Ten (10) calendar days shall be calculated based upon the date of the violation notice.

(Code 2006; History: H.R. Res. 2001-4, § 10)

Sec. 23-91. Hearing Officer; Procedure; Penalties.

For purposes of implementing this article, the County shall designate a hearing officer, procedure, and penalties for failure to comply with an administrative order pursuant to this article as follows:

- (1) The designated hearing officer shall have the duty and authority to enter such administrative orders as are necessary to the enforcement of this article;
- (2) The administrative hearing officer, upon request of the Shawnee County Health Agency, or designee, shall review the violation notice and all relevant information. If the hearing officer determines after such review that: (1) a nuisance condition exists; (2) no request for a hearing has been made by the owner, occupant, or agent or other responsible party; and (3) the nuisance condition remains unabated, then the hearing officer may enter an administrative order;
- (3) The administrative order shall contain:
 - (a) A finding of whether the County properly sent notice to the owner, occupant, agent or other responsible party in accordance with the provisions;
 - (b) A finding of the nuisance conditions which exist;
 - (c) The failure of the owner, occupant, agent, or other responsible party to abate or otherwise remove the nuisance conditions; and
 - (d) An administrative penalty not to exceed Fifty Dollars (\$50) per day for each day the nuisance condition exists past the ten (10) day notification period, not to exceed a total of five (5) days;
- (4) If the owner, occupant, agent, or other responsible party requests a hearing within ten (10) calendar days of the date of the violation notice, the administrative hearing officer shall schedule a hearing. Written notice of the hearing date and time shall be provided to the owner. At the hearing, the owner shall be given the opportunity to present information relevant to the violation notice. The Shawnee County Health Agency or designee of the County shall be given the opportunity to present information relevant to the violation notice. The hearing may be continued to a later time in exceptional cases where additional information is needed, as determined by the hearing officer. After all information has been offered, the hearing officer shall render a written decision;
- (5) The administrative hearing officer may modify an order, including the administrative penalty in cases of undue hardship or in cases presenting extenuating circumstances; and

(6) It shall be unlawful for any person to whom an administrative order is issued to fail to comply with the provisions of the administrative order.

(Code 2006; History: H.R. Res. 2001-4, § 11)

Sec. 23-92. Violation Notice.

The violation notice may be served personally on the owner, occupant, or agent of the real property, or may be served by registered first class mail, return receipt requested, upon the owner, occupant, or agent, or in the case of a vehicle, the landowner, person in lawful possession, or the most recent registered owner. When notice is required to be given to the landowner, it shall be sufficient to give notice to the individual or entity to whom ad valorem property tax statements are mailed by the County. When notice is required to be given to the registered owner of any vehicle, it shall be sufficient to send notice to the owner at his/her last known address of record listed at the state department of motor vehicles. A record proof of mailing shall be maintained by the Shawnee County Health Agency or designee. If the address or whereabouts of the owner, occupant, or agent or party responsible cannot be determined after due diligence, then the violation notice shall be published in the official County newspaper and posted in not less than three (3) conspicuous locations on the real property subject to the allegation of violation. If the nuisance violation relates to improvements such as buildings or structures, the notice shall also be posted on the building or structure.

(Code 2006; History: H.R. Res. 2001-4, § 12)

Sec. 23-93. Abatement Procedures.

The following abatement procedures shall be authorized where the owner, occupant, or agent or responsible party fails to abate a public nuisance:

- (1) Upon failure of a person to abate a violation upon whom notice to abate a violation has been served pursuant to the provisions of this article, in addition to the remedy of prosecution and enforcement, the County Health Agency or designee or other duly designated officer of the County shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof; and
- (2) Any and all costs incurred by the County in the abatement of a nuisance under the provisions of this article shall be assessed against each lot or piece of ground chargeable therewith, as a service assessment as provided by law. In such case, if the assessment remains unpaid by December 31 of each year, the Shawnee County Health Agency shall immediately notify or cause to be notified, such owner and/or taxpayer with an itemized statement of costs incurred in abating the violation. Such statement will further explain that if the amount contained therein is not paid to the County Treasurer within thirty (30) days from the date of such notice, a penalty charge of ten percent (10%) of the amount remaining unpaid shall be added to the account of the total amount thereof and shall become a lien upon such real estate. The unpaid balance of such account shall draw interest from the date such account became delinquent at the rate prescribed for delinquent taxes pursuant to K.S.A. 79-2968 and amendments thereto. A copy of the statement, together with proof of notification, shall at the same time be filed with the County Register of Deeds and the County Clerk, and if such amount is not paid within the next thirty (30) days, the County Clerk shall spread the amount of such statement upon the tax rolls prepared by the Clerk and such amount shall become a lien against the entire tract of land owned by such person, and shall be collected and disposed of in the same manner as other taxes. If any land subject to a lien imposed by this article is sold or

transferred, the entire remaining unpaid balance of such account plus any accrued interest and penalties shall become due and payable prior to the sale or transfer of ownership of the property.

(Code 2006; History: H.R. Res. 2001-4, § 13)

Sec. 23-94. Appeal Of Administrative Order.

Any person who believes the decision of the hearing officer was rendered contrary to law may appeal the administrative order to the District Court within ten (10) days from the decision by the administrative hearing officer.

(Code 2006; History: H.R. Res. 2001-4, § 14)

Sec. 23-95. Invalidity Of Part.

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

(Code 2006; History: H.R. Res. 2001-4, § 15)

Secs. 23-96 - 23-130. Reserved.

ARTICLE IV. SLAUGHTERHOUSES

Sec. 23-131. Inspection.

The County Health Officer or his/her duly authorized agent is hereby authorized to inspect any slaughterhouse, meat processing establishment or packinghouse, the meat products of which are sold in the County and which is under the inspection of the State, as often as the County Health Officer deems necessary to determine whether or not such slaughterhouse, meat processing establishment or packinghouse is operating in compliance with the laws and regulations of the State and is producing meat and meat products suitable for human consumption.

(Code 2006; History: Res. 1997-4, § 1)

Sec. 23-132. Sales Prohibited.

If the County Health Officer shall find upon inspection any violation of the law and regulations of the State of such meat or meat products being produced which are unfit for human consumption, the County Health Officer is hereby empowered to prohibit further sale in the County of any meat or meat products by any such slaughterhouse, meat processing establishment or packinghouse until the condition is corrected to the County Health Officer's satisfaction.

(Code 2006; History: Res. 1997-4, § 2)

Sec. 23-133. Transportation Of Carcasses.

The County Health Officer is hereby empowered to enforce the requirements imposed by K.S.A. 47-1209, and any amendments thereto, relating to the transportation of carcasses of domestic animals and packinghouse refuse.

(Code 2006; History: Res. 1997-4, § 3)

ARTICLE V. ENVIRONMENTAL CODE

Sec. 23-161. Environmental Code Adopted.

The Shawnee County Environmental Code is adopted for use in Shawnee County except within the boundaries of the cities of Topeka, Auburn, Rossville, Silver Lake and Willard. (Code 2006; History: Res. 1998-213, § 1)

Sec. 23-162. Administrative Procedures; Authority And Policy.

- (A) Legal Authority. The Shawnee County Environmental Code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701, *et seq.*; 12-3301, *et seq.*; and 19-101a.
- (B) Declaration of Finding and Policy. An environmental code establishes a uniform system of rules, regulations, and standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt, and amend when necessary, an environmental code for the regulation of practices that affect the environment and public health and safety. The provisions of the Shawnee County Wastewater Management Plan and § 146-236 of the Code of The City of Topeka, Kansas, and all subsequent amendments shall apply.
- (C) Purpose. The purpose and intent of this article is to prescribe the procedures to be followed in administering this environmental code or any amendments thereto.
- (D) Title. This code shall be known and referred to as the Shawnee County Environmental Code.
- (E) Applicability. The procedures prescribed in this article shall be followed in administering this code and any amendments thereto.
- (F) Effective Date. The Shawnee County Environmental Code shall become effective from and after November 23, 1998, or other appropriate jurisdiction, and publication of notice as required by law.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-1.0 – 1-1.6])

Sec. 23-163. Same; Definitions.

The following words, terms, and phrases appear in more than one section of this article and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific sections within this article may be found in that particular section:

- Administrative agency means the entity authorized to implement and enforce the provisions of this article. The administrative agency for Shawnee County is designated as the Shawnee County Health Agency;
- (2) Administrative rules means those rules contained in this article which prescribe general procedures to be followed in the administration of the environmental code adopted by the county;
- Agricultural purposes means a purpose related to the production of livestock or crops. (K.S.A. 19-3706);
- (4) Approved means acceptable to the administrative agency based on its review of information submitted and determination that minimum state and local

- environmental code standards have been met. (<u>Cf.</u> City Code, § 78-106 [food service]);
- (5) Authorized representative means any person who is designated by the administrative agency to administer this article;
- (6) Board of County Commissioners means The Board of County Commissioners of Shawnee County, Kansas;
- (7) Board of Health means the Shawnee County Health Agency Board (K.S.A 65-201):
- (8) CFR means the Code of Federal Regulations;
- (9) Code means the Shawnee County Environmental Code;
- (10) EPA means the United States Environmental Protection Agency;
- (11) *Hearing officer* means an individual, appointed by the administrative agency, to hear appeals from decisions relating to the administration of this article (K.S.A. 19-3701);
- (12) K.A.R. means the Kansas Administrative Regulations;
- (13) KDHE means the Kansas Department of Health and Environment;
- (14) K.S.A. means the Kansas Statutes Annotated;
- (15) *Person* means an individual, corporation, partnership, association, state or political subdivision thereof, federal or state agency, municipality, commission, interstate body, or other legal entity recognized by law as the subject of rights and duties;
- (16) *Premises* Means any lot or tract of land and all buildings, structures, or facilities located thereon:
- (17) Structural means anything constructed or erected with a fixed location on the ground; including buildings, walls, signs, towers, mobile and manufactured homes and bins; and
- (18) Zoned site means any lot or tract of land zoned in accordance with the Shawnee County Comprehensive Zoning Regulations.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-2.0])

Sec. 23-164. Administrative Powers And Procedures; Right Of Entry.

Representatives of the administrative agency shall have the power and authority to inspect for compliance with this article. If voluntary consent is not provided for entry, an administrative warrant may be sought from a court of appropriate jurisdiction. (Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.1])

Sec. 23-165. Same; Permits And Licenses.

No person shall conduct, carry on or perform any business or activity identified in this article without first having obtained a valid permit or license as required by this article. Homeowners are not required to be licensed to install their own system.

(1) Applications for Permits and Licenses. Every person required by this article to obtain a permit or license shall make application for such permit or license to the administrative agency.

- (2) Issuance of Permit or License. After receipt of an application as required by this article, the administrative agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within thirty (30) days of the date on which all information, equipment, fees, and/or access are made available to the administrative agency. Permits shall be valid for a period of twenty-four (24) months from the date of issuance. If the permit or license is denied, the administrative agency shall send the applicant a written notice and state the reasons for the rejection.
- (3) Non-transferability. No permit or license required by this article shall be transferable nor shall any fees required and paid therefore be refundable, unless approved by the administrator of the administrative agency.
- (4) Revocation. The administrative agency may, in writing, suspend or revoke a permit or license issued under this article whenever the permit or license is issued in error, contrary to law, or on the basis of incorrect information provided by the applicant or for noncompliance with this article.
- (5) Standard Fees. The administrative agency shall adopt a schedule of fees for all procedures, permits, and licenses required by this code, and said fees shall be paid to the Administrative Agency. The Administrative Agency shall not process any application for a procedure, permit, or license until the required fee has been paid. (K.S.A. 19-3702)
- (7) Double Fee for Unauthorized Practices. Any person who shall commence any activity for which a permit is required by this article without first having obtained the permit shall, if subsequently allowed to obtain a permit, pay double the permit fee fixed by this article for such activity, provided, however, that this provision shall not apply to emergency work when such work was urgently necessary to protect public health and safety and it was not practical to obtain a permit before commencement of such emergency work. For emergency repairs conducted during evening hours or on weekend or holidays, the Health Agency must be notified on the first business day following the repair and a permit shall be obtained; if not obtained, a double fee as herein provided shall be charged.
- (8) Supplemental to State and Federal Regulations. The permits or licenses, and all fees, conditions and regulations imposed under this article shall be supplemental to and in addition to any permits, licenses, fees, or regulations imposed or required by any other law, including those administered by KDHE or EPA.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.2]; amended by Res. 2002-326, §§ 1-2, amended by H.R. Res. 2006-13)

Sec. 23-166. Same; Inspections And Investigations.

(A) Physical site inspections shall be performed for all permitted or licensed activities under this article. A written inspection by the administrative agency shall be made for all inspections conducted under the authority of this article, stating the name of the inspector, the date and time of the inspection, the type of inspection, and the property inspected. The report shall enumerate all findings made during the inspection. The report is a public document.

(B) Inspection Scheduling. Whenever inspections are required under this article to be scheduled for any installation, construction, initial activity, or for correction of any violation or other non-conforming condition, it shall be the duty of the holder of the permit or license or the operator of the establishment to notify the administrative agency and schedule the time and date for the inspection prior to construction.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.3.1], amended by H.R. Res. 2006-13)

Sec. 23-167. Same; Violations.

- (A) Notice of Violations. When the administrative agency determines that there has been a violation of any provision of this article, notice of such violation shall be issued to the person responsible. The notice shall:
 - (1) Be in writing;
 - (2) Include a statement of why the notice is being issued;
 - (3) Allow a reasonable period of time for performance of any work required by the notice; and
 - (4) Be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy has been sent by certified mail to the last known address of the owner or agent.

- (B) Administrative Hearing. Any person aggrieved by any notice or order issued by the administrative agency under the provisions of this article may request, and shall be granted, a hearing on the matter before the Hearing Officer, provided such person shall file with the administrative agency, within ten (10) working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The Hearing Officer shall be appointed by the Health Officer. The filing of the request for a hearing shall operate as a stay of the notice or order. Upon receipt of such petition, the administrative agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten (10) working days after the date on which the petition was filed; provided, that upon request of the petitioner, the administrative agency may postpone the hearing for a reasonable time beyond such ten (10) day period, when in the administrative agency's judgment the petitioner has submitted justifiable reason for such postponement.
- (C) Report of Hearing. Within ten (10) working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the administrative agency. The findings shall include a recommendation that the order be sustained, modified or withdrawn. Upon the receipt of the report of the Hearing Officer, the administrative agency shall consider the report and issue an order confirming, modifying, or withdrawing the notice or order, and shall notify the petitioner by certified mail to the last known address of the owner or agent. The decision of the administrative agency may be appealed to the Board of County Commissioners.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.4])

Sec. 23-168. Same; Records.

(A) Permit/License Applications. Applications for permits or licenses required by this article shall be filed with the administrative agency.

- (B) Official Actions. A written record of all official actions taken on applications for permits and licenses required by this article shall be kept on file with the administrative agency for a period of five (5) years.
- (C) Proceedings of Hearings. The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the administrative agency. Proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.5])

Sec. 23-169. Same; General Provisions.

- (A) Enforcement Procedure. The County Counselor shall enforce all violations of this article. Actions of injunction, mandamus, and quo warranto may be utilized for enforcement of this article and shall be governed by the provisions of the Kansas Code of Civil Procedure. (K.S.A. 19-3707; K.S.A. 60-160.)
- (B) Penalties. In addition to, and independently of the enforcement procedures provided in § 23-169(A), any violation of any provision of this article shall be deemed to be a misdemeanor and upon conviction shall be punishable by a fine not to exceed Five Hundred Dollars (\$500) for each offense. Each day's violation shall constitute a separate offense. (K.S.A. 19-3707 and K.S.A. 19-101d.)
- (C) Disclaimer of Liability. This article and other environmental codes adopted shall not be construed or interpreted as imposing upon the County or its officials or employees any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by this article will function properly. Liability upon the County or its officials or employees is limited to that as imposed by the Kansas Tort Claims Act, K.S.A. 75-6101, et seq.
- (D) Severability. If any clause, sentence, paragraph, section, or subsection of this article shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, repeal, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or subsection found to be unconstitutional and invalid.
- (E) Amendments and Additions. This article may be supplemented or its provisions amended by resolution adopted by the Board of County Commissioners, after notice and hearing, as required by law, and any such amendments or additions shall be incorporated within and codified as a part of this article. Any changes, modifications, or additional provisions adopted and imposed by state or federal law, rule, or regulation which are applicable to and administered through the jurisdiction of Shawnee County, Kansas, shall be incorporated within and made a part of this article, with or without notice and hearing, as authorized or required by state or federal law.
- (F) Repeal and Supersede Effect. This article shall supersede any and all previously adopted resolutions or regulations, which are, in whole or in part, in conflict with any provision of this article, where applicable, and any rule, regulation, or resolution which is or was in effect upon the effective date of this article shall be repealed to the extent necessary to give this article full force and effect. In the case of any conflict of provisions, whether real or apparent, the provisions of this article shall govern wherever applicable.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.6])

Sec. 23-170. Same; Variances.

Variance Requests. The Board of County Commissioners and the administrative agency may grant variances from specific provisions of this article. Any person requesting such a variance shall make application to the administrative agency. Such application shall establish to the satisfaction of the administrative agency that compliance with any such provision is not feasible, either from an engineering or economic standpoint, and that the alternative proposal submitted by such person will attain the objectives of this article and will not adversely affect public health or safety or natural resources. Appeals to the administrative agency and determinations on variances may be reviewed by the Board of County Commissioners.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 1-3.7])

Sec. 23-171. On-Site Wastewater Management; Purpose And Intent.

Sewage is a potential source of disease, water pollution, and a hazard to the health, safety and welfare of the public. It is the purpose of this article to provide minimum standards for the location, design, construction, maintenance, and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within Shawnee County, Kansas.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-1.0])

Sec. 23-172. Same; Definitions.

The following words, terms, and phrases appear in more than one section of this article and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific sections within this article may be found in that particular section:

- (1) Adjacent means to be adjoining, bordering, or sharing a common boundary;
- (2) Absorption field means a configuration of on-site trenches installed to absorb sewage effluent from a septic tank or other sewage solid removal device;
- (3) Absorption or seepage pit mans a pit or hole in which gravel is placed to absorb sewage effluent;
- (4) Absorption trench means a trench in which perforated drain pipe is laid to convey and distribute septic tank effluent;
- (5) Alteration means to make different, change, or adjust for a better fit;
- (6) Alternative on-site sewage management system means any on-site sewage management system which has proven reliability and performance in field use, but differs in design or operation from approved septic tank and absorption systems. These alternative systems shall be limited to evaporation transpiration beds, intermittent sand filter systems, and lagoons;
- (7) Available sewer means any public sewer that is within two hundred (200) feet of the property line;
- (8) *Bedroom* means any room one hundred (100) square feet in area or larger containing a closet which is suitable to be used regularly as a bedroom, excluding living, kitchen, dining, bath, utility, and sun rooms. Studies, libraries, sitting rooms, playrooms or dens having closets shall be considered as bedrooms for the purpose of septic system design;
- (9) Building sewer means that part of the piping of a drainage system beyond the building which receives and conveys liquid waste to a public sewer, private sewer, onsite sewage management system or other disposal;

- (10) Building space means the entire area of the lot, tract or parcel on which an individual septic tank or other on-site sewage management system is to be located, exclusive of all established road right-of-ways;
- (11) Cesspool means a subsurface vertical shaft, lined with un-mortared stone or other material, which receives untreated sewage;
- (12) Chemical toilet means a self-contained portable unit used for the sanitary storage of sewage on a temporary basis with treatment by chemical agents prior to disposal;
- (13) Conventional Systems means an onsite wastewater system that includes a septic tank, absorption field and all other elements intended to be used for management of sewage onsite;
- (14) Distribution box means a watertight structure which receives sewage from a septic tank or other sewage retention device and equally distributes it to two or more absorption trenches;
- (15) Domestic septage means the liquid or solid material removed from a septic tank, vault, holding tank, portable toilet, temporary privy, Type III marine sanitation device, or a similar system that receives only domestic (household, noncommercial, non-industrial) sewage. It does not include commercial or industrial septage or grease from restaurant grease traps;
- (16) Domestic wastewater means the spent water originating from all aspects of human sanitary water usage;
- (17) Evaporation means to convert from a liquid to a vapor;
- (18) Evaporation transpiration bed means an alternative system that uses the scientific principals of evaporation and transpiration to aid in treating sewage effluent in the soil:
- (19) Experimental or innovative onsite sewage management system means any on-site management system installed for testing and observation;
- (20) *Grade* means the ratio of a vertical drop of a pipe invert, trench bottom, or ground surface to the horizontal distance transversed;
- (21) *Grease trap* means a device in which the grease content of sewage is intercepted and congealed and from which the grease may be removed for proper disposal;
- (22) Gray water means wastewater discharges from kitchen, bathroom, laundry sinks, tubs, showers, washers, whirlpools, and saunas. Gray water does not include toilet discharge;
- (23) Intermittent sand filtration system means an alternative system that consists of several layers of sand sunk in the ground. The wastewater flows evenly over the filter, is purified by the bacteria present, and then discharged.
- (24) *Industrial* or *commercial sewage* means wastewater other than domestic waste produced from shops, manufacturing, car washes, etc.;
- (25)Lagoon or sewage lagoon means an artificial pond designed to exclude surface water and receive raw sewage and gray water through a submerged sewer for biological decomposition;
- (26)Lot means an area of land delineated on a subdivision plat as a separate and distinct parcel of land intended for the purpose of transfer of ownership, or establishment of individual building or use;

- (27) Lateral rock means washed gravel or washed crushed stone ranging in size from three-quarter (3/4) inch to two (2) inches;
- (28) Modification means a small alteration, adjustment or limitation;
- (29) On-site sewage management system means a system that is intended to be used for management and disposal of on-site sewage. A septic tank-lateral system and a lagoon are examples of on-site sewage management systems;
- (30) Percolation test means a method of testing to determine a soil's ability to accept water over a period of time;
- (31) Private wastewater system means any system which does not discharge sewage into waters of the state, as defined in K.S.A. 65-161(a), and is not required to hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This term includes wastewater disposal systems, whether domestic, industrial, or commercial, which function by soil absorption, evaporation, transpiration, filtration, or any combination of the above; a temporary holding tank; a portable toilet; a chemical toilet; or a privy;
- (32) Privy means a permanent or temporary facility designed for the containment of non-water-carried wastes from the human body which uses a watertight vault for the retention of wastes;
- (33) Professional engineer means a person who is qualified to practice engineering because of special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, who is qualified as provided in this act to engage in the practice of engineering and who is licensed by the state board of technical professions and licensed to practice in the State of Kansas;
- (34) Public or community sewage system means any sewage collection, treatment and disposal system, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one (1) residential premises;
- (35) Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year;
- (36) Regulatory floodway means an area designated by the Federal Insurance Administration which shall include the channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the regulatory flood without cumulatively increasing the water surface elevation of more than one (1) foot on the adjacent land.
- (37) Sanitary service means the pumping out and/or removal of sewage, septage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater disposal systems; and the transportation of such material to a point of disposal.
- (38) Sewage/wastewater means any substance that contains any of the waste products or excrement or other discharges from the bodies of human beings or animals, or gray water or chemical or other wastes from domestic wastewater;
- (39) Sewage Sludge/biosolids means solid, semi-solid, or a liquid residue generated during the treatment of domestic sewage/wastewater in publicly-owned treatment works (POTW) or community treatment lagoons. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in

primary, secondary, or advanced wastewater treatment processes; and material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a mechanical wastewater treatment plant;

- (40) Subdivision means any tract of land that is or has been subdivided into two (2) or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any re-division of lands;
- (41) Subsurface Examination means a five foot deep trench that allows for a visible observation of the soil conditions of the area of the proposed septic system;
- (42) Structure means a home, residence or other type of building constructed of many parts put together in a specific way;
- (43) *Toilet* means a sanitary fixture meeting the administrative agency and plumbing code requirements for receipt and conveyance of human body waste;
- (44) *Transpiration* means to give off as a gaseous vapor containing waste products through the pores of plants and vegetation;
- (45) Wastewater system means any system along with attendant pipes and accessories designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial wastewater;
- (46) Watercourse means a stream or reach of stream that generally flows only during a part of the year. It continues to flow after the cessation of surface runoff, but effluent ground water will not sustain flows through moderate periods of little or no precipitation. It may contain reaches of constant flowing water; and
- (47) Vault/holding tank/septic tank means a watertight receptacle for the retention of sewage either before, during or after treatment.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-2.0], amended by H.R. Res. 2006-13)

Sec. 23-173. Prohibited Practices; Use Of Existing Wastewater Systems.

Private wastewater systems existing before November 23, 1998 are exempt from meeting the requirements of this article unless the existing wastewater system poses a threat to waters of the state or to public health.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.1])

Sec. 23-174. Same; Use Of Non-Approved Private Systems.

No person shall use, or cause to be used, any private wastewater system or privy constructed after November 23, 1998 until it has been inspected and approved by the administrative agency or if it:

- (1) Has been declared a public health nuisance by the administrative agency;
- (2) Fails to comply with the provisions of this article and written notice thereof has been given by the administrative agency;
- (3) Discharges onto the surface of the ground or into waters of the state as defined in K.S.A. 65-161(a);
- (4) Receives non-domestic wastewater, promotes vector breeding, produces offensive odors or any condition detrimental to public health or the environment; or

(5) Uses a receptacle which is not watertight. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.2])

Sec. 23-175. Same; Public Sewer.

New or renovated private wastewater disposal systems shall not be approved where a public sewer is available for connection. A public sewer is available for connection when it is within two hundred (200) feet of the property unless a physical barrier or local regulation exists which prevents connection to public sewer.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.3)

Sec. 23-176. Same; Industrial Wastewater Discharge.

Industrial wastewater is not permitted to be discharged to an on-site soil absorption system.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.4])

Sec. 23-177. Same; Location Within A One Hundred (100) Year Floodway.

No portion of a private wastewater disposal system shall be constructed within the one hundred (100) year floodway of any stream, river, or watercourse (as established by the Federal Emergency Management Agency). This does not preclude repair of existing systems, provided other requirements of this article are met.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.5])

Sec. 23-178. Same; Use Of Cesspools And Seepage Pits.

Cesspools, seepage pits and other wastewater disposal methods not described as acceptable in this article or by the references adopted by this article, are illegal and shall be removed from operation immediately upon administrative agency notification to the owner. Any replacement wastewater disposal system shall be constructed in accordance with this article.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-3.6])

Sec. 23-179. Private Disposal Systems; Approval Of Plans.

No person shall construct or modify any private wastewater disposal system until the plans and specifications for such system have been approved by the administrative agency. The drawing shall be signed by the property owner (unless it is to repair an existing system). References utilizing technology currently approved by the EPA or other subsequent requirements as mandated by KDHE may be used as guidelines by the administrative agency in reviewing and approving plans for private wastewater disposal systems.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.1], amended by H.R. Res. 2006-13)

Sec. 23-180. Same; Permit To Construct.

Except as allowed for emergency repairs under § 23-214 no person shall construct or modify, or allow to be constructed or modified, any private wastewater disposal system until a permit has been issued by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.2])

Sec. 23-181. Same; Field Data Requirements And Percolation Testing.

Percolation testing must be performed according to The Ryan's Percolation Test method before any new construction septic permit can be issued by the administrative agency. The

percolation test shall be performed where the septic system will be installed. Section 23-182 of this article describes this procedure in detail.

Residential Lateral Field Sizing – Minimum Sizing For Three (3) Bedroom Home				
Percolation Rate	Lot Size	Field Size –	Field Size –	
		Conventional	Sand Filter	
12 inches/hour or greater	0.5 acre	Lagoon, ¹ Sand Filter or	625 sq. ft.	
		Experimental and		
		Innovative System		
		(E.I.)		
1 inch/hour to < 12 inches/hour	0.5 acre	1,250 sq. ft.	625 sq. ft.	
½ inch/hour to < 1 inch/hour	1.0 acre	1,850 sq. ft.	925 sq. ft.	
1/4 inch/hour to < 1/2 inch/hour	1.5 acres	2,750 sq. ft.	1,375 sq. ft.	
1/8 inch/hour to < 1/4 inch/hour	3.0 acres	3,250 sq. ft.	1,625 sq. ft.	
0 inch/hour or negative	3.0 acres	Lagoon,¹ Sand Filter or E.I. System	1,625 sq. ft.	

Note:

- 1. Lagoons must be fitted on minimum lot sizes of five (5) acres.
- 2. The above figures for field size should be incremented a minimum of five hundred (500) square feet for each additional bedroom using a conventional system.
- 3. Calculations of lot size shall be exclusive of designated drainage easement area.
- 4. One and two bedrooms (lumped together) will be allowed a 250 sq. ft. reduction.
- (1) Authorized to do testing. At the request of an applicant, the administrative agency may conduct the percolation test for a prescribed fee set by the administrative agency. The applicant may, however, obtain the services of a professional engineer registered in the State of Kansas to perform such tests in accordance with The Ryan's Percolation Test. The results of percolation testing shall be certified by the engineer seal as to its accuracy.
- (2) Percolation Retesting. A minimum separation distance of three hundred (300) feet from the original percolation test holes shall be required before a new percolation test can be accepted.
- (3) Non-Residential Lateral Field Requirements. Where a subsurface lateral field is installed as a component part of a non-residential private wastewater system, the lateral field area provided shall be in accordance with § 23-183 and the loading rates listed in this section. A minimum of two hundred (200) square feet of lateral field area shall be provided.

Non-Residential Lateral Field Sizing				
Percolation Rate	Lot Size	Loading Rate (GPD/ft) ¹		
12 inches/hour or greater	0.5 acre	Sand Filter or Experimental and Innovative (E.I.) System		
1 inch/hour to < 12 inches/hour	0.5 acre	0.30		
½ inch/hour to < 1 inch/hour	1.0 acre	0.20		
¹/₄ inch/hour to < ¹/₂ inch/hour	1.5 acres	0.14		
1/8 inch/hour to < 1/4 inch/hour	3.0 acres	0.12		
0 inch/hour or negative	3.0 acres	Sand Filter or Experimental and Innovative (E.I.) System		

Note:

- 1. Divide the required total gallons per day (gpd) from § 23-201(E) (Appendix E) by this number to get the size of lateral field required in square feet.
- 2. Sand Filter field size can be one-half (1/2) the size of conventional lateral field.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.3.1], amended by H.R. Res. 2006-13)

Sec. 23-182. Same; Ryan's Soil Percolation Testing Procedure.

How to prepare for a Ryan's soil percolation test on a single building site:

- (1) Tests are performed on a first come first served basis. Contact the Shawnee County Health Agency before drilling the holes.
- (2) Do not dig the holes until you have made an appointment for the percolation test.
- (3) Do not drill or dig the holes more than two (2) days in advance of the test.
- (4) A total of six (6) holes must be used for the test.
- (5) Holes are to be eight (8) inches to twelve (12) inches in diameter and twenty-four (24) inches deep.
- (6) Rough up the side walls of the perk holes with a sharp implement.
- (7) If groundwater seeps into holes, then the site is waterlogged, and not acceptable for lateral lines. You must select another site.
- (8) Locate holes twenty-five (25) to fifty (50) feet apart and evenly distributed over the area of the proposed lateral field.
- (9) Twenty-four (24) hours before the test is to be done, fill holes with water within one (1) inch from the top of the hole.
- (10) As the water level drops, refill the holes to keep them saturated. It is important the holes do not go dry. When the sanitarian arrives to do the test, the water level will be adjusted to complete the test.
- (11) Please mark the holes with flags or stakes so the holes can be found. (Code 2006; History: Res. 1998-213 [Environmental Code, § App. A])

Sec. 23-183. Same; Quantity Of Sewage Flows.

Quantity of Sewage Flows			
Type of Establishment		Unit	Gallons
		(Per)	(Per Day)
Permanent Residential	Multi-family	Bedroom	150
Dwellings	Individual mobile homes	Bedroom	150
	Mobile home parks	Space	300
	Boarding houses	Person	50
	Rooming houses	Resident	40
Institutions	Hospitals, medical	Bed	250
	Hospitals, medical	Employee	15
	Hospitals, mental	Bed	150
	Hospitals, mental	Employee	15
	Long-term care institutions	Bed	125
	Long-term care institutions	Employee	15
	Prison	Inmate	150
	Prison	Employee	15
Schools	Boarding school	Person	150
	Schools without cafeteria or showers	Person	15
	Schools with cafeteria and showers	Person	25
	Schools with cafeteria or showers	Person	20
	Daycare (adult)	Person	20

	Daycare (child)	Person	20
Travel	Airports	Passenger	5
	Railway stations	Passenger	5
	Bus stations	Passenger	5
	Highway rest areas	Traveler	5
Recreational and Seasonal	Campground with mobile homes	Site	150
Areas	Swimming pools and bathing beaches	Person	10
	Comfort station with toilets and showers	Space	35
	Comfort station without showers	Space	25
	Day camps without meals	Person	25
	Day camps with meals	Person	35
	RV parks with water and sewer hook- ups	Space	50
	Cottages and/or small dwellings with seasonal occupancy	Bedroom	150
	Picnic parks with toilet facilities (only)	Person	10
	Youth camps without cafeteria	Person	50
	Youth camps with cafeteria	Person	60
	Migrant labor camps	Person	150
	Sanitary dump station for unsewered site	Site	20
	Campground with central bath and toilet facilities	Space	35
Commercial, Industrial and	Country clubs, no kitchen	Member	25
Miscellaneous	Hotels and motels	Bed	50
	Places for public assembly	Person	5
	Theaters	Seat	5
	Churches without kitchen	Seat	3
	Churches with kitchen	Seat	6
	Restaurants	Meal	10
	Restaurants with bar and cocktail	Meal	12
	Offices and day workers	Person	15
	Shopping centers	Per 1,000	250
	emopping contests	sq. ft. of floor area	
	Stores	Toilet	400
	Services stations (served)	Vehicle	10
	Laundries	Customer	50
	Factories with toilets and showers	Person	35
	Factories with toilets, no showers	Person	20

(Code 2006; History: Res. 1998-213 [Environmental Code, § App. D])

Sec. 23-184. Same; Soil Profile.

A soil profile analysis may be conducted where the on-site wastewater system is to be located. The soil profile analysis shall be conducted by an individual who has completed a prescribed course of training set forth by the administrative agency. The applicant may obtain the services of a soils engineer or a soils scientist to analyze the soil profile.

- (1) High Water Table. A soil profile analysis shall be required by the administrative agency when a high water table is suspected. Evidence of the presence of groundwater shall negate the use of conventional on-site sewage management systems in that area. Other records of the water table elevation, including seasonal peaks, may be submitted or required.
- (2) Rock Outcropping. Where surface outcroppings or subsurface rock exists or are suspected, a soil profile shall be required by the administrative agency to

- determine if such conditions may interfere with installation, or the performance of an on-site sewage management system. Evidence of rock in the soil profile may negate the use of a conventional on-site sewage management system in that area.
- (3) Lagoon Construction. A subsurface examination consisting of a trench dug to the depth of the proposed lagoon and a Ryan's Percolation test shall be required before construction of a lagoon will be approved by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.3.2], amended by H.R. Res. 2006-13)

Sec. 23-185. Same; Other Tests.

Soil profile analysis and other field tests may be required. The number, depth and location shall be determined by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.3.3])

Sec. 23-186. Septic Tanks; Minimum Design And Construction.

Septic tanks shall be watertight, constructed of solid concrete, and must have the sides and bottom all one (1) piece. Precast tanks shall have a minimum wall thickness of two and one-half (2 ½) inches, and must be adequately reinforced to facilitate handling. When precast slabs are used as covers, they shall have a clean out that is at the level of grade. The clean out shall be at least six (6) inches in diameter and have thickness of at least three (3) inches and be adequately reinforced. All tanks shall have a tight fitting cap using a material approved by the administrative agency. The distance from the top of the tank to the liquid line shall be at least twenty percent (20%) of the liquid depth. Septic tanks shall meet the standards set forth by KDHE (engineers approval) in Bulletin 4-2 or other subsequent requirements as mandated by KDHE.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.1], amended by H.R. Res. 2006-13)

Sec. 23-187. Same; Inlet Pipe.

The inlet invert shall be located at least three (3) inches above the liquid level in the tank. A vented plastic inlet tee or elbow shall be used to divert the incoming sewage downward, no concrete baffle will be allowed. The inlet pipe shall be a minimum of four (4) inches in diameter. It shall extend at least twelve (12) inches below the liquid level, but the penetration must not be greater than that provided by the outlet device. The pipe that is from the house to the septic tank shall be PVC DWV Schedule 40, cast iron or an approved material from the Uniform Plumbing Code.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.2])

Sec. 23-188. Septic Tanks; Outlet Pipe.

The outlet device shall extend below the liquid surface a distance equal to forty percent (40%) of the liquid depth. A vented plastic outlet tee or elbow is required, no concrete baffle will be allowed. The outlet pipe shall extend a minimum of five (5) feet from the tank and be made of PVC DWV Schedule 40, cast iron or an approved material from the Uniform Plumbing Code.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.3])

Sec. 23-189. Same; Watertight Seal.

A watertight seal shall be made around the inlet and outlet pipes with a bonding compound that will adhere both to the concrete septic tank and the exterior surfaces of the inlet and outlet pipes.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4])

Sec. 23-190. Same; Compartments.

A single compartment septic tank is acceptable. A two (2) compartment septic tank shall meet the following criteria:

- (1) The inlet compartment shall have not less than one-half (1/2) to two-thirds (2/3) of the total capacity of the tank nor less than seven hundred fifty (750) gallons liquid capacity. The second compartment shall have a capacity of not less than two hundred fifty (250) gallons or more than one-half (1/2) the total capacity;
- (2) Partitions between compartments shall be a minimum of four (4) inches above the liquid level. An inverted fitting equivalent in size to the tank inlet, but not less than four (4) inches in size, shall be installed in the inlet compartment side of the baffles with the bottom of the fitting placed midway in the depth of the clear liquid; and
- (3) Venting between compartments shall be provided to allow free passage of gas. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.5])

Sec. 23-191. Same; Capacity.

The liquid capacity of the septic tank shall be a minimum of:

- (1) One thousand (1000) gallons for a one (1) to three (3) bedroom structure;
- (2) One thousand two hundred (1200) gallons for a four (4) bedroom structure;
- (3) One thousand five hundred (1500) gallons for a five (5) bedroom structure;
- (4) One thousand (1000) gallons minimum for a commercial structure. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.6], *amended by* H.R. Res. 2006-13)

Sec. 23-192. Same; Approval Procedures.

Any person seeking approval of septic tanks to be used in on-site sewage management systems other than those of standard size and configuration made with reinforced concrete, shall submit detailed plans and specifications, test and performance data and quality control procedures as may be required by the administrative agency for complete understanding and evaluation of the product. No other septic tanks shall be installed unless specific written approval is granted by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.7])

Sec. 23-193. Same; Location.

- (A) No septic tank shall be installed within:
 - (1) Five (5) feet of a driveway or absorption trench;
 - (2) Ten (10) feet of a structure or foundation drain;
 - (3) Twenty-five (25) feet of a property line, public potable water line and meter pits;
 - (4) Fifty (50) feet of any stream, pond, watercourse, cellar, cistern, or storm shelter;

- (5) One-hundred (100) feet of a public water supply well, private water well or suction line; or
- (6) Regulatory floodway.
- (B) The Administrative Agency, after site inspection, may stipulate greater separation distances than cited herein, due to adverse on-site conditions such as, site characteristics and/or groundwater interference.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.8])

Sec. 23-194. Same; Foundation And Backfill.

Septic tanks shall be constructed or installed level on a foundation that will prevent settling. Backfill shall be free of voids, stumps, broken masonry or other materials. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.4.9])

Sec. 23-195. Distribution Boxes; Minimum Design And Construction.

Distribution boxes shall be watertight, with the sides and bottom all one (1) piece. Distribution boxes shall be designed and constructed in accordance with minimum design and construction criteria and with the approval procedures set forth under § 23-192. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.5])

Sec. 23-196. Absorption Field Location Restrictions.

- (A) No part of an absorption field shall be located within:
 - (1) Five (5) feet from any septic tank, or driveway;
 - (2) Twenty-five (25) feet of the structure, building foundation, property lines, water lines, foundation drains, water mains, basements, cellars, drainage easements and drop-offs;
 - (3) One hundred (100) feet of cisterns, ponds, creek banks, watercourse streams, or water wells;
 - (4) Absorption fields shall not be installed in areas subject to excessive surface water, ponding or runoff, including but not limited to storm water and discharge from building gutters; and/or
 - (5) Absorption fields shall not be installed in the regulatory floodway nor where groundwater or adverse geological formations may interfere with the absorption of treated sewage or result in the contamination of groundwater by sewage.
- (B) The administrative agency, after site inspection, may require variations of these distances due to adverse conditions relative to topography, subsurface soil characteristics, and/or groundwater sources; and
- (C) No part of the absorption field shall be covered by swimming pools, structures, pavement or be used for vehicular traffic or parking.
- (D) There shall be a minimum of four (4) feet between the bottom of the absorption trench and any high water table.
- (E) There shall be a minimum of four (4) feet between the bottom of the absorption trench and any rock ledge.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6])

Sec. 23-197. Same; Minimum Design And Construction.

- (A) An absorption trench shall not exceed one hundred (100) feet in length from where it is fed unless specific approval is given by the administrative agency. Absorption trenches shall be between eighteen (18) inches and twenty-four (24) inches in depth. The absorption trench shall be a minimum twenty-four (24) inches wide. The absorption trench shall not exceed thirty-six (36) inches in width.
- (B) Installations of laterals must be along contour lines so that level trenches of uniform depth can be constructed. The bottom of the lateral trench is to be level.
- (C) A twelve (12) inch depth of three-quarters (3/4) to two (2) inch washed lateral rock shall be placed in the bottom of the trench. All rock to be used shall be of the same size and approved by the administrative agency. Pipe perforations shall be oriented toward the bottom of the trench. Lateral rock shall be placed under the perforated pipe to a minimum depth of six (6) inches and shall extend the full width of the trench and two (2) inches of lateral rock shall cover the perforated pipe. All pipe shall be rigid PVC or corrugated polyethylene plastic pipe meeting American Society for Testing and Materials (ASTM) standards. ASTM D2665-95 and ASTM F405-93 respectively are acceptable material for use as soil or perforated distribution lines. In no circumstance is slotted pipe acceptable as the narrow slot openings plug easily.
- (D) A continuous layer of permeable material shall be placed over the lateral rock before backfilling with the earth cover. The permeable material shall consist of:
 - (1) Filter fabric;
 - (2) Untreated craft paper. If untreated craft paper is used, then all seams must overlap two (2) inches and any tears must be covered;
 - (3) Two inches of hay or straw;
 - (4) Another material approved by the administrative agency.
- (E) Six (6) inches minimum to twelve (12) inches maximum earth cover shall be placed over the lateral rock.
- (F) Excavation for absorption trenches in wet clay soils and smearing of trench walls and bottoms shall be avoided since reduced permeability may result and approvals may be voided thereby.
- (G) The ground surface of the lateral field area shall be so graded as to prevent the accumulation of surface water and to minimize the flow of surface water over the lateral field. Test holes, diverter ditches or flow control devices will be required under some circumstances. It may be necessary to prepare the ground for the lateral field, such as removal of rocks, trees, replacement of soil.
- (H) Chamber systems may be used in lateral field installations as an alternative to lateral rock and perforated pipe. Chamber system construction shall comply with §§ 23-197(A), (B), (E), (F) and (G) of this article. For the purpose of sizing and installation, chamber systems shall provide the equivalent open chamber bottom area dimensions required for lateral rock systems.
- (I) Expanded Polystyrene Systems (EPS) may be used in place of lateral rock & perforated pipe. Construction shall comply with §§ 23-197(A), (B), (E), (F) and (G) of this article.
 - (J) A minimum of 1/8 inch per foot slope on the tight line from the structure to the septic tank shall be required.

Trench Separation Distances

Trench Width (in inches)	Distance Between Trench Centerlines (in feet)
18-24	8.0
24-30	8.5
30-36	9.0

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6.1], amended by H.R. Res. 2006-13)

Sec. 23-198. Same; Field Layout Methods.

- (A) Sequential Step-Down or "Overhead" Systems. This method is well suited to terrain with a slope. In this system, effluent is not distributed equally to all the lateral lines. Instead, the lines are filled sequentially, and diversions to the next line do not occur until the fluid level in the preceding trench reaches slightly above the top of the rock fill. The installation of laterals must be along contour lines so that level trenches of uniform depth can be constructed. The bottom of the lateral trench is to be level. The overhead distribution line must be connected at the lateral line, and at any elevation so that the bottom of the overhead line is two (2) inches above the lateral rock in the absorption trench. The overhead distribution line must be set on a firm foundation of undisturbed earth. A sanitary tee shall be required from the overhead line to the lateral field.
- (B) Level Field Method. On flat terrain the level field method may be used. When this method is used, all distribution trenches shall be installed level and at the same elevation, shall not exceed one hundred (100) feet in length. A standard tee fitting shall be used to distribute treated sewage. A standard tee fitting should be used to affect a juncture of the ends of any three (3) distribution lines.
- (C) Distribution Box Method. When a distribution box is to be used, extreme care must be exercised in backfilling around and over the distribution box. Influent lines from the septic tank shall terminate inside the distribution box. When this method is used, absorption trenches of equal lengths, not exceeding one hundred (100) feet shall be used. All lines leading from the distribution box to absorption trenches must be installed level and at the same elevation, shall be watertight, and, for the remainder of their sealed length, the grade of such lines shall not be less than one-eighth (1/8) inch per foot. All perforated distribution lines shall be laid on a level grade. The absorption trench shall meet all the minimum design and construction criteria as set forth under § 23-197.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6.2], amended by H.R. Res. 2006-13)

Sec. 23-199. Same; Evaporation Transpiration Beds.

- (A) Evaporation Transpiration Beds (ET Beds) are an alternative system that shall be installed to the following specifications and requirements:
 - (1) No part of the absorption bed area shall be located within:
 - (a) Five (5) feet from any septic tank or driveway;
 - (b) Twenty-five (25) feet of the house, building foundation, property lines, water lines, foundation drains, water mains, basements, cellars, and drop-offs; or

- (c) One hundred (100) feet of cisterns, ponds, creek banks, watercourse streams, water wells, or drainage easements.
- (2) All requirements for inlet and outlet piping from the septic tank to the absorption bed shall coincide with §§ 23-187 and 23-188 of this article;
- (3) All two (2) and three (3) bedroom homes shall have a minimum of twenty-six hundred (2,600) square feet of bed absorption area;
- (4) Each additional bedroom added above three (3) bedrooms shall require a twenty-five percent (25%) increase in bed absorption surface area;
- (5) A minimum of four (4) inches perforated drain tile shall be placed in the absorption bed;
- (6) Uniformly crushed rock (one-half [1/2] to two [2] inches in size) shall extend six (6) inches below and two (2) inches above the tile;
- (7) There shall be two (2) inches of pea gravel between the rock base and the ten (10) inches of river run sand;
- (8) There shall be six (6) inches of river silt soil covering the bed area to allow grass vegetation to be established and maintained;
- (9) The total depth of the absorption bed shall not exceed thirty (30) inches;
- (10) The distance from the ground level to the top of the drain tile shall not exceed twenty (20) inches; and
- (11) A minimum slope of three percent (3%) shall extend from the center of the absorption bed to the outer sides of the absorption bed.
- (B) There is hereby incorporated by reference, as if set out fully herein, Appendix B (Evapotranspiration Bed) to the Shawnee County Environmental Code, adopted by Res. 1998-213, and amendments thereto. A copy of this appendix may be found in the office of the County Clerk (200 S.E. 7th Street).

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6.3 and App. B])

Sec. 23-200. Same; Lagoons.

- (A) The use of an individual waste stabilization pond, usually referred to as a lagoon, will be considered only if the property site is a minimum of five (5) acres.
 - (B) Lagoon requirements:
 - (1) If a lagoon is to be considered, a subsurface examination shall be completed at the location that the lagoon is to be installed in addition to a percolation test;
 - (2) If the subsurface examination characteristics are suitable the area will be considered for the construction of a lagoon, provided a public health problem will not arise;
 - (3) The completed construction of the lagoon shall conform to the plans and specifications approved by the administrative agency;
 - (4) The lagoon shall be operated in such a manner that a public health nuisance or water pollution problem will not arise;
 - (5) The normal ground water elevation shall be four (4) feet below the bottom of the lagoon; and/or
 - (6) When the lagoon excavation penetrates or terminates in either a rock strata or a porous (sand or gravel) strata the excavation shall be extended a minimum depth

of at least two (2) feet on both the bottom and the side slopes. The area of supplemental excavation shall be filled with a non-permeable earthen material to limit seepage from the pond to a maximum value of one-quarter (1/4) inch per day (0.01 inch per hour). This may be accomplished by using a clay soil which is free of rocks. If a clay soil is not available, the fill soil should be mixed with bentonite clay at the manufacturer's recommended rate and then compacted.

(C) Lagoon design.

- (1) There is hereby incorporated by reference, as if set out fully herein, Appendix C (Pond Design and Fencing) to the Shawnee County Environmental Code, adopted by Res. 1998-213, and amendments thereto. A copy of this appendix may be found in the office of the County Clerk (200 S.E. 7th Street).
- (2) Appendix C, referred to in § 23-200(C)(1), gives the design specifications for the sizing of lagoons in Shawnee County. A M-50 lagoon shall be used in the case of three (3) or less bedrooms in the structure that the lagoon is serving. A M-55 lagoon shall be used in the case of four (4) or more bedrooms in the structure that the lagoon is serving:
- (3) Surface runoff from the surrounding area must be prevented from entering the lagoon. This is accomplished by building the dike embankment above the soil level to carry water away from the site;
- (4) The sewer pipe must be four (4) inch PVC DWV Schedule (40) with a minimum slope of one-eighth (1/8) inch per foot. A clean out wye must be installed near the house and located at the nearest point above maximum pond level. A clean out wye must also be installed a minimum of every one hundred (100) feet;
- (5) The entire lagoon area shall be fenced (see Appendix C referred to in § 23-200[C][1]). The fencing material shall be no smaller than 12.5 gauge wire. The fence will have a minimum height of four (4) feet. Openings in the mesh of the fencing will be no larger the two (2) inches by four (4) inches. The fence shall be installed no closer than four (4) feet from the inside edge of the top of the embankment. Each fence post shall be placed at least two and one-half (2 ½) feet deep and backfill shall be tightly compacted to secure the post. Posts placed two (2) feet deep and cemented are acceptable. The fence shall be placed at the outside toe of the embankment to facilitate maintenance. In addition, a double strand of barbed wire or electric fence shall be installed if the facility will be accessible to livestock;
- (6) A gate of a minimum of four (4) foot width shall be located to accommodate the entrance of a mower. This gate must provide the same degree of resistance to entry as the fence and shall be locked to restrict unauthorized entry to the lagoon;
- (7) Topsoil should be removed from the lagoon area before beginning the embankment construction. Topsoil should be replaced on the embankment surface once the lagoon is completed. Perennial ground cover is necessary to reduce the erosion of the embankment. Ground cover shall be seeded at the completion of the lagoon construction following recommendations of the Shawnee County Natural Resource Conservation Service. A protective straw or hay cover is encouraged to hold the soil and seed in place until the cover is established. Additional seedings of ground cover may be necessary until a solid stand of ground cover is established.
- (8) Trees and water vegetation shall be controlled at their first appearance. All trees and weeds (e.g., cattails and duckweed) should be removed as soon as the first

- ones develop in the water. Mosquito production is directly related to the amount of vegetation in the water. The ground cover shall be cut if it reaches over six (6) inches in height. All attempts shall be made to keep the cut ground cover out of the water of the lagoon.
- (9) After construction of the lagoon, the builder shall smooth the dike so that no clods, rocks or ruts will interfere with a mower.
- (10) Construction of the waste stabilization pond must be approved by an official inspector of the administrative agency before a final occupancy permit will be issued.
- (D) Lagoon Separation Distances. The Single Family Waste Stabilization Pond will be the following minimum horizontal distances:
 - (1) Twenty-five (25) feet of a private water line;
 - (2) Fifty (50) feet of cistern or water mains; or
 - (3) One hundred (100) feet of a house or structure, water wells, ponds, creeks or property lines, including right of way.
- (E) Connection to the Public Sewer System. If a public or community sewage system becomes available to a premise served by a Single Family Waste Stabilization Lagoon, the owner, lessee or agent shall connect the properties affected to the public or community sewage system within ninety (90) days. The waste stabilization pond shall be abandoned by dewatering and pushing in the dikes and returning the area to the contours it had before construction of the lagoon.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6.4], amended by H.R. Res. 2006-13)

Sec. 23-201. Same: Intermittent Sand Filter.

- (A) Intermittent Sand Filters (ISF). An intermittent sand filter treatment system is an allowable alternative to conventional wastewater treatment (septic tank and lateral).
 - (B) Intermittent sand filter requirements:
 - (1) The intermittent sand filter shall be operated in such a manner that a public health nuisance or water pollution problem will not arise;
 - (2) No part of the sand filter or the absorption field shall be located within:
 - (a) Five (5) feet from any septic tank or driveway;
 - (b) Twenty-five (25) feet of the house, building foundation, property lines, water lines, foundation drains, water mains, basements, cellars, drainage easement and drop-offs.
 - (c) One hundred (100) feet of cisterns, ponds, creek banks, watercourse streams or water wells.
 - (C) Intermittent sand filter design:
 - (1) A minimum of three hundred and sixty (360) square feet of surface area shall be required for a sand filter;
 - (2) The area in which the sand filter is to be placed will be excavated with a flat bottom and a depression if there is to be a pump installed to move the water from the sand filter to the lateral field. Any over excavation should be filled and well compacted. A two (2) inch layer of sand in the bottom of the hole protects the liner from penetration by sharp objects;

- (3) A perimeter support frame of plywood and 2 x 4 construction is used to hold the liner in place during the installation. During construction of the sand filter (placement of the media), it is important that sand be placed between the excavated soil and the support frame. This keeps the support frame and liner vertical during construction and results in a sand cushion around the outside perimeter of the liner. All nails or staples used must have their sharp ends pointed away from the liner;
- (4) The thirty (30) mil PVC liner is unfolded from the center of the excavation and draped over the top edges of the perimeter support frame. Care shall be taken to ensure that the liner is in full contact with the bottom and sides and that no bridging occurs. Pleats or wrinkles in the liner are not a concern;
- (5) If a PVC plumb basin is installed in the depression located in the center of the sand filter, then the basin shall have a PVC or fiberglass bottom to prevent damage to the liner. The pump basin shall have four (4) inch grommets installed opposite one another to accommodate the four (4) inch diameter slotted PVC under drain pipes;
- (6) The four (4) inch diameter slotted PVC under drain pipes shall be Class 125 (or higher) pressure rated. Slots are cut half way through the pipes, one-quarter (1/4) inch wide, four (4) inches on center. The pipes are laid flat with the slots pointed upward and capped with four (4) inch end caps. The under drain pipe shall penetrate the plumb basin one (1) to two (2) inches;
- (7) Care should be taken not to introduce soil or other foreign material into the filter when placing pea gravel, rock or filter sand during the construction;
- (8) Clean rock one-half (1/2) to three-quarter (3/4) inch in diameter, shall be mounded at least two (2) inches over the under drain pipes to prevent finer material from entering the slots;
- (9) A level course of one-quarter (1/4) to three-eighths (3/8) inch clean pea gravel, six (6) inches deep, shall be placed in the bottom of the sand filter. Water will pond two (2) to three (3) inches deep in the bottom of the sand filter and the pea gravel will prevent unwanted capillary action from occurring and will allow the treated effluent to move freely toward the under drain pipe;
- (10) Filter sand shall be placed and compacted while it is damp. If the sand is not damp, it will not compact well and settlement may cause dislocation and breakage of the distribution laterals. The sand surface shall be flat;
- (11) Two (2) inches of one-quarter (1/4) to three-eighths (3/8) inch pea gravel shall be placed on top of the compacted sand, disturbing the sand as little as possible. The pea gravel serves to support the distribution system and to keep the sand from eroding under the action of the effluent being applied. After the distribution laterals are installed a distribution system function test shall be performed. Upon the request of the administrative agency, the test shall be witnessed by the administrative agency. Water pumped through the entire distribution system and consistently passed out of all lateral field distribution orifices to a minimum height of twenty-four (24) inches with no water leakage from the effluent discharge line or the distribution manifold line shall constitute a successful distribution system function test. Following the test and any required inspection, three (3) inches of pea gravel shall be added;
- (12) The liner's PVC boot permits a watertight penetration of the liner or the transport pipe delivering effluent to the sand filter's distribution system. In the

- event ground water reaches that elevation, the boot will prevent infiltration. The boot is oriented so the clamp is outside the sand filter;
- (13) Orifice shields shall be placed on the laterals to prevent the pea gravel from blocking the flow out of the orifices and to obtain better effluent distribution over the sand. On sand filters with distributing valves, orifice shields prevent the high pressure from eroding the pea gravel and soil cover;
- (14) Filter fabric shall be placed over the final course of pea gravel. The purpose of the filter fabric is to keep soil, silts, and fine-grained material from moving down into the sand filter, and, at the same time, allow air and water to pass freely;
- (15) The pumps used in moving the effluent shall have an adjustable and removable float assembly which is attached to the side of the pump basin. The floats shall be either mercury or mechanical and must be UL or CSA listed unless otherwise approved. The on, off, and alarm settings depend on the volume of filtered effluent to be dosed. The high water alarm float shall be connected to the pump control panel in such a manner that a high water alarm in the sand filter will disable the pump in the dosing septic tank until the high water alarm is canceled:
- (16) The electrical splice box shall be UL or CSA listed and non-corrosive with the proper number of cord grips installed. Heat shrink and/or watertight wire nuts shall be used on the individual wire splices within the box to ensure the integrity of the splices if the box becomes flooded. Sufficient length of wires shall be provided in the box to allow for future repairs;
- (17) The conduit seal shall be UL or CSA listed and shall be installed using the proper conduit sealant as recommended by the manufacturer. Bubble gum or silicone is not allowed. The seal prevents water from draining into the splice box and gases from escaping the tank;
- (18) Electrical conduit shall be UL or CSA listed for the purpose. Three-quarters (3/4) inch diameter is most common. There are electrical code rules restricting the number of bends between panels and junction boxes. Refer to NEC 1993 § 347-14;
- (19) The pump shall be UL or CSA listed and specifically selected for effluent pumping;
- (20) The pump basin lid shall be constructed of corrosion resistant material such as fiberglass and have tamper-proof mechanical fasteners; and
- (21) The soil cover shall be sand loam. This provides insulation against cold winter temperatures; allows free movement of air into the sand filter; prevents odors from escaping; and protects the sand filter from physical damage. A grass cover over the sand filter shall be established to prevent soil erosion, and facilitate runoff of surface water.
- (D) Standards for Lateral Field Sizing (ISF):
 - (1) Percolation:
 - (a) One (1) inch/hour or greater: Field size 625 square feet;
 - (b) One-half (½) inch/hour or greater: Field size 925 square feet;
 - (c) One-quarter (1/4) inch/hour or greater: Field size 1,365 square feet; and
 - (d) One-eighth (1/8) inch/hour or greater: Field size 1,625 square feet;

- (e) Less than one-eighth (1/8) inch/ hour: Field size 1,625 square feet.
- (2) These standards are for a three (3) bedroom house. Each additional bedroom will require an additional two hundred fifty (250) square feet of lateral field size.
- (E) There is hereby incorporated by reference, as if set out fully herein, Appendix E (Intermittent Sand Filter) to the Shawnee County Environmental Code, adopted by Res. 1998-213, and amendments thereto. A copy of this appendix may be found in the office of the County Clerk (200 S.E. 7th Street).

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.6.5 and App. E] *amended by* H.R. Res. 2006-13)

Sec. 23-202. Alternative On-Site Sewage Management Systems; Conventional Systems.

Conventional systems will continue to be encouraged by the administrative agency where soil type, lot size, and topography allow these systems to succeed. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.7.1] *amended by* H.R. Res. 2006-13)

Sec. 23-203. Same; Consideration Of Alternative Systems.

Where appropriate, and after thorough assessment of alternatives, the administrative agency will consider alternative on-site sewage management systems and/or site modifications for conventional or alternative systems in areas of marginal suitability. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.7.2])

Sec. 23-204. Same; Priorities.

Priority consideration will be given to those proposals for alternative sewage disposal systems whose implementation may resolve existing sewage management problems. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.7.3])

Sec. 23-205. Same; Review And Approval Of Alternative Systems.

- (A) Those desiring to install an alternative on-site sewage management system shall submit the following information to the administrative agency:
 - (1) Plans and specifications including type and location of site modifications, along with any engineering, laboratory, or field data required;
 - (2) Provisions for a backup system, including reservation of undisturbed space; and
 - (3) Any additional information required for complete understanding and decision formulation by the administrative agency;
- (B) If the proposal for the system is approved, the person applying will be informed by the administrative agency of any responsibilities for maintenance and of any monitoring procedures deemed appropriate by the administrative agency.
- (C) Reduction of water usage by installation of water-conserving fixtures and devices may be required.
- (D) The specifications shall meet the minimum criteria set forth in this article. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.7.4])

Sec. 23-206. Same; Experimental And Innovative Sewage Disposal Systems.

The administrative agency may consider proposals for the use of experimental and innovative on-site sewage management systems. The administrative agency shall require the experimental or innovative sewage disposal systems to be designed by a professional engineer and include the State of Kansas professional engineering seal on the plans. The administrative agency may request review of the proposal and plans by the Kansas Department of Health and Environment. If the proposal for the system is approved, the person applying will be informed by the Administrative Agency of any responsibilities for maintenance and of any monitoring procedures deemed appropriate by the Administrative Agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-4.7.5] *amended by H.R. Res.* 2006-13)

Sec. 23-207. On-Site Wastewater Systems; Suitable Sites.

No site shall be approved if:

- (1) Connection to an approved public wastewater disposal system is available or the site violates the provisions of this article;
- (2) The soil, topography, or geology do not meet the requirements set forth;
- (3) The minimum separation requirements for septic tank/lateral systems and wastewater stabilization ponds cannot be met; and/or
- (4) The minimum separation requirements for alternative on-site wastewater disposal systems, as specified by the administrative agency, are not met.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.0])

Sec. 23-208. Same; Construction Approval For New Construction On Existing Lots.

Construction of wastewater disposal systems on lots without existing homes which were platted prior to November 23, 1998 shall be permitted only when the construction of the wastewater system meets the requirements of this article.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.1])

Sec. 23-209. Same; Construction Approval For Existing Homes.

Alterations and extensions of existing wastewater disposal systems shall be permitted only when such action will not compromise the beneficial uses of the waters of the state, as defined in K.S.A. 65-161(a), or otherwise create or have the potential to create a nuisance. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.2])

Sec. 23-210. Same; Permit Required.

Each site shall be evaluated by the administrative agency and a permit to construct issued if the administrative agency ascertains that use of the lot for on-site wastewater disposal systems would not create environmental degradation, constitute a potential source of pollution, or cause a public health nuisance.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.2.1])

Sec. 23-211. Same; Nonconformities.

A wastewater disposal system to serve a dwelling may be constructed upon a lot that does not meet the minimum separation requirements of this article, provided that:

- (1) The lot of record is shown to have been created before November 23, 1998, was in compliance with the size requirement at the time recorded, and all other applicable requirements were met;
- (2) The lot, tract or parcel is shown, by a recorded deed or affidavit of equitable interest, to have been transferred before November 23, 1998, was in compliance with the size requirement at the time the tract was originally recorded, and all other applicable requirements were met;
- (3 The lot meets all other requirements set forth by the Metropolitan Planning Commission; and
- (4) The lot meets the minimum standards of the Kansas Department of Health and Environment, Bulletin 4-2 Minimum Design Standards for On-Site Wastewater Systems

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.3])

Sec. 23-212. Same; Limitations.

Any lawful wastewater disposal system in existence prior to November 23, 1998 which is located on a lot which does not comply with the applicable separation requirements, may continue in otherwise lawful use, provided that:

- (1) The system functions properly;
- (2) In no case shall such a structure served by the wastewater disposal system be extended or enlarged, without the approval of the administrative agency;
- (3) System repairs, maintenance, or reconstruction shall be limited to those items necessary to keep the system in proper working condition; and
- (4) No lawful non-conforming use of any structure or facility served by an on-site wastewater disposal system shall be changed to a more intense use or in a way that results in an increase of the volume of wastewater produced.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-5.4])

Sec. 23-213. Inspections Required; Private Wastewater Disposal Systems.

Private wastewater disposal systems shall be inspected by the Health Agency prior to being placed in operation to ensure compliance with this article. Such systems shall be inspected thereafter as often as necessary to ensure continuing compliance with this article. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-6.1])

Sec. 23-214. Same; Repairs And Replacements.

Any private sewage disposal system which, for any reason, does not function properly as designed and permitted shall be replaced or repaired. No alteration or modification shall be performed without an inspection and a permit as required under this article. When repair work is done on a septic tank, a clean out of least six (6) inches in diameter with a tight fitting cap using a material approved by the administrative agency is required. The clean out shall be installed at the level of grade. Repairs which are conducted during normal business hours require prior notification to the administrative agency. Emergency repairs conducted during evening hours or on weekends or holidays require notification to the administrative agency on the first business day following the repair. In any event, plans and specifications for the alteration or modification or replacement or repairs shall be submitted to the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-6.2])

Sec. 23-215. Same; Inspection Reports.

Whenever a private wastewater disposal system is inspected after a permit is issued, the findings of the inspector shall be recorded, and the inspection report shall describe any violation(s), the article section(s) violated, and the correction(s) to be made. A copy of the completed report shall be issued to the owner of the premises and to the holder of the permit, if different from the owner.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-6.3])

Sec. 23-216. Same; Access To Records.

The agency may examine the water usage, occupancy, and other relevant records of any establishment which uses a private wastewater disposal system for information pertaining to the amount of water used by the establishment.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-6.4])

Sec. 23-217. Same; Property Resale Inspections.

Whenever any property connected to or served by a private wastewater disposal system is offered for sale or is subject to a purchase contract or financing, upon the request of the property owner or lending institution, the administrative agency may provide a property resale inspection, upon terms and at a fee established by the administrative agency, to inspect and determine the current condition of the system. At the time of the inspection, the septic tank must be accessible through a clean-out riser or other opening for observation. Prior to inspection of the septic tank, the tank shall be pumped by a licensed septic hauler unless it can be shown that the septic tank has been pumped within three (3) years of the date of the courtesy inspection by a verifiable source. If for any reason the septic tank cannot be found, no inspection will be completed by the administrative agency. Any inspection provided under this section shall be performed as a preventive measure only and shall not constitute nor be deemed a warranty, and neither the administrative agency nor any other official of the County or municipality shall be liable for any failures of the system or other claims arising out of the inspection. If a clean-out riser is not present at the time of inspection, a minimum of a six (6) inch clean-out riser shall be installed at the level of grade with a tight fitting cap using a material approved by the administrative agency. Upon completion of the inspection, a final report shall be issued to the requesting party, but issuance of the final report shall not relieve any person of compliance with the requirements of this article.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-6.5] *amended by* H.R. Res. 2006-13)

Sec. 23-218. Sanitary Services; Grease Traps.

- (A) Grease Traps Required. Grease traps are neither necessary nor recommended for onsite sewage management systems serving homes, but shall be required for those serving commercial or industrial establishments where it is determined by the administrative agency that introduction of grease into the on-site system might adversely affect it.
- (B) Grease Trap Design. Grease trap plans and specifications shall be submitted to the administrative agency for approval. No human waste shall pass through the grease trap.
- (C) Construction. Grease traps shall be located, installed and constructed so that they will reduce the temperature of kitchen wastes to permit congealing of grease. Easy access for cleaning and grease removal shall be provided.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.1])

Sec. 23-219. Same; Sewage Lift Pumps.

In the event that the sewage generated from a building or residence cannot be plumbed to an absorption field or sanitary sewer by gravity, then a sewage lift pump with the necessary accessories as determined by the administrative agency and the manufacture shall be required. The pump chamber must be sealed, odor proof and watertight.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.2])

Sec. 23-220. Same; Privies; Plans, Construction, Location.

- (A) Approval of Plans. No person shall construct, repair, or modify any privy until the plans and specifications for the proposed construction, repair, and/or modification have been approved by the administrative agency.
- (B) Approval of Construction. No person shall use, or make available for use, any newly constructed, repaired, or modified permanent or temporary privy until the construction has been inspected and approved by the administrative agency for compliance with approved plans or designs.
 - (C) Location.
 - (1) No privy shall be installed within one hundred (100) feet from an existing well;
 - (2) No privy shall be constructed or reconstructed on any premise served by a public water supply, or on which water is delivered to any building under pressure, unless an exception for use of a privy is obtained from the administrative agency; and
 - (3) No privy shall be constructed less than three hundred (300) feet from any dwelling other than that of the owner of the privy.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.3] *amended by H.R. Res.* 2006-13)

Sec. 23-221. Same; Proper Maintenance.

No person shall use, or offer for use, any privy that is not maintained so that odors are controlled and insects and water are excluded from the vault or pit. All vaults shall be of watertight construction.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.4])

Sec. 23-222. Same; Chemical Toilets And Portable Toilets.

Chemical toilets and portable toilets shall be properly designed, constructed, maintained, and pumped by a licensed septic hauler when unsanitary conditions exists or at a minimum of weekly intervals so that they do not create a public health nuisance. The ratio of persons per toilet at an event shall be fifty (50) people to one (1) toilet. Owners of such toilets which are not in compliance with this article shall be notified of the violation and shall be responsible for penalties under this article.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.5])

Sec. 23-223. Septage Haulers; Licensing.

No person shall remove any wastes from any wastewater disposal system or privy or chemical toilets and transport such waste within Shawnee County unless that person holds a valid septage haulers license from the administrative agency. Such license shall be issued only to persons:

(1) Operating properly designed and maintained equipment which has been inspected and approved by the administrative agency;

- (2) Certified by the administrative agency after receiving training in proper disposal of domestic septage and sewage sludge in accordance with this article, EPA regulations, and KDHE guidelines;
- (3) Submitting the required septage haulers license fee, and
- (4) Disposing of domestic septage and sewage sludge in accordance with § 23-226 of this article.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.1])

Sec. 23-224. Same; Contracting With Unlicensed Persons Prohibited.

No person responsible for operating a private wastewater disposal system or privy shall contract with any person for sanitary service unless that person providing the service holds a valid septage haulers license from the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.2])

Sec. 23-225. Same; Minimum Standards For Sanitary Service Equipment.

All equipment used to render sanitary service shall be of watertight construction and maintained in good working condition to ensure that all materials removed from private wastewater disposal systems will be transported to an approved point of treatment and/or disposal without spillage of the waste during transit. The name of the person or firm engaging in the removal of sewage from onsite sewage management systems shall be lettered on both sides of each vehicle used for sewage removal purposes. Letters and numerals shall not be less than two (2) inches in height.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.3])

Sec. 23-226. Same; Domestic Septage.

All domestic septage shall be properly disposed of:

- (1) By discharge directly into a mechanical publicly-owned treatment works (POTW), after meeting wastewater treatment plant regulations, payment of fees, and maintaining records required under EPA Part 503 regulations; or
- (2) By land application in conformity with EPA Part 503 regulations and all applicable provisions of this article. Persons wanting to operate a land disposal site in Shawnee County shall apply annually for a permit to the administrative agency. The land disposal site shall be inspected and evaluated by the administrative agency to determine the disposal site's compliance with EPA Part 503 regulations. Septage discharged to a land disposal site shall be managed in conformity with EPA Part 503 regulations. All logs and records required under EPA Part 503 regulations shall be kept for at least five (5) years by the licensed septage hauler and shall be available for review upon request by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.4])

Sec. 23-227. Same; Commercial Or Industrial Septage.

All commercial or industrial septage shall be properly disposed of by discharge directly into a mechanical wastewater treatment plant for treatment. Vegetable oils, animal fats, and wastes removed from grease traps of commercial or industrial establishments must be suitably treated at an approved facility.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.5])

Sec. 23-228. Same; Chemical Toilets And Portable Toilets Wastes.

No chemical toilet or portable toilet wastes shall be disposed of in Shawnee County in any manner other than by discharge directly into a mechanical publicly-owned treatment works (POTW), after meeting POTW regulations, payment of fees, and maintenance of records that reflect all information required under EPA Part 503 regulations. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.8.6])

Sec. 23-229. Wastewater Disposal System Installers; Licensing.

- (A) No person shall construct, modify, service or repair any private wastewater disposal system unless that person holds a valid septic installers license issued by the administrative agency. No septic installers license shall be required for an individual performing labor or services for a licensed septic installer at such installer's direction and under such installer's supervision.
- (B) A septic installers license valid for a period one (1) year shall be issued to installers who have completed a prescribed course of training for installers conducted or approved by the administrative agency, and have met the minimum standards of knowledge of this article and recommended procedures and practices, and paid the required septic installers licensing fee.
- (C) A septic installers license may be denied or revoked if it is established by the administrative agency that the installer has knowingly contravened this article or has failed to meet administrative agency standards and regulations.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.9.1] amended by H.R. Res. 2006-13)

Sec. 23-230. Same; Contracting With Unlicensed Installers Prohibited.

No person responsible for operating a private wastewater disposal system shall contract with any person for construction, modification, or repair of a private wastewater disposal system unless that person holds a valid septic installers license issued by the administrative agency.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 2-7.9.2])

Sec. 23-231. Requirements For Subdivision Development.

After adoption of this code, no person shall develop any subdivision in an unincorporated area within the county until the plans for on-site wastewater management have been approved by the administrative agency and forwarded to the planning commission. (Code 2006; History: Res. 1998-213 [Environmental Code, § 2-8.1])

Sec. 23-232. Water Supplies; Purpose And Intent.

The provisions of this article are adopted for the purpose of regulating and controlling the development, maintenance, and use of public and private water supplies of Shawnee County to protect public health and safeguard public water resources. (Code 2006; History: Res. 1998-213 [Environmental Code, § 3-1.0])

Sec. 23-233. Same; Compliance Required.

No person shall, after November 23, 1998, construct on any property subject to this article, any public or private water supply that does not comply with the requirements of this article and Kansas Department of Health and Environment Article 30, Water Well Contractor's License; Water Well Construction and Abandonment. (Code 2006; History: Res. 1998-213 [Environmental Code, § 3-1.1])

Sec. 23-234. Same; Definitions.

In addition to the definitions provided in §§ 23-163 and 23-172 of this article, the words, terms and phrases listed below for purposes of this article, are as follows.

- (1) Abandoned water well means a water well determined by the Kansas Department of Health and Environment to be a well:
 - (a) In which the use has been permanently discontinued;
 - (b) In which pumping equipment has been permanently removed;
 - (c) Which is in such a state of disrepair that it cannot be used to supply water, or it has the potential for transmitting surface contaminants into the aquifer or both;
 - (d) Which poses potential health and safety hazards; or
 - (e) Which is in such a condition it cannot be placed in active or inactive status;
- (2) *Active well* means a water well which is an operating well used to withdraw water, monitor or observe groundwater conditions;
- (3) *Annular space* means the space between the well casing and the well bore or the space between two (2) or more well casings;
- (4) *Aquifer* means an underground formation that contains and is capable of transmitting groundwater;
- (5) *Backflow* means the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources;
- (6) Confined aquifer means an aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is under pressure greater than atmospheric pressure and will rise in a well above the point at which it is first encountered:
- (7) Cross-connection means any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or change over devices and other temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections:
- (8) *Domestic uses* means the use of water by any person or family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, or for the irrigation of lands not exceeding a total of two (2) acres in area for the growing of gardens, orchards and lawns:
- (9) Groundwater means the part of the subsurface water which is in the zone of saturation;
- (10) *Grout* means cement grout, neat cement grout, bentonite clay grout or other material approved by the department used to create a permanent impervious watertight bond between the casing and the undisturbed formation surrounding the casing or between two (2) or more strings of casing;

- (11) Grout tremie pipe or grout pipe means a steel or galvanized steel pipe or similar pipe having equivalent structural soundness that is used to conduct pumped grout to a point of selected emplacement during the grouting of a well casing or plugging of an abandoned well or test;
- (12) *Heat pump hole* means a hole drilled to install piping for an earth coupled water source heat pump system, also known as a vertical closed loop system;
- (13) *License* means a document issued by the Kansas Department of Health and Environment to qualified persons making application therefore, authorizing such persons to engage in the business of water well contracting;
- (14) *Pitless well adapter* or *unit* means an assembly of parts installed below the frost line which will permit pumped groundwater to pass through the wall of the casing or extension thereof and prevent entrance of contaminants;
- (15) *Person* means any individual, association, firm, partnership, corporation or governmental entity responsible or liable to comply to regulations set forth in this article:
- (16) *Potable water* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects in humans and conforming with latest Public Health Service Drinking Water Standards;
- (17) *Private water supply* means a water supply used for domestic uses which serves not more than three (3) dwellings on a piped system;
- (18) Public water supply means a water supply system for delivery to the public of piped water for human consumption, if this system has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage or distribution facilities used in connection with the system;
- (19) Sanitary well seal means a manufactured seal, approved by the administrative agency and the Kansas Department of Health and Environment, installed at the top of the well casing which, when installed, creates an air and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply;
- (20) *Static water level* means the highest point below or above ground level which the groundwater in the well reaches naturally;
- (21) *Unconfined aquifer* means an aquifer containing groundwater at atmospheric pressure. The upper surface of the groundwater in an unconfined aquifer is the water table;
- (22) Water district means any special district authorized and empowered by state statutes to plan, construct, and/or operate a public water supply system; and
- (23) Water well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 3-2.0])

Sec. 23-235. Requirements For Public Water Supplies; State Permit.

No person shall operate a public water supply without obtaining a public water supply permit from the Kansas Department of Health and Environment. (Code 2006; History: Res. 1998-213 [Environmental Code, § 3-3.1])

Sec. 23-236. Same; State Approved Plans.

No person shall construct or permit to be constructed on any property subject to the provisions of this article, any public water supply until the plans and specifications for such supply have been submitted to and approved by the Kansas Department of Health and Environment. A copy of the plans, specifications shall be made available to the Shawnee County Health Agency if requested.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 3-3.2])

Sec. 23-237. Water Supply Required.

Owners of private homes that are used as a principal residence and all rented or leased homes shall furnish at least one (1) convenient outlet supplying an adequate quantity of potable water. Owners of permanent establishments shall furnish an adequate supply of safe water for the clientele.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 3-4.1])

Sec. 23-238. Minimum Standards For Water Wells.

Construction regulations for all wells other than public water supply:

- (1) Area Requirements. No well shall be located on a lot less than two (2) acres whereon an on-site sewage management system is utilized.
- (2) Location. Before a permit can be issued for well construction, the administrative agency will approve the well location with respect to separation distances from pollution sources and compliance with local and state regulations. No site shall be approved for well construction if it is subject to contamination or cannot meet separation requirements as set forth by the administrative agency or the Kansas Department of Health and Environment. The well shall meet the following minimum horizontal distances as set forth below:
 - (a) Fifteen (15) feet of utility lines;
 - (b) Fifty (50) feet from abandoned cesspools, inactive wells, barnyards and feedlots, manure storage, streams, lakes and ponds, buildings, property lines, and sewer lines:
 - (c) One hundred (100) feet from septic tanks, lagoons, pit privy, septic system lateral field:
 - (d) One hundred fifty (150) feet from chemical storage, fertilizer storage, fuel storage, pesticide storage and landfills.
 - (e) The well shall not be constructed in an area subject to the regulatory flood.
 - (f) Proper drainage in the vicinity of the well shall be provided so as to prevent the accumulation and ponding of surface water within fifty (50) feet of the well. The well shall not be constructed in a ravine or any other drainage area where surface water may flow into the well.
 - (g) Fifty (50) feet or more from the nearest property line, allowing public right-of-ways to be counted; however, a well used only for irrigation or cooling purposes may be located closer than twenty-five (25) feet to an adjoining property where:
 - (i) Such adjoining property is served by a sanitary sewer and does not contain a septic tank system, disposal well or other source of contamination or pollution; and

- (ii) The property to be provided with the proposed well is served by both a sanitary sewer and a public water supply.
- (iii) A water well irrigates more than two (2) acres. Wells watering less than two (2) acres are domestic wells and shall follow the regulation set forth above for domestic wells.
- (h) A water well shall be so located as to minimize the potential for contamination of the delivered or obtained groundwater and to protect groundwater aquifers from pollution and contamination.
- (i) The administrative agency can grant a wavier of this article as long as the waiver meets the minimum requirements of K.A.R. 28-30-8. Only the Kansas Department of Health and Environment can grant a waiver of KDHE standards.

(Code 2006; History: Res. 1998-213 [Environmental Code, § 3-5.0])

Sec. 23-239. Water Well Construction And Abandonment.

All water well construction and abandonment shall be monitored and enforced under the stated statues of Kansas Department of Health and Environment Article 30. (Code 2006; History: Res. 1998-213 [Environmental Code, § 3-5.0])

Secs. 23-240-23-400. Reserved.

ARTICLE VI. STORMWATER POLLUTION PREVENTION

Sec. 23-401. Statement Of Purpose.

It is the purpose of this article to promote public health, safety, and general welfare to the citizens of Shawnee County through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the County's drainage systems know as the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II permit process. The objectives of this article are:

- (A) To maintain and improve the quality of water impacted by the storm drainage systems within the County;
- (B) To prevent the discharge of contaminated storm water runoff and illicit discharges from industrial, commercial, residential, and construction sites into the storm drainage system within Shawnee County;
- (C) To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, soil and sediment, and other pollutants into the storm drainage systems and streams of Shawnee County;
- (D) To encourage recycling of household hazard wastes such as used motor oil and safe disposal of other hazardous consumer products;
- (E) To facilitate compliance with state and federal standards by owners of construction sites within Shawnee County;
- (F) To enable Shawnee County and the MS4 Townships to comply with all federal and state laws and regulations applicable to the National Pollutant Discharge Elimination system (NPDES), Phase II permitting requirements for storm water discharges.

(Code 2006; History: Res. 2005-36, § [A])

Sec. 23-402. Abbreviations.

- (A) BMP Best Management Practices;
- (B) CFR Code of Federal Regulations;
- (C) EPA U.S. Environmental Protection Agency;
- (D) HHW Household Hazardous Wastes;
- (E) KDHE Kansas Department of Health and Environment;
- (F) MS4 Municipal Separate Storm Sewer System (Storm drains and drainage systems in Shawnee County and Townships in Shawnee County);
 - (G) NPDES National Pollutant Discharge Elimination System;
- (H) SWP3 Storm Water Pollution Prevention Plan. (Code 2006; History: Res. 2005-36, § [B])

Sec. 23-403. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases as used in this article shall have the meanings hereinafter designated:

- (1) Best Management Practices (BMP's) refers to the schedules of activities, prohibition of practices, the management practices and methods to control pollutants in storm water. BMP's are of two types: "source controls" (nonstructural) and "treatment controls" (structural). Treatment controls remove pollutants from stormwater. The selection, application, and maintenance of BMP's must be sufficient to prevent or reduce the likelihood of pollutants entering the storm drainage system;
- (2) County means Shawnee County;
- (3) *Township* refers to any of the twelve (12) townships in the County;
- (4) Commercial pertains to any business, trade, industry, or other activity engaged in for profit;
- (5) Commercial cleaning or washing means any mobile or stationary means of washing, steam cleaning used to clean vehicles or buildings relating to a commercial activity;
- (6) Construction Site means any location where construction activity occurs, includes, but not limited to: earthwork, paving, building, plumbing, mechanical, electrical, landscaping, and material suppliers delivering material to the site;
- (7) Contaminant, contamination, or contaminated pertains to any harmful pollutants;
- (8) *Discharge* means any release, particularly pertaining to the release of any substance such as soil or pollutant into any storm drainage system;
- (9) Director means the Shawnee County Director of Public Works in this article;
- (10) *Domestic Sewage* means sewage originating from kitchen, bathroom, laundry sources, dishwashing, toilets, baths, showers, sinks, garbage units, and food preparation;
- (11) Earthwork means the disturbance of soils resulting from clearing, grading or excavation activities;
- (12) Groundwater means water residing below the surface of the ground;

- (13) Household Hazardous Waste (HHW) means household consumer products that when discarded exhibit hazardous characteristics:
- (14) *Illegal or illicit discharge* means any pollutant discharge into the storm drainage system or streams of Shawnee County;
- (15) *Mechanical Fluid* means any fluid used in the operation and maintenance of machinery, vehicles and equipment where lubricants, antifreeze, petroleum products, oil, fuel, and solvents are used;
- (16) Municipal Separate Storm Sewer System (MS4) means any system of conveyances, including roads, streets, curbs and gutters, ditches, inlets, drains, pipes, tunnels, culverts, channels, detention and retention basins, ponds, and streams designed or occurring naturally used for collecting or conveying stormwater and not used for the conveyance of sanitary sewage;
- (17) *Violation Notice* means a written notice detailing any violations of this resolution and any action expected of the violators;
- (18) *Oil* means any kind of oil in any form, including, but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, cooking oil, grease, sludge, oil refuse, and oil mixed with waste:
- (19) Owner means the person of record who owns a facility, part of a facility, or land;
- (20) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities;
- (21) Pet Waste (or Animal Waste) means excrement and other waste from domestic animals not under regulation with an NPDES permit;
- (22) Petroleum Product means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, cleaning fluids, kerosene, solvent, distillate fuel oil, and #1 and #2 diesel;
- (23) *Pollutant* means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle or aircraft, including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, cleaning fluids, kerosene, solvent, distillate fuel oil, and #1 and #2 diesel;
- (24) *Pollution* means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water that renders the water harmful, detrimental, or injurious to humans, animal life, plant life, property, or public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose;
- (25) Qualified Person means a person who possesses the required certification, license, or appropriate competence, skills, and ability as demonstrated by sufficient education, training, and/or experience to perform a specific activity in a timely and complete manner consistent with the regulatory requirements & generally accepted industry standards for such activity;
- (26) *Release* means to dump, spill, leak, pump, pour, emit, empty, inject, leach, dispose, or otherwise introduce into the storm drainage system;

- (27) Sanitary Sewage means the domestic sewage and/or industrial waste that is discharged into the City/County sanitary sewer system and passes through the sanitary sewer system to the City/County sewage treatment plant for treatment;
- (28) *Sediment* means silt, soil (or mud) that has been disturbed or eroded and transported naturally by water, wind or gravity, or mechanically by any person;
- (29) Shall means mandatory; may means discretionary;
- (30) *Site* means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity;
- (31) Storm Drainage System means all surfaces, structures, and systems that contribute to or convey storm water, including private drainage systems and the MS4 system leading to the waters of the State and waters of the United States;
- (32) Storm Water means runoff resulting from precipitation;
- (33) Storm Water Pollution Prevention Plan (SWP3) means a document that describes the Best Management Practices to be implemented on a site, to prevent or reduce the discharge of pollutants;
- (34) Subdivision Development, Development, Public Improvement Plans means engineering drawings subject to approval by the Shawnee County Director of Public Works for the construction of public improvements. This includes activities associated with the platting of any parcel of land into two or more lots and includes all construction activity taking place thereon;
- (35) Surface Water means water bodies and any water temporarily residing on the surface of the ground, including oceans, lakes, reservoirs, rivers, ponds, streams, puddles, channelized flow, and runoff;
- (36) *Utility (Agency)* means private utility companies, or contractors working for private utility companies, engaged in the construction or maintenance of utility distribution lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television, and communication services;
- (37) Water of the State or United States (or water) means any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, inside the territorial limits of the State, and all other bodies of surface water, natural or artificial, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the State or inside the jurisdiction of the State; and
- (38) Yard Waste means leaves, grass clippings, tree limbs, brush, soil, rocks or debris that result from landscaping, gardening, yard maintenance, or land clearing operations.

(Code 2006; History: Res. 2005-36, § [C])

Sec. 23-404. Prohibitions And Requirements.

(A) Prohibitions:

(1) No person shall release or cause to be released into the storm drainage system any discharge that is not composed entirely of uncontaminated storm water, except as allowed in Section 23-404(B). Common storm water contaminants include trash, yard waste/grass clippings, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, and sediment.

- (2) Any discharge shall be prohibited if the discharge in question has been determined by the Director to be a source of pollutants to the storm drainage system, except for the provisions listed in Section 23-404(B) ("Exemptions").
- (3) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (4) No person shall connect a line conveying sanitary sewage, domestic sewage, or industrial waste, to the storm drainage system, or allow such a connection to continue.
- (5) No person shall maliciously destroy or interfere with BMP's implemented pursuant to this resolution.

(B) Exemptions:

- (1) A discharge authorized by an NPDES permit, including but not limited to hazardous waste facilities, landfills, land application sites, recycling facilities, industrial sites, power generating facilities, construction sites greater than one acre, concentrated animal feeding operations, concentrated aquatic animal production, and silviculture.
- (2) Agricultural activities such as stormwater runoff from orchards, cultivated crops, pastures, rangeland, forest land, and return flows from irrigated agriculture.
- (3) Federal and State permitted improvements on streams, ponds, and dams.
- (4) Uncontaminated waterline flushing and other infrequent discharges from potable water sources.
- (5) Infrequent uncontaminated discharge from landscape irrigation or lawn watering.
- (6) Discharge from the occasional non-commercial washing of vehicles on properties zoned Residential.
- (7) Discharge of swimming pool water in compliance with the County Health Agency.
- (8) Uncontaminated discharge from foundation, footing or crawl space drains, sump pumps, and air conditioning condensation drains.
- (9) Uncontaminated groundwater, including rising groundwater, groundwater infiltration into storm drains, pumped groundwater and springs.
- (10) Diverted stream flows and natural riparian habitat or wetland flows.
- (11) A discharge or flow of fire protection water that does not contain oil or hazardous substances or materials.

(C) Requirements Applicable to Certain Dischargers:

- (1) Private Drainage System Maintenance. The owner of any private drainage system shall maintain the system to prevent or reduce the discharge of pollutants.
- (2) Minimization of Irrigation Runoff. A discharge of irrigation water of sufficient quantity to cause a concentrated flow in the storm drainage system is prohibited. Irrigation systems shall be managed to reduce the discharge of water from a site.

- (3) Cleaning of Paved Surfaces Required. The owner of any paved parking lot, street or drive shall clean the pavement as required to prevent the visible buildup of trash and discharge of pollutants.
- (4) *Mobile commercial cosmetic or cleaning operations*. Discharge of any material from operations into any storm drainage system is prohibited.
- (5) *Maintenance of Equipment*. Any leak or spill related to equipment maintenance in an outdoor, uncovered area shall be contained to prevent the potential release of pollutants. Vehicles, machinery and equipment must be maintained to reduce leaking fluids.
- (6) *Materials Storage*. In addition to other requirements of this article, materials shall be stored to prevent the potential release of pollutants. The uncovered, outdoor storage of unsealed containers of hazardous substances is prohibited.
- (7) *Pet Waste*. Pet waste shall be disposed of as solid waste or sanitary sewage in a timely manner, to prevent discharge to the storm drainage system.
- (8) *Yard Waste*. Yard waste including grass clipping and leaves shall be managed to prevent discharge to the storm drainage system/storm drain inlets.
- (9) Open Drainage Channel Maintenance. Every person owning or occupying property through which an open drainage channel passes shall keep and maintain that part of the drainage channel within the property free of obstacles that would pollute, contaminate, or retard the flow of water through the drainage channel. In addition, the owner or occupant shall maintain existing privately owned structures within or adjacent to a drainage channel, so that such structures will not become a hazard to the use, function, or physical integrity of the drainage channel.

(D) Release Reporting and Cleanup.

Any person/facility responsible for a known or suspected release of materials resulting in or may result in illegal discharges to the storm drainage system shall take all necessary steps to ensure the discovery, containment, abatement and cleanup of such release. In the event of such a release of a hazardous material, said person/facility shall comply with all state, federal, and local laws requiring reporting, cleanup, containment, and any other appropriate remedial action in response to the release. In the event of such a release of non-hazardous materials, said person/facility shall notify the Director no later than noon of the next business day.

(E) Authorization to Adopt and Impose Best Management Practices.

The County may adopt and impose requirements identifying Best Management Practices for any activity, operation, or facility, which may cause a discharge of pollutants to the storm drainage system. Where specific BMP's are required, every person undertaking such activity or operation, or owning or operating such facility shall implement and maintain these BMP's at their own expense.

(Code 2006; History: Res. 2005-36, § [D])

Sec. 23-405. Stormwater Discharges From Construction Activities.

(A) General Requirements for Construction Sites.

The owner of a site of construction activity shall be responsible for compliance with the requirements of this article.

(1) Solid waste, industrial waste, yard waste, and any other pollutants or waste on any construction site shall be controlled through the use of Best Management Practices. Waste or recycling containers shall be provided and maintained by the owner or contractor on construction sites where there is the potential for release of waste. Uncontained waste that may blow, wash, or otherwise be released from the site is prohibited.

- (2) Ready-mixed concrete, asphalt, or any materials resulting from the cleaning of vehicles or equipment containing or used in transporting or applying readymixed concrete or asphalt or any material shall be contained on construction sites or within the subdivision/ development for proper disposal. Release of these materials is prohibited on property other than the construction site or that area designated by the developer.
- (3) Best Management Practices shall be implemented to prevent the release of silt and sediment from construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed, and construction site entrances shall be managed to prevent mud and/or sediment tracking. Noticeable mud/sediment tracked onto public streets shall be removed immediately.
- (4) Upon completion of permitted construction activity on any site, the property owner and subsequent property owners will be responsible for continued compliance with the requirements of this section in the course of maintenance, reconstruction, or any other construction activity on the site.

(B) Construction Sites Requiring an Approved SWP3.

This section applies to all construction sites excluding subdivision developments. Where construction on a site will disturb soil or remove vegetation during the life of the construction project, the construction site owner must implement an approved Storm Water Pollution Prevention Plan (SWP3) for the project as follows:

- (1) The area disturbed shall be assumed to include the entire property area unless all applicable plans specifically exclude certain areas from disturbance.
- (2) The owner bears the responsibility for implementation of the SWP3 and notification of all contractors and utility agencies on the site.

(C) Subdivision Developments Requiring an Approved SWP3.

Where construction of a subdivision development will disturb soil or remove vegetation during the life of the development project, an approved Storm Water Pollution Prevention Plans (SWP3) for the project must be provided and implemented by the subdivision owner as follows:

- (1) The area disturbed shall be assumed to include the entire platted area.
- (2) SWP3 must be provided by the subdivision owner and included in Public Improvement Plans submitted to the Director for the development.
- (3) SWP3 must be provided for all phases of development, including sanitary sewer construction, storm drainage system construction, waterline, street and sidewalk construction, general grading, and the construction of individual homes. The subdivision owner will not be required to provide an SWP3 for the activities of utility agencies within the subdivision.
- (4) Construction activity, including any soil disturbance or removal of vegetation, shall not commence until approval by the Director.
- (5) The subdivision owner shall provide a copy of the approved SWP3 to all utility agencies prior to their working within the subdivision.

- (6) The subdivision owner bears the responsibility for implementation of the approved SWP3 for all construction activity within the development, excluding construction under the control of subsequent owners of individual lots and construction managed by utility agencies.
- (7) The subsequent owner of an individual lot bears the responsibility for continued implementation of the approved SWP3 for all construction activity within or related to the individual lot, excluding construction managed by utility agencies.

(D) Storm Water Pollution Prevention Plans (SWP3).

Preparation and implementation of Storm Water Pollution Prevention Plans for construction activity shall comply with the following:

(1) Preparation.

- (a) The SWP3 shall be prepared under the direction of a qualified person.
- (b) The SWP3 shall provide the name, address and phone number of the project owner for purposes of correspondence and enforcement.
- (c) The SWP3 shall identify existing natural resources such as streams, forest cover, and other established vegetative cover.
- (d) The SWP3 shall specify and provide detail for all BMP's necessary to meet the requirements of this resolution, including any applicable BMP's that have been adopted and imposed by the County.
- (e) The SWP3 shall specify when each BMP will be installed and for how long it will be maintained within the construction sequence. Multiple plans may be required for major phases of construction such as rough grading, building construction, and final grading.
- (f) The SWP3 shall delineate all anticipated disturbed areas and specify the vegetative cover that must be established in those areas to achieve final stabilization.

(2) Implementation.

- (a) BMP's shall be installed and maintained by qualified persons. The owner or their representative shall be able to provide upon the Director's or his representative request a copy of the SWP3 on site within one hour during construction activity, or within the next business day for periods of inactivity, and shall be prepared to respond to unforeseen maintenance of specific BMP's.
- (b) The owner or his representative shall inspect all BMP's at least once per month and within the next business day after a rainfall of one quarter of an inch or more as measured at the site or generally reported in the Shawnee County area.
- (c) Based on inspections performed by the owner or by authorized County or Township personnel, modifications to the SWP will be necessary if at any time the specified BMP's do not meet the objectives of this resolution. In this case, the owner shall meet with authorized County or Township personnel to determine the appropriate modifications. All modifications shall be completed within seven (7) days of the referenced inspection, and shall be recorded on the owner's copy of the SWP3.
- (3) Requirements for Utility Construction.

Utility agencies shall be responsible for compliance with the requirements of this article.

- (a) Utility agencies shall develop and implement Best Management Practices (BMP's) to prevent the discharge of pollutants on any site of utility construction within the County. In addition, the County may adopt and impose BMP's on utility construction activity;
- (b) Utility agencies shall implement BMP's to prevent the release of sediment from utility construction sites. Disturbed areas shall be minimized, disturbed soil shall be managed and construction site entrances shall be managed to prevent mud/sediment tracking. Noticeable mud/sediment tracked onto public streets shall be removed immediately.
- (c) Prior to entering a construction site or subdivision development, utility agencies shall have obtained from the owner a copy of any SWP3's for the project. The utility company in compliance with the SWP3 shall repair any disturbance to BMP's resulting from utility construction immediately.

(Code 2006; History: Res. 2005-36, § [F])

Sec. 23-406. Enforcement.

- (A) Members of the General Public may submit information pertaining to this resolution to the County Department of Public Works. The Director will consider such submissions as they pertain to the implementation and enforcement of this resolution.
- (B) The following personnel shall have the power to issue Violations Notices and implement other enforcement actions under this resolution:
 - (1) All designated personnel under the supervision of the Director of Public Works;
 - (2) Certain representatives designated by the Townships and approved by the Shawnee County Public Works Director; and
 - (3) All health agency employees that are designated representatives of the Director of the Shawnee County Health Agency and approved by the Director of Public Works.

(C) Right of Entry and Sampling.

- (1) Whenever the Director has cause to believe there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this resolution, the Director or his representative shall have the right to enter the premises at any reasonable time to determine if the discharger is complying with all requirements of this resolution. In the event that the owner or occupant refuses entry after a request to enter has been made, the County is hereby empowered to seek assistance from a court of competent jurisdiction in obtaining such entry.
- (2) The Director shall have the right to cause to have set up on the property of any discharger to the storm drainage system such devices that are necessary to conduct sampling of discharges.

(D) Notice of Violation.

(1) Whenever a designated enforcement person determines that a person has violated a prohibition or failed to meet a requirement of this resolution, the enforcement person will order compliance by written Violation Notice to the responsible person.

- (2) The Violation Notice shall identify:
 - (a) The name of the responsible person;
 - (b) The date and location of the violation;
 - (c) A description of the violation;
 - (d) Actions that must be taken by the responsible person to remedy the violation;
 - (e) The deadline within which the required actions must be completed; and
 - (f) Enforcement actions that may be taken by the County.
- (3) Any person receiving a Notice of Violation may appeal the Notice to the Director. The Director must receive the written appeal within 15 days of the Notice date. The Director will affirm, modify, or rescind the Notice in writing, within 15 days of the date of the appeal.
- (4) Any person aggrieved by the decision of the Director may appeal the decision to the County Commission by submitting a written appeal to the County Commission Office within 15 days of the date of the Director's written decision. A hearing on the appeal will be scheduled before the County Commission. The decision of the County Commission shall be final.

(E) Enforcement Actions.

Any person who fails to comply with or appeal a Notice of Violation, or fails to comply with an appeal decision of the County Commission, will be subject to one or more of the following enforcement actions:

- (1) The Director may issue a *Stop Work Order* to the owner and contractors on a construction site, by posting the order at the construction site and distributing the order to all County departments whose decisions may affect any activity at the site. Unless express written exception is made, the Stop Work Order shall prohibit any further construction activity at the site and shall bar any further inspection or approval necessary to commence or continue construction or to assume occupancy at the site. A Notice of Violation shall accompany the Stop Work Order, and shall define the compliance requirements.
- (2) The Director may order County representatives to terminate an *illicit connection* to the MS4. Any expense related to such abatement by County representatives shall be fully reimbursed by the property owner.
- (3) Upon failure to maintain construction site entrances free from mud and/or sediment tracking, the Shawnee County representative, after reasonable notice of intent and presentation of the penalties, may certify such facts to the Sheriff, who may prohibit ingress and egress to any such construction, excavation, or demolition site by way of public roads and/or streets. The prohibition will remain in effect until the mud/sediment has been removed from the public road/street and best management practices instituted to prevent mud/sediment tracking and reimbursement of County or Township expenses. Any expense related to such abatement by the County or Township shall be fully reimbursed by the offending vehicle owner/owners.
- (4) When a property owner is not available, not able or not willing to correct a violation, the Director may order representatives to enter private property to take any and all measures necessary to abate the violation. The Director after reasonable effort to deliver the notice of intent and the penalties prescribed may certify such facts to the Sheriff who may provide escort to crews to take any and

all measures to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow County representatives to enter upon the premises for these purposes. Any expense related to such abatement by the County and/or the Township shall be fully reimbursed by the property owner.

- (5) Within 30 days after abatement by County representatives, the Director shall notify the property owner of the costs of abatement, including administrative costs, and the deadline for payment. The property owner may protest the assessment before the County Commission. The written protest must be received by the County Commission's Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the County Commission. The decision of the County Commission shall be final. If the amount due is not paid within the protest period or within 10 days of the decision of the County Commission, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the County Clerk so that the Clerk may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the Treasurer shall include the amount of the assessment on the bill for taxes levied against the parcel of land.
- (6) After lawful notice to the customer and property owner concerning the proposed disconnection, the Director shall have the authority to order termination of any building permits and/or construction permits.
- (7) Where necessary for the reasonable implementation of this resolution subdivision development will require a performance bond in the amount of the construction project. The Director may, by written notice, order any owner of any construction site or development to file a satisfactory bond, payable to the County, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance with this resolution. The County may deny approval of any building permit, construction of the development plan, or any other County permit or approval necessary to commence or continue construction or to assume occupancy, until such a performance bond has been filed. The owner may protest the amount of the performance bond before the County Commission. The written protest must be received by the County Commission Office within 15 days of the date of the notification. A hearing on the matter will be scheduled before the County Commission. The decision of the County Commission shall be final.
- (8) Any person who violates or continues to violate a prohibition or requirement of this resolution shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to criminal penalties.

(F) Criminal Penalties.

Any person violating this resolution shall, upon an adjudication of guilt or a plea of no contest, be fined a minimum of \$500.00 to a maximum of \$1,500.00. Each separate day on which a violation is committed or continues shall constitute a separate offense. The court judge shall have no authority to suspend all or a portion of the minimum fine. (Code 2006; History: Res. 2005-36, § [G])

Sec. 23-407. Lands To Which Article Applies.

In all areas covered by this resolution, no construction activity or development including the placement of manufactured homes shall be permitted except through the issuance of a building permit or approved developments plans. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining an approval of the plans by the Director for each structure or other development.

(Code 2006; History: Res. 2005-36, § [H])

Sec. 23-408. Compliance.

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this resolution and other applicable regulations.

(Code 2006; History: Res. 2005-36, § [I])

Sec. 23-409. Abrogation And Greater Restrictions.

It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other resolutions inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(Code 2006; History: Res. 2005-36, § [J])

Sec. 23-410. Interpretation.

The provisions of this article shall be held to be minimum requirements, and shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

(Code 2006; History: Res. 2005-36, § [K])

Sec. 23-411. Warning And Disclaimer Of Liability.

This article shall not create a liability on the part of Shawnee County, any officer or employee thereof, for any damages that may result from reliance on this article or any administrative decision lawfully made there under.

(Code 2006; History: Res. 2005-36, § [L])

Secs. 23-412 - 23-450. Reserved.

ARTICLE VII. STANDARDS FOR NOISE IN THE UNINCORPORATED AREA OF THE COUNTY

Sec. 23-451. Prohibitions.

The acts mentioned in the following sections of this article are declared to be loud, disturbing, and unnecessary noises in violation of this article.

- (1) Fireworks. The discharge, explosion, or use of any fireworks is prohibited except from June 27 to July 4, between the hours of 8:00 A.M. to midnight.
- (2) Canines. The keeping or harboring of any canine which by causing frequent or long continued noise shall disturb the comfort or repose of any persons in the vicinity is unlawful.

(Code 2006; History: H.R. Res. 2005-14, § 1, amended by H.R. Res. 2011-6, § 1)

Sec. 23-452. Exceptions.

The provisions of this article shall not apply to the following:

(1) The emission of sound for the purpose of alerting persons to the existence of an emergency, or for the performance of emergency work.

(2) Organized school-related programs, activities, or parades or other public programs, activities, or events authorized by the Board of County Commissioners, a Township Board, or their designated representative.

(Code 2006; History: H.R. Res. 2005-14, § 2, amended by H.R. Res. 2011-6, § 2)

Sec. 23-453. Enforcement.

- (A) Violation of any provision of this article shall be enforced by the appropriate Law Enforcement Agency in a manner consistent with that Law Enforcement Agency's policy for misdemeanor offenses.
- (B) If any person is convicted of any violation of this article, the following fines and penalties shall be imposed:
 - (1) For the first violation, a fine in the amount of Fifty and No/100 Dollars (\$50);
 - (2) For the second violation, a fine in the amount of Two Hundred Fifty and No/100 Dollars (\$250);
 - (3) For the third or any subsequent violation, a fine in the amount of One Thousand and No/100 Dollars (\$1,000).

(Code 2006; History: H.R. Res. 2005-14, § 3, amended by H.R. Res. 2011-6, § 3)

Sec. 23-454. Other Remedies.

No provision of this article shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this article or from other law. Any person allegedly aggrieved by another person's violation of this article may seek, in a civil action, a declaratory judgment and/or an injunction, or other appropriate relief against another person for committing the act or practice that violates this article.

(Code 2006; History: H.R. Res. 2005-14, § 4, amended by H.R. Res. 2011-6, § 4)

Sec. 23-455. Other Provisions.

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

(Code 2006; History: H.R. Res. 2005-14, § 5, amended by H.R. Res. 2011-6, § 5)

Secs. 23-456 - 23-470. Reserved.

CHAPTER 24. PUBLIC OFFENSES

Art. I. In General, §§ 24-1-24-50

Art. II. Hateful Behavior And Actions, §§ 24-51-24-70

Art. III. Picketing Of Religious Events And Residential Dwellings, \$\$24-71-24-100

Art. IV. Possession Of Stolen Property, §§ 24-101 – 24-130

Art. V. Traffic Hazards, §§ 24-131 – 24-180

ARTICLE I. IN GENERAL

Secs. 24-1-24-50. Reserved.

ARTICLE II. HATEFUL BEHAVIORS AND ACTIONS

Sec. 24-51. Hateful Behaviors And Actions: Promote Positive Alternatives.

The County of Shawnee is against hateful behaviors and hateful actions in our community; and Shawnee County will continue to use its existing authorities to pursue strategies to control and constrain hateful behaviors and hateful actions and to promote positive alternatives within our community.

(Code 2006; History: Res. 2000-157)

Secs. 24-52 - 24-70. Reserved.

ARTICLE III. PICKETING OF RELIGIOUS EVENTS AND RESIDENTIAL DWELLINGS

Sec. 24-71. Definitions.

All words and phrases, when used in this article shall have the following definitions:

- (1) Focused Picketing. Picketing by:
 - (a) Standing, sitting, or walking at a deliberately slow speed; or
 - (b) Walking repeatedly past or around a private residence or place where a religious event is to take place or has taken place by any person while carrying banner, placard, or sign.

Focused picketing does not include any activity carried on under a validly issued parade permit.

- (2) Demonstrating. Includes the definitions of focused picketing but is also done by persons not carrying any banners, placards, or signs but who verbally address any person who is not participating in the demonstration who appears to be coming or going from a private residence or a religious event when the person is addressed in offensive, obscene, or abusive language or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others.
- (3) Religious event. Religious events include scheduled worship services, weddings, funerals, memorial services for the dead, and the observation of other sacraments, rituals or celebrations which may take place in the house of worship.
- (4) *Posted*. Religious events become protected when the time of those events have either been announced in a newspaper regularly printed at least on a weekly basis or which have been announced by a sign within two hundred (200) feet of the primary entrance to the structure where the event is to be held.

(Code 2006; History: H.R. Res. 1996-4, § 1)

Sec. 24-72. Residential Dwelling Picketing Prohibited.

It shall be unlawful for any person to engage in picketing which is directed, focused or targeted at a residence and which takes place before or about that residence in the unincorporated areas of the County.

(Code 2006; History: H.R. Res. 1996-4, § 2)

Sec. 24-73. Residential Picketing Defined.

A person is engaged in residential picketing in the unincorporated areas of the County, if the person, with or without a sign, is posted at, before or about a particular residence, private dwelling, or domiciliary abode.

(Code 2006; History: H.R. Res. 1996-4, § 3)

Sec. 24-74. Picketing Not Prohibited.

Nothing herein shall prohibit the picketing of a residence in the unincorporated areas of the County which is used as a place of business or a place of public assembly. (Code 2006; History: H.R. Res. 1996-4, § 4)

Sec. 24-75. Religious Event Picketing Prohibited.

It is unlawful for any person to engage in focused picketing or demonstrating on, or within an area ninety (90) feet adjacent to, the property of grounds containing a structure where a religious event is being held. This action is only in violation of this article if the picketing or demonstrating is done within one-half (1/2) hour before, during, or one-half (1/2) hour after a protected religious event which has been posted. The distance shall be measured from all points along the property line of the property where the structure that houses the event is located.

(Code 2006; History: H.R. Res. 1996-4, § 5)

Sec. 24-76. Penalty.

Any person violating this article may be punished pursuant to K.S.A. 19-101d by a fine of not more than One Thousand Dollars (\$1,000) as a Class C misdemeanor. (Code 2006; History: H.R. Res. 1996-4, § 6)

Sec. 24-77. Severability.

If any part or parts of this article shall be held unconstitutional, invalid, or otherwise unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this article.

(Code 2006; History: H.R. Res. 1996-4, § 7)

Secs. 24-78 - 24-100. Reserved.

ARTICLE IV. POSSESSION OF STOLEN PROPERTY

Sec. 24-101. Identification Marks.

No person shall change, cover, alter, remove, obliterate, deface or destroy the manufacturer's name, serial number, model number or other identification mark, letter, word or number of any of the following manufactured machines, devices, apparatuses or articles with the intent to conceal, destroy or misrepresent the identity or ownership of:

- (1) Televisions, radios, phonographs, speakers, tape recorders or tape players, typewriters, adding machines, computers, calculators and other office machines;
- (2) Handguns, rifles and shotguns;
- (3) Musical instruments, such as clarinets, saxophones, trumpets and flutes;
- (4) Power and mechanical tools or equipment such as chain saws, drills, saws, sanders and buffers;

- (5) Transmission and gasoline engines such as automobile engines and outboard motorboat engines;
- (6) Home appliances, such as vacuum cleaners, sewing machines and electric mixers;
- (7) Binoculars and photographic equipment, such as cameras, motion picture projectors and slide projectors;
- (8) Sporting equipment such as boats and camping trailers; and
- (9) Any manufactured machine, device, apparatus or article that carries a manufacturer's serial number.

(Code 2006; History: H.R. Res. 1982-3, § 1)

Sec. 24-102. Possession Prohibited.

No person shall knowingly buy, sell, receive, barter, trade, dispose of or have in their possession any of the aforenamed manufactured articles, devices, apparatuses or machines from which the manufacturer's name, serial number, model number or other identification mark, letter, word or number have been changed, covered, altered, removed, obliterated, defaced or destroyed.

(Code 2006; History: H.R. Res. 1982-3, § 2)

Sec. 24-103. Possession As Prima Facie Evidence.

Possession of any of the aforenamed manufactured articles, devices, apparatuses or machines from which the manufacturer's name, serial number, model number or other identification mark, letter, word or number have been changed, covered, altered, removed, obliterated, defaced or destroyed without a sales receipt, bill of sale or other evidence of ownership shall be prima facie evidence that the possessor has changed, covered, altered, removed, obliterated, defaced or destroyed the same with the intent to conceal, destroy or misrepresent the identity or ownership of such manufactured machine, device, apparatus or article.

(Code 2006; History: H.R. Res. 1982-3, § 3)

Sec. 24-104. Penalty.

Any person who violates any provision of § 24-101 or § 24-102 shall be deemed guilty of a Class C misdemeanor crime, and upon conviction or a plea of guilty therefor, may be fined a definite sum of money not exceeding One Thousand Dollars (\$1,000).

(Code 2006; History: H.R. Res. 1982-3, § 4)

Secs. 24-105-24-130. Reserved.

ARTICLE V. TRAFFIC HAZARDS

Sec. 24-131. Definitions.

The following words and phrases, when used in this article, shall have the meaning respectively ascribed to them:

- (1) *Structure* means fences, signs, monuments, benches, large stones and any other items of personality or realty; and
- (2) Vegetation shall include trees, shrubs, bushes, vines, crops, grass or other vegetation.

(Code 2006; History: Res. 1987-206, § I)

Sec. 24-132. Prohibitions.

All vegetation or structures growing or upon private or public property on corner lots or adjacent to the interior curbs of a curved street, or adjacent to streets, highways, alleys and public or commercial driveway approach intersections, which obstruct a reasonable and safe view by motor vehicle drivers upon such streets, highways, alleys and public or commercial driveway approaches of oncoming and intersecting traffic; and any such vegetation or structure which extends more than thirty (30) inches above the adjacent grade of any street, highway, alley or public or commercial driveway approach intersection the same being within a sight distance triangle as set forth in the AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) POLICY OF GEOMETRIC DESIGN OF HIGHWAYS AND STREETS, Fifth Edition, 2004, and revisions thereto, is hereby declared to be a public traffic hazard nuisance provided that trees now growing in such areas may grow above such height if the limbs are trimmed to a minimum height of nine (9) feet above the adjacent grade of any street, highway, alley or public or commercial driveway approach intersection. (Code 2006; History: Res. 1987-206, § II)

Sec. 24-133. Notice Of Violation.

- (A) When the County Engineer or a representative determines upon the basis of an engineering and traffic investigation that such a traffic hazard exists, the County Engineer or representative shall notify the owner of the real property upon which such hazard exists and order that the hazard be removed within ten (10) days.
- (B) The failure of the owner to remove such traffic hazard within ten (10) days shall constitute an offense punishable by a penalty of Ten Dollars (\$10) and every day said owner shall fail to remove it shall be a separate and distinct offense. (Code 2006; History: Res. 1987-206, § III)

Sec. 24-134. Service Of Order.

The order required to be served upon the owner of real property which a traffic hazard is determined to exist shall be deemed properly served upon such owner if a copy thereof is served upon the owner personally, or if a copy thereof is sent by registered mail, return receipt requested to the owner's last known address. Service of such order shall be deemed sufficient upon the mailing thereof when performed in compliance with this article. (Code 2006; History: Res. 1987-206, § IV)

Sec. 24-135. Filing Of Complaint.

If removal of the public traffic hazard has not been completed within the time set forth in the order, the County Engineer or representative shall be authorized to cause a complaint to be filed by the County Counselor charging the owner of the real property upon which a traffic hazard is found to exist with a misdemeanor.

(Code 2006; History: Res. 1987-206, § V)

Sec. 24-136. Additional Remedies To Achieve Abatement.

In addition to the remedy of prosecution and enforcement as provided herein if the traffic hazard nuisance is not removed within twenty (20) days, the County Engineer or representative is hereby authorized, empowered and directed, on proper notice given as herein provided, to abate or suppress the public traffic hazard nuisance. The cost of such abatement shall be certified to the County Clerk after the nuisance has been abated or suppressed. The Board shall levy and assess the cost of abating the nuisance against each lot or piece of ground chargeable therewith, as a special assessment and the County Clerk shall certify said assessment to the County Treasurer for collection as other special assessments are collected.

(Code 2006; History: Res. 1987-206, § VI)

Secs. 24-137-24-180. Reserved.

CHAPTER 25. PURCHASING

Art. I. In General, §§ 25-1-25-50

Art. II. Purchasing Procedure, §§ 25-51-25-150

Note: See also Chapter 20, Information Technology, Article IV, Purchase of Equipment And Service Contracts.

ARTICLE I. IN GENERAL

Sec. 25-1. Joint Purchasing Agreement.

- (A) The Board hereby expresses the intent to enter into "joint purchasing agreements" with other governmental agencies within Shawnee County, Kansas.
- (B) Any such "joint purchasing agreement" shall, to the extent that efficiency and economy are improved, provide for the joint purchase of commonly used supplies and services.
- (C) Any such "joint purchasing agreement" shall not provide for the circumvention or avoidance of this Code or statutes of the State of Kansas. (Code 2006; History: Res. 1991-7)

Sec. 25-2. Membership Dues; Subscriptions.

All membership dues to organizations and all subscriptions to magazines, newspapers and other periodicals must be approved by the Board prior to payment from County funds. (Code 2006; History: Res. 1995-157, § 1)

Sec. 25-3. Professional Libraries.

Nothing in § 25-2 shall be construed to restrict the acquisition of materials for professional libraries necessary for a department to perform its required functions. (Code 2006; History: Res. 1995-157, § 2)

ARTICLE II. PURCHASING POLICY

Sec. 25-51. General Provisions

1.1 PURPOSE

This policy is designed to outline the purchasing policies of Shawnee County. It is intended to ensure fair and equitable treatment of all vendors and citizens of Shawnee County and to provide efficient and economical use of Shawnee County funds.

1.2 APPLICATION AND WAIVERS

This policy shall apply to all expenditures. The Board of County Commissioners, by majority vote, may waive the use of this policy when the Board deems it to be in the best interest of the County to do so, as long as the waiver does not conflict with any Kansas statute.

1.3 RESPONSIBILITIES

It shall be the responsibility of the Audit Finance Department to oversee the application of this policy. Additionally, the County Clerk shall be responsible for maintaining inventory records of all fixed assets of Shawnee County.

Department Heads (including Elected Officials) shall ensure that all acquisitions made by their staff conform to the guidelines established by this policy and State law. Staff shall provide assistance in the purchasing process where appropriate, including, but not limited to, specification development and negotiations. All final contracts and purchasing documentation must be forwarded to the County Clerk for record keeping.

(Code 2006; History: H.R. Res. 97-10, rescinded by H.R. Res. 2002-11, § [A]; rescinded by H.R. Res. 2006-1, § [A]; rescinded by H.R. Res. 2008-6; rescinded by H.R. Res. 2009-2; rescinded H.R. Res. 2011-9, § [A]; amended by H.R. Res. 2013-6; amended by H.R. Res. 2014-1)

Sec. 25-52. Purchasing Procedures

2.1 COUNTY CREDIT CARDS

The use of County credit cards for purchases is permitted. Employees to whom credit cards are assigned must sign the Purchasing Card Cardholder Agreement provided by Audit Finance. Audit Finance is responsible for the oversight of credit cards, including establishment of limits and types of purchases authorized.

Receipts for all purchases and the business purpose of the purchase must be submitted on a timely basis to the appropriate personnel in the department for approval and submission to the County Clerk's office for payment. A suggested Credit Card Expenditure Report is available on the Shawnee County intranet for compiling and submitting receipts. The Credit Card Report must be signed by the cardholder verifying the purchases and approved by the Department Head.

Shawnee County credit cards shall <u>not</u> be used to purchase personal items for any reason. Shawnee County shall impose disciplinary measures for such actions in accordance with the Human Resources Policy Manual, up to and including dismissal.

County credit cards issued to an employee shall only be used by that employee. Shawnee County shall impose disciplinary measures for such actions in accordance with the Human Resources Policy Manual, up to and including dismissal.

2.2 PURCHASES OF COMMODITIES AND SERVICES

For purposes of applying approval levels, multiple purchases of commodities and/or services must be considered one purchase for like-kind purchases expected to be made within the calendar year. Purchases associated with a project will be aggregated and considered one purchase. The splitting of any aggregate purchase to lower the individual portions of the purchase to below a more restrictive level is **prohibited**.

- A. Department Head Approval Levels: When the purchase price of the commodity and/or service acquisition is **less than or equal to \$3,000.00**, the department head shall have the authority to make the acquisition without prior approval or the solicitation of quotes unless a supply or service contract exists. In the event it is necessary to accept a vendor's standard terms or conditions posted online prior to completing such a purchase, the department head may authorize such acceptance. Questions or concerns should be directed to the Counselor's office prior to making purchase. Competitive telephone bids are encouraged to obtain the lowest price.
- B. Audit Finance Approval Levels: Approval for purchases of commodities and/or services may be made by the Audit Finance Department through IFAS Workflow for the following items:
 - 1. Informal Bids/Proposals: When the purchase price of the commodity and/or service acquisition is **more than \$3,000 but less than \$10,000**, an informal bid/proposal is required unless a cooperative or state contract is being utilized. The bid schedule must be attached to the Purchase Request in IFAS. See Section 2.8 for requirements and procedures for informal bids/proposals. In the event it is necessary to accept a vendor's standard terms or conditions posted online prior to completing such a purchase, Audit Finance (after review by the County Counselor's office) may authorize such acceptance.
 - 2. Cooperative or State Contracts: When the purchase price of the commodity and/or service acquisition is **more than \$3,000 but less than \$10,000**, the commodity and/or service may be purchased through a cooperative or state contract for which bids have been issued. The Cooperative or State Contract information must be attached to the Purchase Request in IFAS or written in the Notes section in IFAS. Audit Finance will verify the cooperative or state contract before approval.
 - 3. Emergency Purchase: When, in the opinion of a department head, an emergency exists which requires the immediate purchase of commodities and/or services more than \$3,000 but less than \$10,000, the

department head may procure such commodities and/or services as an emergency purchase. Competitive bid/proposal requirements may be waived by the Financial Administrator as needed when unexpected or unforeseen events may cause serious loss to public and/or private property, endanger the health or lives of citizens of Shawnee County, or have an economic impact on County business unless immediate action is taken to purchase said goods or services. Emergency purchases over \$10,000 require approval by the Board of County Commissioners before payment.

An Emergency Purchase Form must be signed by the Department Head before being sent to Audit Finance for approval. The Emergency Purchase Form is available on the Shawnee County intranet. The approved Emergency Purchase Form must be attached to the Purchase Request in IFAS.

- 4. Sole Source: When a Sole Source purchase is **more than \$3,000 but less than \$10,000**, competitive bid/proposal requirements may be waived by the Financial Administrator for the purchase of goods or services when:
 - 1. Items or services are generally available only from one manufacturer, publisher, local distributor, or dealer;
 - 2. Compatibility with existing contractual services, equipment, supplies, or materials is the overriding consideration;
 - 3. There is no reasonable basis for expecting multiple vendors to bid on said items.

A Sole Source vendor determination is effective for the remainder of the calendar year for the use specified on the Sole Source Form. A Sole Source Form must be signed by the Department Head and approved by the Financial Administrator before purchase. The Sole Source Form is available on the Shawnee County intranet. Sole Source purchases over \$10,000 must also be approved by the Board of County Commissioners before purchase.

In the event it is necessary to accept a vendor's standard terms or conditions posted online prior to completing such a purchase, Audit Finance (after consulting the County Counselor's office) may authorize such acceptance. The approved Sole Source Form must be attached to the Purchase Request in IFAS.

- 5. Auctions: When an item with a value **more than \$3,000 but less than \$10,000** is available through an online or public auction (with time constraints), the Audit Finance Department may authorize participation in the auction after analyzing the following requirements.
 - a. The item was a planned purchase approved through the budgetary process.
 - b. Staff has observed the item and evaluated its condition.

- c. Staff has established a value for the item being auctioned.
- d. Staff has determined the price of an identical new piece of equipment (excluding trade-in).
- e. Staff provides a value of existing equipment being replaced (if applicable, for disposal purposes).
- C. Board of County Commissioners Approval: Approval from the Board of County Commissioners is required when the purchase price of a commodity and/or service is **greater than \$10,000**. In the event it is necessary to accept a vendor's standard terms or conditions posted online prior to completing such a purchase, the terms or conditions must be reviewed by the County Counselor's office prior to consideration by the Board of County Commissioners. Requests for Proposal (RFP), Cooperative or State Contract, Sole Source, or Emergency Purchase may be utilized for such purchases.
- D. Supply and Service Contracts: County departments shall be **required** to make purchases from the County's supply and service contracts if an applicable supply and service contract exists for the goods and services being purchased unless the purchase would otherwise qualify for an exemption under this policy. Supply and Service Contracts will be established by the Audit Finance Department, predominantly through the competitive sealed bidding process, for the provision of goods and services commonly required by County departments. These contracts, featuring pre-determined vendors, terms, conditions, and pricing, will utilize the consolidated needs of the County for more favorable pricing. All Supply and Service Contracts must be reviewed by the County Counselor's office for form and legality, a contract number applied and approved by the Board of County Commissioners. A list of supply and service contracts will be available on the Shawnee County intranet.
- 2.3 PROFESSIONAL SERVICES excluding architect, engineer and appraisal services
 - A. Department Head Approval levels: Purchases of professional services in an amount **less than or equal to \$3,000.00** may be negotiated and purchased by the appropriate department head or elected official. Any professional service requires the execution of a Shawnee County independent contractor agreement and/or a Vendor-provided contract.
 - B. Board of County Commissioners Approval: Purchases of professional services in an amount **more than \$3,000**. The contract must be reviewed by the County Counselor's office for form and legality before being presented for Board of County Commissioners approval. All contracts must meet the requirements of Section 2.14.
 - C. Expert Witnesses: The procedures prescribed herein shall not apply to the retention or employment of persons for the purpose of testifying as expert witnesses on behalf of the County in any administrative or legal proceeding or any other professional services hired for the purposes of expert witnesses through the County Counselor's office.

2.4 HEALTH AND PROPERTY INSURANCE

Board of County Commissioners Approval: Purchases of health insurance policies will be recommended by the health insurance committee. Property insurance will be recommended by the County Clerk and Financial Administrator. The Financial Administrator should be consulted on the financial impact of all such negotiations. All policies must be presented for Board of County Commissioners approval.

2.5 LEGAL PROFESSIONAL SERVICES

Competitive bid/proposal requirements may be waived by the County Counselor for legal professional services. Legal Professional services are services that may only be performed by a licensed attorney (including support staff) in representing or advising the Board of County Commissioners or any agent or employee of Shawnee County. The Financial Administrator should be consulted on the financial impact of all such services. All purchases of Legal Professional Services shall be approved by the County Counselor or by the Board of County Commissioners.

2.6 ARCHITECT, ENGINEER AND APPRAISER SERVICES

A. The department head needing needing architect, engineer or appraiser services and the Audit Finance Department shall compile a list of potential vendors for a Request for Proposal (RFP).

Projects involving Federal monies may require selection from the List of Prequalified Consultants established by the Kansas Department of Transportation (provided by the Bureau of Management and Budget) or a similar list of architects furnished by the State Architect's Office.

- C. Board of County Commissioners Approval: Board of County Commissioners approval is required to begin the selection process for such services.
- D. Notification of Prospective Applicants: Upon Commission approval, the County Clerk shall notify those persons and firms on the appropriate list that a selection will be made. The notification shall include a short statement of the scope of the project (including the type of project, location, and size) and the specific qualifications required, as provided by the applicable department head. The notice shall request a brief description of the specific qualifications or abilities the person or firms possesses which will be required for the project. Notice will be transmitted not less than one (1) week prior to the scheduled date of the selection interviews. The department head shall furnish details of the scope of the project stating the type of project, location and size prior to the selection interview.
- E. Selection Committee: A Selection Committee for the selection of Architects, Engineers and Appraisers shall be composed of the department head for whom the project is to be undertaken or which has primary responsibility for the project, the Public Works Director or designee, the Facilities Management Director or designee, the Director of Information Technology or designee, the County Counselor and any other designee appointed by the Board of County Commissioners. This committee shall review all submittals provided by the persons or firms being considered. This committee shall conduct all interviews that it deems necessary for the selection. At the discretion of the Board of

County Commissioners, one commissioner may attend all interviews. The Selection Committee shall then establish an Order of Preference of the persons/firms for negotiations. The commissioner attending the interviews shall refrain from participating in the formulation of the order of preference. This order of preference shall be submitted to the Board of County Commissioners by the Selection Committee as a written report. The Public Works Director shall advise the Board of County Commissioners of the standards and criteria whereby the persons and/or firms were considered.

2.7 DESIGN-BUILD PROCUREMENT PROCESS

Contracts for capital improvement projects may be let via the "Design-Build" or the "Design-Bid-Build" procurement process with the Board of County Commissioner's approval. The "Design-Build" procurement process is one in which both the design and construction of the project are procured from a single entity. The "Design-Bid-Build" procurement process is one in which the design, bidding process and construction of the project are procured from a single entity. Each Request for Proposal (RFP) for a capital improvement project shall describe the procurement process to be utilized and the criteria that the County will use to evaluate the proposals.

2.8 INFORMAL BIDS/PROPOSALS

In situations where informal bids/proposals are required, at least three (3) bids/proposals must be solicited from qualified vendors. The bids/proposals can be verbal or written. Written bids may be in the form of letter, fax, or e-mail. Verbal bids must be compiled on a schedule and attached to the invoice. A suggested form for recording bids will be available on the Shawnee County intranet. The bid schedule must be an attachment to the Purchase Request in IFAS. Audit Finance will approve the purchase request in IFAS Workflow. Written justification, approved by the Financial Administrator, must be provided with the invoice if the low bid is not accepted.

2.9 REQUEST FOR PROPOSAL (RFP)

A. Board of County Commissioners Approval: A written request to issue a formal Request for Proposal (RFP) must be submitted to the Board of County Commissioners for their approval.

B. Publication: All requests for formal bids/proposals shall be published in the newspaper designated by the Board of County Commissioners and shall be placed on the County website during the period of solicitation. The publication shall include the specifications (or procedures for obtaining specifications), deadline for submission, the place and manner of submission, and the date, time and place of opening.

C. Formal Bid/Proposal Submission: Formal bids/proposals must be submitted to the Audit Finance Department in writing, signed by an authorized vendor representative, and submitted prior to the bid deadline in a sealed envelope or package. Unless otherwise noted in the request, faxed and emailed bids/proposals will not be accepted. Bids/proposals submitted after the deadline will not be accepted and will be returned unopened. The Financial Administrator shall have the authority to make exceptions when special circumstances exist; documentation of these circumstances shall be required.

D. Bid/Proposal Opening.

- 1. Bids: Bids shall be opened publicly in the presence of the Financial Administrator or the Financial Administrator's designee (to be designated in writing if outside of the Audit Finance Department) at the location and time stated in the Request. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record of bids shall be open to public inspection.
- 2. Proposals: Proposals shall not be opened publicly, but shall be recorded publicly in the presence of the Financial Administrator or the Financial Administrator's designee (to be designated in writing if outside of the Audit Finance Department) at the location and time stated in the Request. The name of the vendor shall be recorded. The proposal information shall be subject to the Kansas Open Records Act.
- E. Changes/Withdrawals to Bids/Proposals: Bids/proposals may be corrected or withdrawn prior to the stated deadline. Requests for all such transactions must be submitted to the Financial Administrator prior to the deadline. Correction or withdrawal of inadvertently erroneous bids/proposals or proposals after the deadline but before the award shall be permitted only upon authorization by the Financial Administrator and County Counselor. Cancellation of awards or contracts based upon such mistakes shall be submitted to the Board of County Commissioners for approval.
- F. Awards: The purchase and/or contract shall be awarded or rejected with reasonable promptness. The department head must submit the bids/proposals and the recommendation for award to the Board of County Commissioners for approval.

2.10 EXEMPTIONS TO PURCHASING POLICY

The following items are exempt from this purchasing policy

- 1. Bulk purchases of motor fuels competitive bids are encouraged
- 2. Food and other supplies needed for camps and concession stands competitive bids are encouraged
- 3. Vaccines and medical supplies
- 4. Bulk postage

2.11 CONTRACTS

- A. Length: Contracts for commodities and/or services may be written in such a manner that they are renewable for up to five (5) years.
- B. Repository: All contracts are maintained in the County Clerk's office for a period of five (5) calendar years after expiration of the contract. Any formal bid documentation is maintained by Audit Finance.
- C. All contracts must be reviewed and approved by the County Counselor's office before being presented to the Board of County Commissioners.

D. Signatures: All contracts must be signed by the Chairperson of the Board of County Commissioners after Commission approval.

2.12 LEASE AND LEASE-PURCHASE ARRANGEMENTS

When it is in the best interest of the County to lease or lease-purchase goods rather than acquire them, the policies outlined herein shall be applied in the same manner as an acquisition and contract.

(Code 2006; History: H.R. Res. 2002-11, § [B]; amended by H.R. Res. 2006-1, § [B]; amended by H.R. Res. 2014-1)

Sec. 25-53. Protests, Suspension, or Debarment

3.1 PROTESTS BY VENDORS

Vendors or potential vendors who do not agree with the conditions, specifications or scope of services or other requirements contained in any procurement, whether by bid or request for proposal, shall be afforded the opportunity to protest the solicitation. Bidders or respondents who do not agree with the County's recommendation for bid or RFP award shall be afforded the opportunity to protest the recommendation.

A. Submission of Protest

- 1. Bid or RFP Solicitation: Protests of any bid or RFP solicitation must be submitted in writing to the Audit Finance Department more than 3 business days prior to the closing date and time stated in the bid/RFP documents in order to be considered. No sealed bids shall be opened until protests made pursuant to this Section have been finally decided.
- 2. Recommendation for bid/RFP award. Bidders or respondents who do not agree with the County's recommendation for bid or RFP award may submit written protest to the Financial Administrator, who shall deliver it to the Chair of the Board of County Commissioners and County Counselor. Such protest shall be provided within 3 business days after the award decision by the Board of County Commissioners. Bids or proposals not meeting the minimum published requirements (including specifications and/or scope of service) or the rejection of all bids by the Board of County Commissioners are not subject to protest.
- B. Effective Date of Contract: No contract subject to appeal or protest under Section 3.1.A.2 shall become effective or signed on behalf of the County until AFTER the 3 day protest period has expired. If a protest is made by a bidder submitting a bid and meeting the minimum published requirements (including specifications and/or scope of service), the effective date of the award of the contract shall be further delayed until the appeal is heard and finally decided.
- C. Response to Protest of Bid or RFP Solicitation: The Financial Administrator and County Counselor shall consider and decide any protest of a vendor or potential vendor who does not agree with the conditions, specifications, scope of services or other requirements contained in any procurement, whether by bid or request for proposal. The written decision of the Financial Administrator shall be delivered to the protesting vendor. Decisions sent via electronic mail, facsimile, or

other electronic communications shall be deemed delivered when sent to a representative of the vendor. Decisions sent by U.S. mail shall be deemed delivered two days after deposit in the U.S. Mail, postage prepaid. The vendor may appeal the decision of the Financial Administrator to the Board of County Commissioners by providing written appeal to the Financial Administrator, who shall deliver it to the Chair of the Board of County Commissioners. Such appeal must be received by the Financial Administrator within 3 business days of delivery of such decision.

D. Response to Protest of Contract or Appeal of Bid/RFP Solicitation: The Board of County Commissioners shall consider any protest or appeal in public session and the decision of the Board of County Commissioners shall be final.

3.2 SUSPENSION OR DEBARMENT OF VENDORS

Shawnee County may suspend or debar a vendor or potential vendor from participation in County purchasing opportunities and practices upon showing of just cause. During the period of suspension or debarment, the County shall reject any bid, proposal or other offer by the vendor and shall return any submission to the suspended/debarred vendor. This section applies to both contractors and subcontractors.

A. Just cause for Suspension: Just cause for suspension shall include any of the following:

- 1. Failure to Comply: Failure to comply with the conditions, specifications or terms of a bid or proposal or contract with the County.
- 2. Misrepresentation: Commission of any misrepresentation in connection with a bid or proposal.
- 3. Criminal Offense: Charged by a court or competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract. If charges are dropped or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the County by the vendor.

4. Conviction:

a. Conviction under state or federal statues of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or honesty which currently, directly and seriously affects that vendor's responsibility as a County supplier. If charges are dismissed or the vendor found not guilty, the suspension shall be automatically lifted upon written notification and proof of final court disposition provided to the County by the vendor.

- b. Conviction under state or federal antitrust statues arriving out of the submission of bids or proposals.
- 5. Insolvency: Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or consolidates its debts or assigns over its estate or affects for payment thereof or has receiver appointed over its property.
- 6. Other: Any other cause the Financial Administrator or County Counselor determines to be so serious or compelling as to materially and adversely affect the responsibility of the business as a government contractor, including but not limited to suspension by another government entity for substantial cause.
- B. Just Cause for Debarment: Just cause for disbarment shall include any of the following:
 - 1. Failure to Comply: Failure to comply with conditions, specifications, drawings, schedules or terms of a bid, proposal or contract with the County including a recent record of unsatisfactory performance in accordance with the terms of one or more contracts.

2. Conviction

- a. Conviction by or judgment obtained in a court of competent jurisdiction for commission of offenses in connection with the vendor's commercial enterprise. If the conviction is reversed through the appellate process, the debarment shall be immediately lifted upon written notification and proof of final court disposition to the County from the vendor.
- b. Conviction for the commission of any fraud or act of collusion in connection with a bid, quotation, proposal or other act incident to doing business with the County.
- Federal Debarment List: Inclusion on any Federal debarred vendor list.

C. Procedures

- 1. Investigation: The Financial Administrator shall promptly investigate and prepare a written report concerning a proposed suspension or debarment. This report shall be forwarded to the County Counselor stating with specificity the facts supporting the request for suspension or debarment.
- 2. Decision: Within 5 work days of receipt of the report, the County Counselor shall issue a notice of suspension or debarment. The vendor shall be immediately advised by certified mail with return receipt requested. The letter will contain the following specific information:

- a. Statement that suspension or debarment has been imposed by the County, effective upon receipt.
- b. Detailed information as to the reason and cause(s) for the suspension or debarment in terms sufficient that the vendor will understand the conduct or transactions upon which the action is based.
- 3. Appeal: The vendor may within five (5) working days of receipt of notice, present a written request for reconsideration including additional information relating to the reason given for suspension or debarment. The Financial Administrator, in consultation with the County Counselor, shall consider such additional information in deciding whether the decision to suspend or debar should be delayed or revised. If the original decision to suspend or debar is determined to be proper and justified, the vendor shall be suspended or debarred as planned.

D. Duration of Suspension/Debarment

- 1. Suspension: A vendor may be suspended for a maximum period of 6 months if it is believed to be involved in any of the activities listed in Section 3.2.A.
- 2. Debarment: A vendor may be debarred for a period not to exceed 5 years if after investigation it is found to be engaged in any of the activities listed in Section 3.2.B.

(Code 2006; History: H.R. Res. 2002-11, § [C]; amended by H.R. Res. 2006-1, § [C], amended by H.R. Res. 2014-1)

Sec. 25-54. Ethics in County Contracting and Purchasing

4.1 GENERAL STANDARDS OF ETHICAL CONDUCT

A. General Statement

Any attempt to realize personal gain through County employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust. Shawnee County shall impose disciplinary measures for such a breach in accordance with the Human Resources Policy Manual, up to and including dismissal.

B. Employee's Responsibilities

It shall be the responsibility of County employees involved in any decision to purchase goods and/or services on behalf of the County to avoid the appearance of impropriety in such decision making.

C. Employee use of County Credit Cards

Shawnee County credit cards may not be used to purchase personal items for any reason. Shawnee County shall impose disciplinary measures for such actions in accordance with the Human Resources Policy Manual, up to and including dismissal.

4.2 EMPLOYEE CONFLICT OF INTEREST

A. Definitions

- 1. Contract: The term "contract" as used herein shall mean any agreement between County and one or more other persons or businesses by which the other persons or businesses agree to provide, in exchange for consideration, any type of property, whether tangible or intangible, services, or any other benefits to or for the County.
- 2. Employee: The term "employee" as used in this section shall apply to any person, whether appointed or elected, who receives a paycheck from the County.
- 3. Substantial Interest: A substantial interest includes any legal or equitable interest of an employee or employee's spouse in a business exceeding \$5,000 or 5% of any business of an employee or the employee's spouse, whichever is less.
- B. Kansas Statutes: Pursuant to K.S.A. 75-4304, it shall be a breach of ethical standards for any County employee, in his/her capacity as such employee, to make or participate in the making of a contract with any person or business by which he/she (or his/her spouse) is employed or in whose business he/she has substantial interest. A County employee shall not be considered to have made or participated in the making of a contract if he/she has abstained from any action with regard to the contract.
- C. Exceptions: Section 5.2.B does not apply when either of the following circumstances is in place:
 - 1. Contracts awarded after competitive purchasing practices have been followed using the procedures outlined in previous sections of this policy.
 - 2. Contracts for property or services for which the price or rate is fixed by law.

4.3 GIFTS, GRATUITIES, KICKBACKS AND CONTINGENT FEES

- A. Gifts and Gratuities: Shawnee County personnel shall not accept an economic opportunity, gifts not to exceed a nominal value, loan, gratuity, special discount, favor, hospitality, or service from any person or company known to have a special interest, under circumstances where he/she knows or should have known that a major purpose of the donor is to influence him/her in the performance of his/her official duties. Hospitality in the form of food or beverages is presumed not to be given to influence a Shawnee County employee in the performance of his/her official duties.
- B. Kickbacks: It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract or order to prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- C. Contingent Fees: It shall be a breach of ethical standards for a person to be retained or to retain a person, to solicit or secure a County contract upon an

agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

4.4 RESTRICTIONS ON EMPLOYMENT OF PRESENT EMPLOYEES

Except as may be expressly permitted by the Board of County Commissioners or their designee, it shall be a breach of ethical standards for any County employee who is participating directly or indirectly in the purchasing process to become or be, while being a County employee, the employee of any person contracting with the County.

4.5 USE OF CONFIDENTIAL INFORMATION

Shawnee County personnel shall not use, directly or indirectly, inside information to further a private gain for themselves or others if that information is not generally available to the public and was obtained by reason of their Shawnee County position.

4.6 CIVIL AND ADMINISTRATIVE REMEDIES AGAINST EMPLOYEES AND NON-EMPLOYEES WHO BREACH ETHICAL STANDARDS

Civil and administrative remedies against employees and non-employees which are in existence on the effective date of this manual shall not be impaired. In addition to existing remedies for breach of ethical standards of this section, Shawnee County shall impose disciplinary measures in accordance with the Human Resources Policy Manual.

The value of anything transferred or received in breach of the ethical standards of this section, or regulations promulgated hereunder, by an employee or non-employee may be recovered from both the employee and non-employee.

All procedures under this section shall be in accordance with due process requirements. To the extent that violations of the ethical standards of conduct set forth in this section constitute violations of federal or state law, they shall also be punishable as provided therein. Such sanctions shall be in addition to the civil remedies set forth in this manual.

(Code 2006; History: H.R. Res. 2002-11, § [D]; amended by H.R. Res. 2006-1, § [D], amended by H.R. Res. 2014-1)

Secs. 25-55—25-150. Reserved.

CHAPTER 26. ROADS, BRIDGES AND UTILITIES

- Art. I. In General, §§ 26-1-26-50
- Art. II. Block Parties; Street Closure, §§ 26-51 26-80
- Art. III. Township Roads, §§ 26-81 26-100
- Art. IV. Roads And Bridges, §§ 26-101-26-130
- Art. V. Utility Accommodation Policy, §§ 26-131 26-150
- Art. VI. Infrastructure Improvements Installed by Developers or Subdividers.

ARTICLE I. IN GENERAL

Sec. 26-1 — 26-50. Reserved.

ARTICLE II. BLOCK PARTIES; STREET CLOSURE

Sec. 26-51. Authority To Close Streets; Closure Fee.

The Board authorizes the Director of Public Works/County Engineer the authority to grant requests for permission to close designated street portions for the purpose of sponsoring block parties. Persons granted permission for such closure shall pay a fee of Seventy-five Dollars (\$75).

(Code 2006; History: Res. 2000-141)

Sec. 26-52. Barricade Policy.

- (A) The Board may grant permission for the closing of a public street or roadway in the unincorporated areas of Shawnee County and the erection of appropriate traffic barricades in conjunction therewith.
- (B) Permission may be granted upon a written request submitted to the Director of Public Works/County Engineer at least one (1) week before the time for which the closing of the public street or roadway and erection of traffic barricades is requested, and which is recommended by the Director of Public Works for approval by the Board.
- (C) Upon submission of any written request to the Director of Public Works/County Engineer, a fee of One Hundred Fifty Dollars (\$150) shall be paid therewith. (Code 2006; History: Res. 1994-164, §§ 1-3)

Secs. 26-53-26-80. Reserved.

ARTICLE III. ROADS AND BRIDGES

Sec. 26-81. Oversized And Overweight Vehicles On Roads And Bridges.

- (A) No person, firm, corporation, or association shall drive upon the County road and bridge system a motor vehicle which does not conform with the requirements of K.S.A. 8-1911 and K.S.A. 8-5,113 *et seq.* and amendments thereto.
- (B) If any person drives, operates or has present upon the County road and bridge system, a vehicle in violation of the terms and conditions of the aforesaid statutes, that such person, if found guilty of such offense, shall for a first conviction thereof, be punished by a

fine of not more than One Hundred Dollars (\$100); for a second conviction of said offense within one (1) year thereafter, such person shall be punished by a fine of not more than Two Hundred Dollars (\$200); upon a third or subsequent conviction, such person shall be punished by a fine of not more than Five Hundred Dollars (\$500).

- (C) The County Public Works Department should be and it is hereby authorized to issue special permits to any firm, person, corporation or association who makes application to said department, in writing, and pays a permit fee of Forty-five Dollars (\$45) which special permit shall authorize said applicant for said permit to be upon the County road and bridge system. Said permit and the application therefore shall specify the deviation from the statutory requirements above, the route to be traveled, the day to be traveled and the time within such day said vehicles will be allowed on the roadway, but in no event shall they be upon the roadway earlier than one (1) hour prior to sunrise nor later than sunset.
- (D) The permittee shall agree by the acceptance of his/her permit that he/she will assume all liability for any and all damages to third parties arising in any way out of the operation of any vehicle under his/her permit, and that said permittee will save the County harmless from any and all damages accruing to third parties by reason of said vehicles using and being on said roads.
- (E) The permittee shall provide a cash deposit or bond in the amount of Five Hundred Dollars (\$500) to provide security for damage caused by the permittee while operating under his/her permit to roads, signs or other property of the County.
 - (F) The permit may be cancelled by the County at any time.
- (G) A valid special permit issued by the State Highway Commission of Kansas will be acceptable in Shawnee County in lieu of a special permit issued by the County Public Works Department. In the absence of a special permit from the State Highway Commission, a special permit issued by the County Public Works Department is required.
- (H) No firm, corporation, person or association shall be allowed to be upon the County road and bridge system in violation of the statutes above and contrary to their special permit without first making application, in writing, for an amended special permit and receiving an amended special permit.
- (I) In order to enforce the provisions of this section, the County Public Works Department is authorized to purchase such necessary scales and appurtenant equipment thereto as may be needed, but only after securing the consent of the Board upon each individual purchase, prior to committing the County thereto. (Code 2006; History: Res. 1972-102; amended by H.R. Res. 1979-4)

Sec. 26-82. Weight Limitations On County Roads.

Weight limitations *shall be in place* and no commercial vehicles with a gross weight of ten thousand (10,000) pounds or more shall travel the following roads in Shawnee County:

- a. Button Road between Northwest $25^{\rm th}$ Street and Northwest $62^{\rm nd}$ Street. (Resolution No. 2002-98.)
- b. Green Hills Road between Northwest Menninger Road and Northwest 62nd Street. (Resolution No. 2002-98.)
- c. Southeast 2nd Street between Croco Road and Goodell Road. (Resolution No. 88-135.)
- d. Southeast Tecumseh Road between Southeast 2^{nd} Street and Southeast 45^{th} Street. (Resolution No. 88-135.)

- e. Southeast 21st Street between Southeast Croco Road and Southeast Tecumseh Road. (Resolution No. 88-135.)
- f. Southeast Paulen Road between Southeast 29th Street and Southeast 45th Street. (Resolution No. 88-135.)
- g. All streets within Montara Subdivision, Montara North Subdivision, Montara Parkway, and Montara Northway. (Resolution No. 88-181.)
- h. Southeast Stubbs Road between US 40 Highway and Southeast 45th Street. (Resolution No. 90-145.)
- i. Southwest 65th Street between Southwest Lewelling Road and Southwest Morrill Road. (Resolution No. 93-129.)
- j. Southwest Lewelling Road between Southwest Burlingame Road and Southwest 65th Street. (Resolution No. 93-129.)
- k. Southeast Shawnee Heights Road between US 40 Highway and Southeast 45th Street. (Resolution No. 95-165.)
- l. Southeast 53rd Street between Southeast Berryton Road and Southeast Stubbs Road. (Resolution No. 97-194.)
- m. Southwest Carlson Road between Interstate 70 and Highway 4. (Resolution No. 2001-148.)
- n. Southeast 53rd Street between Topeka Boulevard and California Avenue. (Resolution No. 2003-69)
 - o. Southwest 53rd Street from Auburn Road to Valencia Road.
 - p. Southwest Valencia Road from Southwest 53rd Street to Southwest 57th Street.
- q. Southwest 19th Street between Southwest Indian Hills Road and Southwest West Trail Road.
 - r. Southwest West Trail Road between 21st Street and Southwest 17th Street.
- s. Southwest 17th Street from Southwest Indian Hills Road to its western end within West Trail Estates Subdivision 2.
- t. Southwest 17th Terrace between Southwest Overland Drive and Southwest 17th Street.
- u. Southwest Overland Drive between Southwest 19th Terrace and its end at Southwest Overland Court within West Trail Estates Subdivision 2.
 - v. Urish Road between Southwest 41st Street and SW 53rd Street.
 - w. Indian Hills between Southwest 41st Street and Southwest 53rd Street.

- x. Southwest Mission Hills Road from Southwest $21^{\rm st}$ Street to Southwest $22^{\rm nd}$ Terrace.
- y. Southwest Ava Street from Southwest 22^{nd} Terrace to the City of Topeka corporate limits.
 - z. Southwest 21st Terrace and 22nd Street; 8000 block
- aa. Southwest 22^{nd} Terrace, 23^{rd} Street, 23^{rd} Terrace and 24^{th} Street; 8000-8100 blocks.
- bb. SE 2^{nd} Street from Green Road to Shawnee/Douglas County line. (Resolution No. 2016-33)
- cc. SE 61st Street between California Street and Berryton Road. (Resolution No. 2016-33)
- dd. NW Kiro Court from NW Huxman Road to US Highway 24. (Resolution No. 2016-67)
- ee. NW Burkdoll Court from NW Kiro Court to the UPRR Railroad ROW. (Resolution No. 2016-67)

Pursuant to K.S.A. 8-1912(c), signs designating the weight limitation shall be placed along the affected stretches of road.

The provisions of this section shall *not* apply to commercial vehicles serving the premises adjacent to the affected stretches of road. "Serving the premises" shall mean delivering goods or services to that premises.

The Board of County Commissioners of the County of Shawnee, Kansas shall retain the authority to impose or remove weight limits on all County roads by future resolution(s). (Code 2006; History: Res. 2003-69; amended by 2008-77; amended by 2008-89; amended by 2009-107; amended by 2009-117 § 1; amended by 2013-7 § 1; amended by 2016-33; amended by 2016-67).

Sec. 26-83. Entrances And Culverts Onto Public Roads And Streets.

- (A) Any entrance onto a public road or street in an unincorporated area of Shawnee County constructed or modified shall conform to the following:
 - (1) Entrance distance from nearest intersection: Thirty-five (35) feet plus right-of-way distance of cross street;
 - (2) Maximum residential curb opening: Thirty-five (35) feet;
 - (3) Minimum residential curb opening: Thirteen feet (13) feet;
 - (4) Residential entrances shall use a minimum of a three quarter (3/4) inch expansion joint back of gutter;
 - (5) Minimum ditch culvert length: Twenty-eight (28) feet;
 - (6) Maximum ditch culvert length: Forty (40) feet;
 - (7) Minimum ditch culvert inside diameter: Fifteen (15) inches;
 - (8) Minimum inside rise for arch or squash culvert: Thirteen (13) inches;

- (9) Minimum distance between culverts: Ten (10) feet;
- (10) Allowable culvert material: Galvanized Steel, aluminized steel or concrete;
- (11) Minimum <u>compacted</u> dirt over culvert (excluding road surface): Four (4) inches; and
- (12) Entrance surface over culvert should be lower than the road pavement edge.
- (B) Any person, firm, partnership, company, corporation or other entity (hereinafter referred to as *person*) desiring to construct or modify an entrance or culvert onto a public road or street in any unincorporated part of Shawnee County shall first make written application for a permit on forms provided by the County Department of Public Works. Such application shall include the applicant's full name and address; the property owner's name and address, the location of the proposed entrance or culvert; the plans of the proposed entrance or culvert including dimensions and specifications; and the signature of the applicant. An application fee of Ten Dollars (\$10) shall accompany any such application.
- (C) Upon receipt of an application to construct or modify an entrance or culvert, the County Department of Public Works shall review the application to determine compliance with the provisions of this section. Each application shall be subject to verification of property ownership to insure that the owner's name listed on the permit application is the same as listed in the County's property ownership records. In addition, Public Works shall make a determination whether the proposed entrance or culvert is located and designed in such a manner so as not to endanger traffic safety on County roads and streets. If the County Department of Public Works determines that the applicable requirements of this section have been met, a permit shall be issued to the applicant.
- (D) Any permit issued due to a mistake of law or fact or issued due to any misrepresentation(s) by any person shall be subject to revocation.
- (E) Any person who constructs or modifies an entrance or culvert onto a public road or street without first obtaining the required permit shall be subject to a fine in the amount of One Hundred Dollars (\$100).
- (F) Any person who constructs or modifies an entrance or culvert onto a public road or street in violation of this section and/or which poses a danger or risk to traffic safety shall be subject to a fine in the amount of One Hundred Dollars (\$100).
- (G) Any entrance or culvert which is constructed or modified in violation of this section and/or which poses a danger or risk to traffic safety shall be subject to removal at the owner's expense by the County Department of Public Works.
- (H) Prior to any removal of a culvert or entrance constructed or modified in violation of this section and/or which poses a danger or risk to traffic safety, the County Department of Public Works shall provide thirty (30) days written notice of the violation to the owner, stating the reasons for which the culvert or entrance is in violation of this section and requiring the structure to be repaired or removed. If the owner fails to do so within a reasonable time, the County may maintain a suit or action in any court of competent jurisdiction to seek removal or demolition of the structure at the owner's expense.
- (I) When a decision to deny or revoke a permit becomes final, any person whose application for a permit has been denied or whose permit has been revoked, shall have the right to appeal such action to a court of competent jurisdiction within twenty (20) days of such determination.

(Code 2006; History: H.R. Res. 2002-10, §§ A-I)

Sec. 26-84. Street Construction Surety Bond.

- (A) The developer shall be granted a period of one (1) year to bring the streets up to standard if he/she posts surety for street construction and maintenance, the maintenance surety to become operable when construction is completed.
- (B) The County Engineer shall specify the surety amounts, performance time and extent of street improvements.
 - (C) All surety shall extend for at least sixty (60) days beyond the completion date.
- (D) Upon the developer's application to the Shawnee County Planning Department and extension of the surety, the construction period may be extended once for six (6) months.
- (E) If the streets are not brought up to standard by that date, the County will collect on the surety.
- (F) Surety for maintenance shall be in the amount of fifteen percent (15%) of the contract price of improvements and shall guarantee that the developer will repair, replace and otherwise make good all defects in workmanship and materials appearing in the improvements for a period of one (1) year after the date of acceptance for maintenance by the County Engineer or after the date of completion by the County where the construction surety has been collected by the County due to failure of satisfactory completion by the developer.
- (G) No personal bonds or letters of credit shall be accepted. The required surety shall be corporate surety performance bonds, or collateral assignments.
- (H) The original and one (1) copy of said corporate surety performance bond or collateral assignment with appropriate power of attorney shall be filed with the County Clerk. The original shall remain with the County Clerk, and the Clerk's approved copy must be filed by the developer with the Shawnee County Planning Department before building permits will be issued.
- (I) All completed road construction shall be subject to final inspection and approval by the County Engineer after certification by the consulting engineer that construction has been completed to plans and specifications. Except pursuant to Res. 1978-289 when the costs of improvements are to be paid by a tax levy, there will be no partial releases of bonds or collateral assignments and no surety will be released until a certificate of full compliance is completed by the County Engineer.
- (J) The certificate of release shall be forwarded from the County Engineer to the County Zoning Administrator whose responsibility it shall be to notify the surety, County Clerk, and the principal of the surety's release.
- (K) The developer of any subdivision who uses streets in an adjoining subdivision as ingress and egress for trucks transporting equipment or materials for the construction of streets, shall be responsible for the condition of the adjoining subdivision streets after construction. Said adjoining streets shall be inspected by the County Engineer before and after construction, and if necessary restored to a condition equal to that prior to construction. The exact route through adjoining subdivisions shall be determined in advance and approved by the County Engineer and shall be strictly adhered to. The developer shall post surety as required in §§ 26-84(H) and 26-84(I) in an amount specified by the County Engineer for the use of the adjoining subdivision streets.

(Code 2006; History: Res. 1980-38)

Sec. 26-85. Street And Drainage Construction Standards Incorporated.

There are hereby incorporated by reference, as if set out fully herein, certain regulations governing street and drainage construction standards in the unincorporated areas of Shawnee County, Kansas, as adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of H.R. Res. 1997-7, and amendments thereto (H.R. Res. 1998-5, H.R. Res. 2002-13 and Res. 1977-255). Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Sec. 26-86. Prohibition of Tracked Vehicles on Paved Roads and Streets in the Unincorporated Area of Shawnee County.

- (A) It shall be unlawful for any person or entity to unload or operate tracked vehicles upon the paved roads and streets in the unincorporated area of Shawnee County.
- (B) Any person or entity which violates this provision shall be liable for the cost of repairing the roadway and shall be subject to a fine in the amount of Five Hundred and No/100 Dollars (\$500.00).
- (C) The Shawnee County Zoning Administrator, after reasonable notice of intent given, and in addition to the penalties prescribed above, may suspend or revoke any building permit issued to such person or entity and may certify such facts to the Shawnee County Sheriff who may prohibit ingress and egress to any such construction, excavation, or demolition site by way of the public roads and/or streets until repairs have been made.

(Code 2006; History: Res. 2006-15)

Secs. 26-87 - 26-100. Reserved.

ARTICLE IV. TOWNSHIP ROADS

Sec. 26-101. Township Road Speed Limits.

The Board may reduce the maximum speed limits on township roads upon request of the township board and recommendation of the County Engineer. The township boards will be responsible for the installation and maintenance of such speed signs in accordance with the Manual on Uniform Traffic Control Devices.

(Code 2006; History: H.R. Res. 1979-12)

Sec. 26-102-26-130. Reserved.

ARTICLE V. UTILITY ACCOMMODATION POLICY

Sec. 26-131. Regulations Incorporated.

There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the location of utilities within the unincorporated areas of Shawnee County, Kansas, as adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of H.R. Res. 1998-3 and amendments thereto. Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Secs. 26-132-26-150. Reserved.

ARTICLE VI. INFRASTRUCTURE IMPROVEMENTS INSTALLED BY DEVELOPERS OR SUBDIVIDERS

Sec. 26-151. Inspection Service Fee Established.

The County Engineer shall inspect the construction of infrastructure improvements installed by any developer or subdivider (hereinafter "developer"). Any developer shall pay a construction inspection service fee (hereinafter "fee") calculated by the County Engineer in accordance with this Article.

Sec. 26-152. Calculation of Construction Inspection Service Fee.

The developer's engineer shall submit two (2) complete full size sets of plans, a construction cost estimate, and a statement of the number of calendar days that the developer's contractor will be given to complete the project and make it ready for final inspection by the County Engineer. The County Engineer shall use the plans, construction cost estimate, and statement of calendar days to calculate the fee. The fee amount shall be calculated by multiplying the developer's approved cost of construction amount by 13% (12% to cover construction administration and inspection services costs and 1% to cover a Public Works project administration fee). Payment of the fee shall be a condition precedent to the project plans being released for construction by the County Engineer. Although the developer's engineer shall provide a construction cost estimate and state the number of calendar days needed to complete the project, the County Engineer shall have the final authority to withhold the release of project plans for construction if the County Engineer determines that the submitted construction cost estimate and calendar days for completion of the project are unreasonable.

Sec. 26-153. Project Completed Ahead of Original Developer Specified Calendar Days - Partial Rebate of Fee Amount.

If, during the construction of the project, the developer's contractor completes all work and makes the project ready for final inspection by the County Engineer in fewer calendar days than the originally specified number of calendar days, the County shall rebate to the developer a portion of the original fee. The amount to be rebated shall be determined by multiplying the number of calendar days the developer's contractor completed the project ahead of schedule and made it ready for the County Engineer's final inspection by \$500.00 per calendar day.

Sec. 26-154. Extended Project Completion Date - Calculation of Fees.

If, during the construction of the project, it appears that the project will not be completed by the developer in the number of calendar days specified by the developer's engineer and additional construction administration and inspection services are required, the developer's engineer shall submit a statement to the County Engineer that indicates the number of additional calendar days needed to complete the project. Before additional construction administration and inspection services are provided on the project for any additional calendar days beyond the original calendar completion days specified, the developer shall pay an additional fee for construction administration and inspection services. The additional fee amount shall be determined by multiplying the number of additional calendar days specified by the developer's engineer by \$500.00 per calendar day.

This developer notification and advance inspection fee payment process shall continue until the project is complete and accepted by the County Engineer. No project shall be accepted as complete by the County Engineer until all construction administration and inspection fees have been paid in full by the developer. If the developer's contractor completes the project and makes it ready for final inspection by the County Engineer in fewer calendar days than the additional calendar days specified and the project is made ready for final inspection by the County Engineer, the County Engineer shall rebate to the developer a portion of the additional fee. The amount to be rebated to the developer shall be determined by multiplying the number of calendar days the project was completed ahead of the specified additional days by \$500.00 per day.

(Code 2008; History: H.R. Res. 2008-1.)

CHAPTER 27. SEWERS AND BENEFIT DISTRICTS

Art. I. In General, §§ 27-1-27-50

Art. II. Sewers, §§ 27-51-27-90

Art. III. Sewage Districts, §§ 27-91-27-120

Art. IV. Sewage Disposal System Inspection, §§ 27-121 – 27-160

Art. V. Sewer Fees, §§ 27-161-27-200

Art. VI. Benefit Districts, §§ 27-201-27-250

ARTICLE I. IN GENERAL

Secs. 27-1-27-50. Reserved.

ARTICLE II. SEWERS

Sec. 27-51. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

- (1) *Person* means any individual, firm, institution, company, association, society, corporation, or group;
- (2) *Shall* is mandatory; *may* is permissive;
- (3) Sewer means a pipe or conduit for carrying sewage;
- (4) Sanitary sewer means a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted;
- (5) Combined sewer means a sewer receiving both surface runoff and sewage;
- (6) *Public sewer* means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority;
- (7) Sewage means a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present;
- (8) Sewage works means all facilities for collecting, pumping, treating and disposing of sewage;

- (9) Sewage treatment plant means any arrangement of devices and structures used for treating sewage;
- (10) *Building sewer* means the extension from the building drain to the public sewer or other place of disposal;
- (11) Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall;
- (12) Storm drain means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water;
- (13) *Garbage* means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce;
- (14) Properly shredded garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers;
- (15) BOD5 (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter;
- (16) Suspended Solids TSS means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering:
- (17) pH means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution;
- (18) *Industrial wastes* means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage;
- (19) Watercourse means a channel in which a flow of water occurs, either continuously or intermittently;
- (20) *Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater; and
- (21) Slug means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(Code 2006; History: H.R. Res. 1988-5, Art. I, §§ 1-21)

Sec. 27-52. Prohibitions.

- (A) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the County or in any area under the jurisdiction of the County, any human or animal excrement, garbage, or other objectionable liquid or semiliquid waste.
- (B) It shall be unlawful to discharge to any natural outlet within the County, or in any area under the jurisdiction of the County, any sewage or other polluted water, except where

suitable treatment has been provided in accordance with subsequent provisions of this article.

(C) The owner of all houses, buildings, or properties used for human habitation, employment, recreation, or other purposes, situated within the County abutting on a street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer, is hereby required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line. (Code 2006; History: H.R. Res. 1988-5, Art. II, §§ 1-3)

Sec. 27-53. Conditions Of Construction.

- (A) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the County Engineer.
- (B) Connection to a public sewer shall require a building sewer permit. The owner or their agent desiring to make a connection shall make application on a special form furnished by the County Engineer. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the County Engineer. A permit and inspection fee shall be paid to the County at the time the application is filed.
- (C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the County from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (D) A separate and independent building sewer shall be provided for every building except where one (1) building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. In such cases, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.
- (E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the County Engineer, to meet all requirements of this article.
- (F) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the applicable rules and regulations of the County. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the County Engineer before installation.
- (G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (H) No person shall make connection of roof downspouts, interior and exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (I) The applicant for the building sewer permit shall notify the County Engineer when the building sewer is ready for inspection and connection to the public sewer. The connection

shall be made under the supervision of the County Engineer or his/her authorized representative.

- (J) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the County Engineer.
- (K) A connection permit fee will be charged for each sewer connection allowed. The fee shall be Twenty-five Dollars (\$25) unless otherwise established by the County Engineer. (Code 2006; History: H.R. Res. 1988-5, Art. III, §§ 1-11)

Sec. 27-54. Further Prohibitions.

- (A) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (B) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the County Engineer. Industrial cooling water or unpolluted process waters may be discharged on approval of the County Engineer, to a storm sewer, combined sewer, or natural outlet.
- (C) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - (1) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas;
 - (2) Cleaning, stripping or paint solvents;
 - (3) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharges to the public sewer;
 - (4) Any waters or wastes having a pH lower than five and a half (5.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works; or
 - (5) Solid or viscous substances in quantities or such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, or milk containers, either whole or ground by garbage grinders.
- (D) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the County Engineer that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise danger life, limb, public property, or constitute a nuisance. In forming his/her opinion as to the acceptability of these wastes, the County Engineer will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage

treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (150° F) (sixty-five degrees Celsius [65° C]);
- (2) Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty degrees Fahrenheit (150°F) (zero [0] and sixty-five degrees Celsius [65° C]);
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the County Engineer;
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions, whether neutralized or not;
- (5) Any water or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment plant works exceeds the limits established by the County Engineer for such materials;
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the County Engineer as necessary, after treatment of the composite sewage, to meet the requirements of State, Federal, or other public agencies with jurisdiction over such discharge to the receiving waters;
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the County Engineer in compliance with applicable State or Federal regulations;
- (8) Any waters or wastes having a pH in excess of nine and a half (9.5);
- (9) Materials which exert or cause:
 - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride or sodium sulfate);
 - (b) Excessive discoloration (such as, but not limited to, dye wastes, paint pigments, and tanning solutions);
 - (c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; or
 - (d) Unusual volume of flow or concentration of wastes constituting *slugs* as defined herein;
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plan effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;

- (11) Any waters or wastes having (1) a 5-day BOD greater than 300 parts per million by weight; or (2) containing more than 300 parts per million by weight of suspended solids; or (3) having an average daily flow greater than two percent of the average sewage flow of the sewage treatment system, shall be subject to the review of the County Engineer. Where necessary in the opinion of the County Engineer, the owner shall provide, at their expense, such preliminary treatment as may be necessary to: (1) reduce the biochemical oxygen demand to 300 parts per million by weight; or (2) reduce the suspended solids to 300 parts per million by weight; or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be prepared by a licensed engineer and shall be submitted for the approval of the County Engineer and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- (E) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 27-54(D) and which in the judgment of the County Engineer, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life to constitute a public nuisance, the County Engineer may:
 - (1) Reject the wastes;
 - (2) Require pretreatment to an acceptable condition for discharge to the public sewers:
 - (3) Require control over the quantities and rates of discharge; and/or
 - (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing sewer use charges under the provisions of § 27-54(J).

If the County Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, resolutions, ordinances and laws.

- (F) Grease, oil and sand interceptors shall be provided when, in the opinion of the County Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the County Engineer, and shall be located as to be readily and easily accessible for cleaning and inspection.
- (G) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at their expense.
- (H) When required by the County Engineer, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the County Engineer. The manhole shall be installed by the owner at their expense, and shall be maintained by them so as to be safe and accessible at all times.
- (I) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of STANDARD METHODS FOR EXAMINATION OF WATER AND WASTEWATER, published by the American Public Health Association, and shall be determined at the control manhole

provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

(J) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the County and any industrial concern whereby an industrial waste of unusual strength of character may be accepted by the County for treatment, subject to payment therefore, by the industrial concern. (Code 2006; History: H.R. Res. 1988-5, Art. IV, §§ 1-10)

Sec. 27-55. Protection Of Sewage Works.

No unauthorized person shall maliciously, willfully, or intentionally break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest and prosecution as provided in § 27-58.

(Code 2006; History: H.R. Res. 1988-5, Art. V, § 1)

Sec. 27-56. Access.

- (A) The County Engineer and other duly authorized employees of the County bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. The County Engineer or his or her representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- (B) While performing the necessary work on private properties referred to in § 27-56(A), the County Engineer or duly authorized employees of the County shall observe all safety rules applicable to the premises established by the owner thereof, and the owner shall be harmless for accidental injury or death to the County employees and the County shall indemnify the owner against loss or damage to its property by County employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner to maintain safe conditions.
- (C) The County Engineer and other duly authorized employees of the County bearing proper credentials and identification shall be permitted to enter all private properties through which the County holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

 (Code 2006; History: H.R. Res. 1988-5, Art. VI)

Sec. 27-57. User Charge Rates.

(A) Pursuant to K.S.A. 19-27a07 and amendments thereto, the County shall recover bond and associated costs through assessment of individual property owners. The annual assessment shall be decreased annually as per the schedule adopted by the Board for each sewer district.

- (B) Pursuant to K.S.A. 19-27a09 and amendments thereto, the governing body of any sewer district shall have the power to levy annually a special maintenance tax for the purpose of maintaining and keeping in repair sewer improvements in the area. The County shall annually assess a mill levy for operations and maintenance for each county sewer district. The annual assessments shall be published in the official County newspaper prior to the annual County budget approval. The assessed mill levy shall be increased or decreased annually to meet operation and maintenance needs of a given sewer district.
- (C) Pursuant to K.S.A. 19-27a09 and amendments thereto, the connection of any commercial, industrial, non-taxable or substantial tax credit user to the public sewer system shall be reviewed by the County Engineer to determine if the assessment criteria for operations, maintenance, and replacement funding is appropriate. The County Engineer shall develop appropriate criteria and/or resolutions to ensure that equitable operation, maintenance, and replacement funding assessments are levied.
- (D) The Board of Commissioners of the County resolve that the delinquent sewer maintenance fees of the Shawnee County Public Works Department, that are more than sixty (60) days past due, constitute assessments against the respective parcels of land therein as they appear on the attached report. The Shawnee County Public Works Department is hereby directed to file liens of record on such property with the Shawnee County Register of Deeds.

(Code 2015; History: H.R. Res. 1988-5, Art. VII, §§ 1-3; K.S.A. 19-27a09, amended by Res. 2015-27)

Sec. 27-58. Violations And Penalties.

- (A) Any person found to be in violation of any provision of this article, except § 27-55 and § 27-56 shall be served by the County with notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- (B) Any person who shall continue any violation beyond the time limit provided for in § 27-58(A) shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding One Thousand Dollars (\$1,000) for each violation. Each twenty-four (24) hour period in which any such violation shall continue shall be deemed a separate offense.
- (C) Any person convicted of or pleading guilty or *nolo contendere* to a violation of § 27-55 shall be guilty of a Class B misdemeanor.
- (D) Any person violating any of the provisions of this article shall become liable to the County for any expense, loss, or damage occasioned by the County by reason of such violation.
- (E) The rates and charges herein established shall be collected from the owners, the occupants and users of the County sewerage system from and after the effective presentation of charges through the *ad valorem* tax notice.
- (F) Register of Deeds. A copy of this article shall be certified by the Board and shall be filed in the office of the Register of Deeds of Shawnee County, and it shall be deemed notice to all owners of real estate of their liability for sewerage service supplied to any occupant or user of such services on their property.
- (G) All sewer pipes and connections shall comply with and be installed in accordance with the provisions of the UNIFORM PLUMBING CODE, latest edition, and amendments thereto, published by the International Association of Plumbing and Mechanical Officials, excepting where otherwise specified by this article.

(H) Validity. Should any section, sentence or clause of this article be declared invalid or unconstitutional, said declaration shall not affect the validity of the remaining sections thereof

(Code 2006; History: H.R. Res. 1988-5, Art. VIII, §§ 1-8)

Secs. 27-59-27-90. Reserved.

ARTICLE III. SEWAGE DISTRICTS

Sec. 27-91. Attachment For Wastewater Treatment Services.

Whenever the engineer for a main and lateral sanitary sewer district as designated by the County recommends the attachment of said main and lateral sanitary sewer district to an existing and operating sewerage taxing district for the purpose of providing wastewater treatment services to any main and lateral sanitary sewer district, the County may adopt the appropriate resolution to effect said attachment. Thereafter such sewerage taxing district may provide such attached main and lateral sanitary sewer districts as may be so attached with wastewater treatment services as the County may determine. All outstanding obligations of any main and lateral sanitary sewer district at the time of its attachment to the sewerage taxing district shall remain the obligations of the main and lateral sanitary sewer district and the County shall continue to levy such special assessments and taxes as shall be necessary to pay the obligations against the lands located within the main and lateral sanitary sewer district so attached.

(Code 2006; History: H.R. Res. 1985-12, § 1)

Sec. 27-92. Special Assessments Or User Fees.

Whenever a main and lateral sanitary sewer district is attached to an existing and operating sewerage taxing district as provided in § 27-91, the costs and expenses of providing wastewater treatment service to the attached main and lateral sanitary sewer district shall be determined and assessed or charged in the same manner and upon a comparable basis as that determined and assessed for the sewerage taxing district to which it is attached and which shall be done at the option of the County either in accordance with K.S.A. 19-27a07 or 19-27a09, and amendments thereto. Special assessments or user fees levied or charged hereunder shall be credited to the bond and interest fund for the sewerage taxing district. (Code 2006; History: H.R. Res. 1985-12, § 2)

Sec. 27-93. Enlarging Boundaries.

The Board, by resolution, may enlarge the boundaries of any sewerage taxing district upon the presentation of a petition approved by the County Engineer. The petition shall state the requirements listed in K.S.A. 19-27a03, and amendments thereto. The resolution shall provide for the levying of taxes or special assessments, as may be appropriate, upon the property in the added area, the same as are being levied upon the property in the district, to pay the principal and interest on outstanding bonds issued for the payment of costs of improvements in the district. The resolution also shall provide for an additional special assessment upon the property in the added area to pay a proportionate share of all amounts previously paid by the district upon any bonds issued for such proposes. No area may be added to the district except where the sewage therefrom flows by gravity into the mains of the district unless the governing body, acting upon the recommendation of the County Engineer, determines that pumping is in the best interest of the area to be added. The additional levies shall be made over a period of years, as determined by the Board, and the proceeds therefrom shall be credited to the bond and interest fund of the district.

(Code 2006; History: H.R. Res. 1983-13, § 1)

Sec. 27-94. Access Roads To Lagoons And Disposal Plants.

For all residential, commercial or industrial developments creating County sewer districts, requiring disposal plants and/or sewage lagoons, or where existing County sewer districts require additions to present facilities, access road or roads to the disposal plant or lagoons shall be provided by the developer. The access road or roads shall be constructed to meet requirements determined by the County Engineer, dependent on local conditions. (Code 2006; History: Res. 1970-189)

Secs. 27-95 - 27-120. Reserved.

ARTICLE IV. SEWAGE DISPOSAL SYSTEM INSPECTION

Sec. 27-121. Inspection Fee For Sewage Disposal System For Loan Approvals.

The County Health Agency is hereby authorized to require payment of a One Hundred Dollar (\$100) fee for an inspection and report of any individual sewage disposal system (including lagoons and septic systems) when such inspection is requested for loan approval purposes to secure the sale and/or purchase of any real estate using an individual sewage disposal system in an unincorporated area of the County. Said fees shall be deposited in the County public health operating fund.

(Code 2006; History: H.R. Res. 1987-3, §§ 1-2)

Sec. 27-122. Inspection Fee For Sewage Disposal System For Building Permits.

An applicant for a building permit requiring a sewage disposal inspection report shall pay to the County Health Agency an inspection fee of One Hundred Fifty Dollars (\$150) prior to the issuance of said report to the Shawnee County Planning Department by the Health Agency. Said fee shall be deposited in the County public health operating fund. (Code 2006; History: H.R. Res. 1979-13)

Secs. 27-123 - 27-160. Reserved.

ARTICLE V. SEWER FEES

Sec. 27-161. Definitions.

As used in this article, the terms set out below are defined as follows:

- (1) Assessable land means all land in a sewer district subject to the payment of fees except for public roads, public parks, cemeteries, railroad rights-of-way and other similar rights-of-way or common areas determined by the County Engineer to be dedicated to public use and/or not capable of development or other private use;
- (2) Board means the Board of County Commissioners of the County of Shawnee, Kansas;
- (3) County means Shawnee County, Kansas;
- (4) *Improvement* means any trunk sewers, outfall or intercepting sewers, manholes, pumps, pumping stations, lift stations, force mains, treatment plants and any appurtenances and apparatus necessary for the collection, storage, treatment and disposal of storm or sanitary sewage, sludge, and wastewater;
- (5) *Improve* or *improving* means constructing, reconstructing, enlarging or extending any improvement;

- (6) *Person* means any individual, firm, corporation, partnership, association, government entity or any other legal entity;
- (7) Project cost means all costs including engineering, legal fees, easement acquisition, construction or any other cost, including financing cost and interest, which relates to an improvement;
- (8) Sewer district(s) means any classification of wastewater or storm sewer districts governed by the Board;
- (9) Sewer system means any property owned by a sewer district or any property in which the sewer district has a property interest and any trunk sewers, outfall or intercepting sewers, manholes, pumps, pumping stations, lift stations, force mains, treatment plants and any appurtenances and apparatus necessary for the collection, storage, treatment and disposal of storm or sanitary sewage, sludge, and wastewater; and
- (10) *User* means a person who introduces wastewater, storm water, or water into a sewer system.

(Code 2006; History: Res. 1995-32, § 1, [i]-[ix])

Sec. 27-162. Connection Fees And Charges.

- (A) Authority. The Board may, by resolution, establish connection fees for making connection to the sewer system of any sewer district. Such fees may be based on the sewer system capacity required to service the property requesting connection to the sewer system or may be based upon such other engineering standards, classifications or criteria which the Board, upon advice of the County Engineer, determines will establish a reasonable allocation of the costs of developing the sewer system which will serve property to be connected and which may be attributed to the existing or proposed use of the property requesting connection. The connection fees may be assessed in graduated tiers to reflect differences between properties located in existing sewer districts, properties which petition for or are included in established sewer districts after enlargement, and properties that are converted from one use or classification designation to another.
- (B) Procedures. Connection fees authorized by this article shall not be adopted or existing connection fees increased by a percentage greater than ten percent (10%) in any year, until the Board first publishes a notice describing its intention to adopt such fees and which describes the proposed sewer connection charges or fees in sufficient detail to advise the owners of the property in the district or districts affected as to the amount and the application of such charges or fees. The notice shall also inform the owners of such properties of a specified time at which the Board will conduct a public hearing to consider the adoption of a resolution establishing the sewer connection fees. Such notice shall be published once a week for two (2) weeks in a newspaper of general circulation in the County and at least three (3) days shall pass between the date of the last publication and the public hearing. Any resolution establishing such connection fees shall become effective upon publication one (1) time in a newspaper of general circulation in the County. Any connection fees adopted under the provisions of this article shall become a lien on the property against which the connection fee is made from the date the connection fee becomes due.
- (C) Use of Funds. All moneys derived from the imposition of such sewer connection charges or fees shall be placed in a special account and shall be used at the direction of the Board for project cost or related capital costs within any sewer district.

(D) Collection of Connection Fees. Such connection fees shall be collected before permission for a sewer connection is granted to any user, unless the Board shall approve a variance or waiver of such charges or approve the payment of such charges over a period of time to be specified by the Board, but not exceeding twenty (20) years. (Code 2006; History: Res. 1995-32, § 2, [A]-[D])

Sec. 27-163. User Charges.

- (A) Authority; Combining Districts. The Board may, by resolution, and under the authority of the Act, establish and collect, on an ad valorem tax basis or as a service charge, or both, a charge or system of user charges, for the purpose of paying all or any portion of the improvement or rehabilitation of a sewer system and for the costs of operation, maintenance and planning of the sewer system, to be assessed against all persons connected to or using the sewer system. The user charge or system of user charges may be apportioned among classes of users based upon the use made by such persons of the sewer system and shall include consideration of, among other factors, the quantity, quality and rate of delivery of wastewater contributed by particular users. For the purposes of such user charges, the Board may, by resolution, combine any sewer districts created under the Act. Any sewer districts so combined may then be operated under a single budget for purposes of the improving or rehabilitation of sewer systems. Funds raised by the user charges in a combined district created under this article may be used for improving and rehabilitating sewer systems throughout the combined district. The combination of sewer districts under this article shall not affect the payment of bonded indebtedness, the levy of special assessments or the liens created thereby in the individual districts so combined.
- (B) Procedures. User charges authorized by this article shall not be adopted or existing user charges increased in a percentage greater than ten percent (10%) in any year, until the Board first publishes a notice describing its intention to adopt such charges and which describes the proposed charges or fees in sufficient detail to advise the owners of the property affected as to the amount and the application of such charges or fees. The notice shall also inform the owners of such properties of a specified time at which the Board will conduct a public hearing to consider the adoption of a resolution establishing the user charges. Such notice shall be published once a week for two (2) weeks in a newspaper of general circulation in the County and at least three (3) days shall pass between the date of the last publication and the public hearing. Any resolution establishing such user charges shall become effective after its publication one (1) time in a newspaper of general circulation in the County. The County Clerk shall mail a notice of such user charges or a copy of the authorizing resolution to all affected property owners. Any user charge adopted under the provisions of this article shall become a lien on the property against which the charge is made from the date the charge becomes due.
- (C) Use of Funds. All moneys derived from the imposition of such user charges or fees shall be placed in a special account and shall be used for the purpose of paying all or any portion of the improving or rehabilitation of a sewer system and for the costs of operation, maintenance and planning of the sewer system within any sewer district. (Code 2006; History: Res. 1995-32, § 3, [A]-[C])

Sec. 27-164. Fees For Application, Inspection, Other County Services.

The Board may, in addition to any other tax, service charge, connection fee, user charge or other fee authorized by law, adopt a schedule of fees for reviewing petitions or applications to create, enlarge, or extend any sewer district; for the preparation, review or approval of a design or plan and specifications for any proposed sewer improvement to be provided or constructed by any private developer in and for a proposed sewer district; for the issuance of any permit; for any required inspection of any connection to the sewer system of any other installed sewer improvements which were or are being installed under a contract other than one issued by the County; for the testing and monitoring of wastewater discharged to the sewer facilities of any sewer district for which pretreatment standards or other regulations apply; and for any other service performed by the personnel of the County at the request of any person connected to and using, or requesting to be connected to the sewer system of the County and which the County is not required by law to perform. Such a schedule of fees shall not be adopted until the Board first publishes a notice, describing its intention to adopt such fees and which describes the proposed fees in sufficient detail to advise interested parties as to the amount and the application of such charges or fees. The notice shall state a specified time at which the Board will conduct a public hearing to consider the adoption of a resolution establishing the fees and/or charges. Such notice shall be published one (1) time in a newspaper of general circulation in County. All fees and charges collected under this article shall be used for sewer district purposes throughout the County.

(Code 2006; History: Res. 1995-32, § 4)

Sec. 27-165. Additional User Charges.

The Board may, by resolution, establish additional user charges to be assessed to users in sewer districts which drain into the treatment plant of another municipality, if such municipality imposes a charge on the sewer district for a proportionate share of the operating municipality's costs of operating the treatment plant. Such additional user charges shall not exceed the amount necessary to cover the total cost of the charge imposed on the sewer district by the municipality operating the treatment plant. Any resolution establishing such additional user charges shall become effective after its publication one (1) time in a newspaper of general circulation in the County. The County Clerk shall mail a notice of such user charges or a copy of the authorizing resolution to all affected property owners. (Code 2006; History: Res. 1995-32, § 5)

Sec. 27-166. Maintenance And Planning Tax.

(A) Purpose; Combining Districts. In any sewer district, the Board shall have the authority to levy a maintenance tax on all assessable property in the district, in an amount determined by the Board by resolution. Such tax or taxes shall be levied for the purpose of creating an operation, maintenance and planning fund to be used for the purpose of maintaining and keeping in repair sewer improvements and for planning in the district. For the purposes of such a maintenance and planning tax, the Board may, by resolution, combine for operation, maintenance and planning purposes any sewer districts created under the Act. Any sewer districts so combined may then be operated under a single budget for planning and maintenance and repair of the sewer system or other equipment or appurtenances used in connection with the operation of the sewer district. Funds raised by the levy of a maintenance and planning tax in a combined district created under this article may be used for operation, maintenance and planning throughout the combined district. The combination of sewer districts under this article shall not affect the payment of bonded indebtedness, the levy of special assessments or the liens created thereby in the individual districts so combined.

- (B) Procedures. Any maintenance and planning tax charges authorized by this article shall not be adopted or an established maintenance and planning tax increased in a percentage greater than ten percent (10%) in any year, until the Board first publishes a notice describing its intention to adopt such a tax and which describes the proposed tax in sufficient detail to advise the owners of the property affected as to the amount and the application of such tax. The notice shall also inform the owners of such properties of a specified time at which the Board will conduct a public hearing to consider the adoption of a resolution establishing the tax. Such notice shall be published once a week for two (2) weeks in a newspaper of general circulation in the County and at least three (3) days shall pass between the date of the last publication and the public hearing. Any resolution establishing such a tax shall become effective after its publication one (1) time in a newspaper of general circulation in the County. The County Clerk shall mail a notice of the adoption of such tax or a copy of the authorizing resolution to all affected property owners. Any tax adopted under the provisions of this article shall become a lien on the property against which the charge is made from the date the charge becomes due.
- (C) Use of Funds. All moneys derived from the levy of a maintenance and planning tax shall be deposited in a special maintenance and planning fund and used to pay the costs of maintaining and keeping in repair sewer systems and for planning in the sewer district or the combined district.

(Code 2006; History: Res. 1995-32, § 6, [A]-[C])

Sec. 27-167. Variances And Appeals.

The Board shall provide, in the resolution establishing any connection fee, user charge or maintenance and planning tax, for procedures for any property owner to appeal the determination of the amount of any connection fee, user charge or maintenance and planning tax made under the provisions of this article or for variance from any established connection fee, user charge or tax or procedures for collection of such payments.

(Code 2006; History: Res. 1995-32, § 7)

Sec. 27-168. Further Authority.

The Chairperson, County Clerk and other County officials are authorized to execute any and all documents and take actions as they deem necessary or advisable in order to carry out and perform the purposes of the article.

(Code 2006; History: Res. 1995-32, § 8)

Sec. 27-169. Connection and Inspection Fees for the Sherwood Regional Wastewater Treatment System.

- (1) Application. Any person, firm, partnership, company, corporation, or other entity desiring to tap, connect, or modify any connection to the Sherwood Regional Wastewater Treatment System (The System) shall first make written application for a permit on forms provided by the Shawnee County Public Works Department. Such application shall include: 1) the applicant's full name and address; 2) the property owner's full name and address; 3) the location of the proposed connection; 4) the signature of the applicant; and 5) such other information as may be required by the Shawnee County Public Works Department.
- (2) Base Fee. All connections to the System are subject to a base connection fee of Three Hundred and No/100 Dollars (\$300.00) as established by Section 3 of H.R. 81-1 and an inspection fee in the amount of Forty-five and No/100 Dollars (\$45.00.)

- (3) Regional Fee. After an application has been received, the Shawnee County Public Works Department shall make a determination as to the applicable regional fee as established in Resolution Nos. 2005-201 (Lincolnshire Pump Station Connection Fee), 2000-257 (Sherwood Treatment Plant Connection Fee), 80-177 and 80-178 (Sherwood Regional Wastewater Treatment Connection Fee) and/or Home Rule Resolution No. H.R. 80-171. The regional fees applicable to connections in various regions are set forth in Appendix A, attached hereto and incorporated herein by reference.
- (4) Penalty for Unauthorized Connections. All fees established by this section must be paid in full before a permit will be issued. Any person who taps, connects, or modifies a connection to any Shawnee County sewer system without first applying for and receiving the required permit shall be subject to a fine in the amount of One Thousand and No/100 Dollars (\$1,000.00). Each day that a violation continues shall constitute a separate offense. In addition, any unpaid fees and/or fines shall become a lien on the property. Any tap, connection, or modified connection to any Shawnee County sewer system without a permit is in violation of this section shall be subject to removal at the property owner's expense.
 - (5) Fees Non-Refundable. All fees imposed by this section shall be non-refundable.
- (6) Further Authority. The Board, County Engineer, Shawnee County Health Agency, and other County Officials and Employees are hereby authorized to execute any and all documents and take actions necessary to carry out and perform the purposes of this section.
- (7) Non-Exclusive Remedy. No provision of this section shall be construed to impair any common law or statutory cause of action, or legal remedy of Shawnee County or any person for injury or damage arising from any violation of this section or from other law.
- (8) Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Resolution or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this section or any part thereof.

Sec. 27-170. User Charges for Users of the Shawnee County, Kansas, Sherwood Regional Wastewater Treatment Plant.

- (1) **Purpose**. The purpose of this Article and the User Charges authorized by this Article is to establish a system of user charges to ensure that all Users of the Plant and Sherwood System bear an appropriate and proportionate share of the cost of maintenance and operation of the Plant and Sherwood System.
- (2) **Application of User Charges**. The provisions of this Article shall apply subsequent to the adoption and publication of this Resolution to all Users of the Plant and the Sherwood System. On and after January 1, 2017, in addition to any and all other assessments and fees authorized to be charged Users of the Plant and Sherwood System, the following user charges shall be charged for usage of the Plant and Sherwood System:
 - a. A User Charge is imposed upon all Users of the Plant and the sewer system of which it is a part. The user charges provided and established by this Resolution shall apply to all Users of the Plant and the Sherwood System for so long as the User is authorized to use said Plant and Sherwood System and shall be in addition to and separate from other connection fees, special assessments, other separate and properly authorized fees and charges established by the County under the Act. The User Charges established by this Resolution shall be collected as a condition of using the Plant and Sherwood System. User Charges shall be charged to Users over time in the manner provided in Section 3 below.

(3) User Charges Established.

a. The User Charge rates for Residential Users will include a fixed Base Charge and a Volume Charge which will be calculated based upon usage. The Volume Charge shall be based upon the Winter Quarterly Average water usage (December, January and February water usage) which will then be added to the Base Charge to set residential users' sewer bill for the next 12 months. The User Charge rates for Residential Users shall be:

Year	Base Charge (includes first 1,500 gallons of usage)	Volume Charge (based on Winter Quarterly Average water use)
2017	\$12.95 / month	\$5.16 / 1,000 gallons
2018	\$14.89 / month	\$5.67 / 1,000 gallons
2019	\$17.13 / month	\$6.24 / 1,000 gallons
2020	\$19.69 / month	\$6.87 / 1,000 gallons
2021 &	Base Charge and Volume Charge adjusted annually on January 1 by +	
Beyond	1.5%	

b. The User Chare rates for Commercial and Non-Residential Users shall be:

Year	Volume Charge (based on actual water usage)	
2017	\$5.16 / 1,000 gallons	
2018	\$5.67 / 1,000 gallons	
2019	\$6.24 / 1,000 gallons	
2020	\$6.87 / 1,000 gallons	
2021 & Beyond	Volume Charge adjusted annually on January 1 by + 1.5%	

- (4) **Use of User Charges Collected.** All User Charges collected under this Resolution shall be deposited into a special account designated "Sherwood Regional Fund No. 269," heretofore created for such purpose under the County's Resolution No. HR 81-1, and used for the purposes authorized therein.
- (5) User Charge Appeals. Any person may appeal from the established User Charges by making a payment in full of the established User Charge then due and filing a written appeal, stating the specific reason for the appeal and providing information which demonstrates that the User Charge, as established, should not be applied to the User of the Plant or the Sherwood System. Such requests shall be reviewed and acted upon by the Shawnee County Public Works Director within sixty (60) days of their receipt in the Shawnee County Public Works Department, 1515 NW Saline St. Suite 200, Topeka 66618.

(Code 2006; History: Res. 2016-63)

ARTICLE VI. BENEFIT DISTRICTS

Sec. 27-201. Benefit District Administration Fees.

An administrative fee of three percent (3%) of the project authorization for benefit district projects shall be charged and deposited into the County General Fund. (Code 2006; History: H.R. Res. 1998-9, § 1)

Sec. 27-202. Financial Commitment For Benefit District.

- (A) Any petitioner(s) requesting the creation of a benefit district shall pledge financial commitment guaranteeing payment of assessments levied to pay principal and interest on bonds issued for the improvement project. Said financial commitment shall be either cash funds (cash, cashier's check, or equivalent, subject to approval of the Board) equal to twenty percent (20%) of the project authorization or a financial guarantee (irrevocable letter of credit, corporate completion bond or equivalent, subject to the approval of the Board) equal to thirty percent (30%) of the project authorization.
- (B) If the petitioner(s) requests the creation of a sewer district and said project includes the construction of a sewage treatment facility, the petitioner(s) shall pledge additional financial commitment to guarantee one hundred percent (100%) of the maintenance and operation of the sewer district.
- (C) The cash funds shall be deposited with the County Clerk's office or the financial guarantee provided to the County Clerk's office prior to setting the bid date for bonds on said benefit district.
- (D) The County Clerk's office will notify the Department of Public Works immediately upon receipt of the financial commitment.
- (E) The petitioner(s) shall furnish a statement, under oath, that the petitioner(s) has no interest in any property with delinquent special assessments anywhere within Shawnee County.
- (F) Public improvements financed by bonds of Shawnee County may be authorized by the Board without a financial commitment when deemed to be in the public interest and when one (1) or more of the following conditions exist:
 - (1) Improvements are ordered by resolution of the Board;
 - (2) The majority of the property (either by square foot or lot) in the benefit district is publicly owned;
 - (3) The benefit district is owned by multiple parties and a majority of the land (either by square foot or lot) is already developed with the principle improvements completed and issued an occupancy permit; or
 - (4) Other street or sewer improvement projects within the boundary of the requested benefit district are financed privately by the petitioner(s) and the value of the other improvements (in construction dollars, excluding the engineering design, inspection, right-of-way) are equal to or greater than the project authorization.
- (G) The financial commitment will be applied annually to satisfy principal and interest costs of bonded improvements in the event any special assessments are not paid when due.
- (H) The additional financial commitment required for a sewer district, if any, will be applied annually to satisfy operations and maintenance costs that exceed revenues.

- (I) The financial commitment, or remainder, will be released upon the written request of the petitioner(s) to the Department of Public Works, when one (1) of the following conditions exist:
 - (1) Principal improvement on at least thirty-five percent (35%) of the properties (by lot) within the benefit district have been completed and issued an occupancy permit;
 - (2) The appraised value of improvements located within the benefit district equals seven (7) times the amount of the special assessments; or
 - (3) Fifty percent (50%) or more of the lots in the benefit district are owned by unrelated parties.
 - (J) The appraised value shall be determined by the County Appraiser.
- (K) The additional financial commitment pledged toward operation and maintenance costs of a sewer district, if any, will be released when the value of improvements located within the benefit district or the number of users in the improvement district reach a level adequate to fund operation and maintenance within the sewer district.
- (L) The Department of Public Works shall determine when the value of improvements located within the benefit district or the number of users in the improvement district is adequate.

(Code 2006; History: Res. 1993-136, §§ 1-12)

Secs. 27-203 - 27-250. Reserved.

CHAPTER 28. SOLID WASTE

- Art. I. In General, §§ 28-1-28-50
- Art. II. Solid Waste, §§ 28-51 28-130
- Art. III. Demolition Landfills, §§ 28-131 28-190
- Art. IV. Tire Monofills, \S 28-191 28-240
- Art. V. Rolling Meadows Recycling And Disposal Facility, §§ 28-241 28-280
- Art. VI. Refuse Rates, §§ 28-281 28-340
- Art. VII. Utility Billing System, §§ 28-341-28-390
- Art. VIII. Landfill Surcharges, §§ 28-391-28-430

ARTICLE I. IN GENERAL

Sec. 28-1. Adoption of the Shawnee County Solid Waste Management Plan

The Board hereby adopts the updated Shawnee County Solid Waste Management Plan (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]). (Code 2010; History: H.R. Res. 2010-2; *superseded by* Res. 2011-79; *superseded by* Res. 2012-3; *superseded by* H.R. Res. 2015-5)

ARTICLE II. SOLID WASTE

Sec. 28-51. Definitions.

The following words and phrases, for the purpose of this article, shall be defined as indicated:

- (1) Agricultural waste means solid waste resulting from the production of farm or agricultural products;
- (2) Board means the Board of County Commissioners of the County of Shawnee, Kansas;
- (3) *Bulky waste* means interior household replacement items. Excludes room-sized carpeting or any item that has been affixed to the residence (inside or outside);
- (4) *Commercial waste* means all solid waste emanating from establishments engaged in business. This category includes, but is not limited to, solid waste originating in stores, markets, office buildings, restaurants, shopping centers and theaters;
- (5) Construction and demolition waste means waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, and pavements;
- (6) Department means the Kansas Department of Health and Environment;
- (7) *Director* means the Environmental Specialist II of the Shawnee County Health Agency;
- (8) *Domestic solid waste* means refuse resulting from normal occupancy and use of a dwelling unit;
- (9) *Garbage* means the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking, and serving of meat, produce and other foods and shall include unclean containers;
- (10) Generator means any person who produces or brings into existence solid waste;
- (11) Hazardous waste means waste or combination of wastes which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Secretary to cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous waste shall not include: (1) household waste; (2) agricultural waste returned to the soil as fertilizer; (3) mining waste and overburden from the extraction, beneficiation and processing of ores and minerals, if returned to the mine site; (4) drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal energy; (5) fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; (6) cement kiln dust; or (7) materials listed in 40 CFR 261.4, as in effect on July 1, 1983, as amended;
- (12) *Industrial waste* means all solid waste resulting from manufacturing and industrial processes which are not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant. Industrial solid wastes may

include: Mining wastes from the extraction, beneficiation and processing of ores and minerals unless those materials are returned to the mine site; fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; and cement kiln dust;

- (13) Nonputrescible waste means anything that is not putrescible;
- (14) *Nuisance* means anything which is injurious to health, offensive to the senses, or the free use of property so as to interfere with the comfortable enjoyment of life or property; or adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted upon individuals may be unequal; and is caused by or is a result of the management of solid wastes in violation of K.S.A. 65-3401 *et seq.* or the regulations adopted under those statutes;
- (15) Open dumping means the disposal of solid waste at any solid waste disposal area or facility which is not permitted by the Secretary under the authority of K.S.A. 65-3407, and amendments thereto, or the disposal of solid waste contrary to rules and regulations adopted pursuant to K.S.A. 65-3406, and amendments thereto;
- (16) *Person* means individual, partnership, firm, trust, company, association, corporation, institution, political subdivision or state agency or federal department or agency;
- (17) *Private hauler* means any person who is licensed to convey or move solid waste or refuse of any kind from the point of its generation or any other point to a processing, storage or disposal facility or area or any point in between for personal, profitable or charitable purposes;
- (18) *Processing of wastes* means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal;
- (19) *Public service* means activity by the Public Service Division of the Refuse Department devoted toward cleaning illegal dump sites and littered areas throughout all of the County;
- (20) *Putrescible waste* means solid waste which contains organic matter capable of being decomposed by microorganisms and which are capable of attracting or providing food for birds and disease vectors;
- (21) Refuse/solid waste means garbage and other discarded materials including, but not limited to solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities. Such term shall not include hazardous wastes and/or construction and demolition waste;
- (22) Refuse Department means the Shawnee County Refuse Department;
- (23) Residue means a part remaining after another part has been taken away;
- (24) Salvaging means the controlled removal of reusable materials from solid waste;
- (25) Sanitary landfill means a method of disposing of solid wastes on land without creating nuisances or hazards to the public health or safety of the environment at a permitted solid waste disposal area which meets the standards prescribed in K.A.R. 28-29-23;

- (26) Shawnee County includes all cities, townships and political subdivisions located therein:
- (27) Solid waste disposal area means any area used for disposal of solid waste from more than one (1) residential premise, or one (1) or more commercial, industrial, manufacturing, or municipal operations;
- (28) Solid waste management system means administering and maintaining the entire process of storage, collection, transportation, processing, and disposal of solid wastes by any person engaging in such process as a private business, or by any state agency, county, authority, city or any combination thereof;
- (29) Solid waste processing facility means incinerator, compost plant, transfer station or any other location where solid wastes are consolidated, temporarily stored or salvaged prior to being transported to a final disposal site; and
- (30) *Vector* means rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.

(Code 2006; History: H.R. Res. 1989-10, §1.0)

Sec. 28-52. Residential, Commercial And Industrial Solid Waste Storage.

- (A) The owner and/or occupant of any dwelling, business establishment or industrial plant shall provide sanitary storage for all solid waste produced on his or her property which meets the standards of this article.
- (B) All solid waste shall be stored so that (1) it does not attract rats, flies, mosquitoes and other vectors; (2) it does not provide shelter or a breeding place for vectors; (3) it does not create a health or safety hazard; (4) it is not unsightly; (5) the production of offensive odors is minimized; and (6) spillage and blowing is prevented.
- (C) If containers are used for storage of residential solid waste, the containers shall not be more than thirty (30) gallons nor less than twenty (20) gallons. Containers shall be leakproof, waterproof and fitted with a vectorproof lid and shall be covered at all times. The containers shall have handles, bails or other suitable lifting devices or features. Containers shall be of a type originally manufactured for residential solid waste, with tapered sides for easy emptying. Containers shall be of such size and shape as to be easily handled by one (1) person. The weight of any individual container and contents shall not exceed sixty-five (65) pounds.
- (D) If plastic bags are used for storage of residential solid waste, the owner/occupant of the dwelling is responsible to ensure the bags remain intact until they are collected. If the bags are split or torn open before collection, the owner/occupant is responsible for clean up and replacing the torn/split bags.
- (E) Garbage and putrescible wastes shall be drained of all liquids before being placed in a solid waste container.
- (F) Solid waste from commercial and industrial establishments shall be stored in approved solid waste containers. Where the quantity of waste is not large, § 28-52(C) applies.
- (G) On premises where the quantity of solid waste generated from commercial or industrial establishments is large and where the use of individual storage containers is impractical, bulk containers may be used for on-premises storage of waste. Containers shall be constructed of durable metal or plastic material. The containers shall be equipped with tight fitting lids or doors that can be easily opened and closed. The containers shall be maintained in a leakproof condition.

(H) Hazardous wastes shall be stored in a manner which will prevent spillage, leakage of liquids and/or the concentration or generation of harmful or explosive vapors or offensive odors from the stored materials. Containers for hazardous wastes shall be durable, corrosion resistant, watertight, and shall be provided with tight fitting lids or covers. Containers shall be properly labeled and kept in a safe location protected from tampering by unauthorized persons. All piping, valves and other appurtenances associated with the storage and transfer of hazardous wastes shall be constructed of corrosion-resistant materials and be maintained in a leakproof condition.

(Code 2006; History: H.R. Res. 1989-10, § 2.0; amended by H.R. Res. 1993-6, § 1)

Sec. 28-53. General Solid Waste Collection; Exemptions.

- (A) All occupied residences and commercial/industrial businesses require regularly scheduled refuse collection service.
- (B) All solid waste (residential, commercial and industrial) generated within the County, shall be removed from the premises on which it was generated at least once a week or as often as necessary to prevent nuisance conditions from occurring. Removal of solid waste shall be accomplished by the use of a regularly scheduled collection service by the Refuse Department or a licensed private hauler.
- (C) Upon identifying an occupied residence or commercial/industrial business without regularly scheduled refuse collection service and without a current trash service exemption, the County Health Agency shall provide written notice to the owner and/or occupant of said property that, if the owner and/or occupant does not obtain refuse service from a licensed hauler within ten (10) days of receipt of the notice, the County Refuse Department shall be assigned to provide refuse service to the property. In addition, the notice shall state that the owner and/or occupant will be liable for the cost of the service.
- (D) If the owner and/or occupant fail to obtain refuse service from a licensed hauler within the ten (10) day notice period, the County Health Agency shall notify the County Refuse Department that it is to provide refuse service to the property.
- (E) In the event the County Refuse Department is assigned to provide refuse service to such a property, it will continue to provide and bill for refuse services until such time as the Director of the County Refuse Department receives written confirmation from a licensed hauler that it has contracted with the owner and/or occupant to provide refuse service to the property.
- (F) This section shall not be interpreted to supercede or rescind H.R. Res. HR-89-10 or any amendments thereto.
- (G) Notwithstanding the provisions of §§ 28-53(A) and 28-53(B) to the contrary, the owners or lessees of forty (40) contiguous acres or more of land outside the incorporated limits of any city in the County, who reside thereon, are hereby exempt from the requirement that they obtain trash collection service, regularly scheduled at least once each week. Such exemptions must be claimed in writing to the Director. Thereafter, said landowners may deposit or dump solid wastes resulting from their own residential activities or from their own normal farming operations or their own agricultural activities onto or below the surface of said land as long as such wastes do not create a public nuisance or adversely affect the public health or environment. Upon a determination by the County Health Agency that the disposal of trash pursuant to this article causes a public nuisance or adversely affects the public health or environment, said landowner shall thereafter be required to obtain trash collection service regularly scheduled at least once each week. This article is not intended to authorize any other alternate method of trash disposal.

- (H) Notwithstanding the provisions of §§ 28-53(A), 28-53(B) and 28-53(G) to the contrary, any person residing in or owning land within the County may request an exemption from the requirement that they obtain trash collection service, regularly scheduled at least once each week, by reason of personal, financial or physical hardship, or for other good cause shown. Hardship exemptions shall be requested in writing on forms prepared and furnished by the Director. Any statements of fact made on such hardship exemption request forms shall be true and correct to the requester's best knowledge and belief. To be valid, hardship exemption shall be approved by the Director of the County Health Agency or designee as a matter of professional judgment and discretion. Valid hardship exemption shall automatically expire one (1) year from the last date of approval and may be renewed only by reapplying for a new hardship exemption with reapproval by the Director as set out above. Any person dissatisfied with the decision of the Director may appeal the same, in writing, within ten (10) days to the Board.
- (I) Failure to provide at least one (1) collection per week shall be cause for revocation of the hauler's license. No hauler shall fail and refuse to provide such regularly scheduled collection to its customer. Nonpayment of fees or service charges by the customer is no excuse for not complying with this article.
- (J) No solid waste or refuse shall be collected in or immediately adjacent to any residential area between the hours of 10:00 P.M. and 6:00 A.M. daily.
- (K) All solid waste collected by the Refuse Department or licensed private hauler shall, upon being loaded into collection equipment, become the property of the respective hauler.
- (L) No solid waste collected and loaded into the collection vehicle by the Refuse Department or licensed private hauler shall be salvaged from the collection vehicle prior to unloading at the disposal facility unless it is done at a facility approved by the County Health Agency.
- (M) Prior to collection by the Refuse Department, tree limbs and, if possible, shrubs, shall be tied in bundles not to exceed forty-eight (48) inches in length and twenty-four (24) inches in diameter.
- (N) All equipment used to collect and transport liquids or semi-liquids, miscellaneous material, or refuse/solid waste shall be designed, equipped, constructed and maintained to prevent the escape or spillage of wastes from the container or vehicle. All vehicles used for transportation of solid waste shall be maintained in a clean, safe and sanitary condition. (Code 2006; History: H.R. Res. 1989-10, § 3.0; amended by H.R. Res. 1993-6, §§ 2-3; amended by H.R. Res. 2004-5, §§ 1-4)

Sec. 28-54. Residential Solid Waste Collection.

- (A) A request for water service (water meter assignment) to the City of Topeka water department shall constitute a request and authorization for Refuse Department solid waste collection and disposal service. The Refuse Department will render bills for services provided on a regular basis.
- (B) If a licensed private hauler is selected at the time of water meter assignment or at a later date, the requester shall submit in writing to the Director and the Refuse Department, a change notification listing the termination date of such services. When the Director receives written confirmation from a licensed private hauler of the change, the Director will notify the Refuse Department and the Refuse Department will close out the account on the last day of the regular billing cycle.
- (C) Should no notice be given or written confirmation is not received from the private hauler, the Refuse Department will continue to render bills for collection service and the owner and/or occupant of the residence in question shall be liable therefor.

- (D) All solid waste collected shall be placed on the street curbing in front of the dwelling, or in alleys as designated by the Refuse Department or licensed private hauler.
- (E) Solid waste containers shall not be placed curbside more than twenty-four (24) hours before the regularly scheduled collection day. All empty containers shall be removed from the curb within twenty-four (24) hours of collection.
- (F) Some branches, grass, shrubbery clippings, leaves, or other items may be subject to an additional service charge established by the Board if a Refuse Department customer requests collection.
- (G) Refuse collected from vacant property, or collection of material accumulated from cleaning out basements, attics and garages, is not included as part of the monthly service charge. Collection by the Refuse Department shall be subject to an additional service charge established by the Board.
- (H) Residential bulky waste may be collected by the Refuse Department at no additional charge. Any Refuse Department customer desiring to have this service shall contact the Refuse Department. Collection is restricted to once a month service from each customer and is subject to volume limitations established by the Department.
- (I) The terms of the agreement between the customer and the private hauler shall be set by mutual agreement but shall not be contrary to the general provisions of this article.
- (J) Refuse Department customers who have a certified medical problem or have a certified medical disability may apply to the Director for collection service from their residence. Such applications must be approved by the Director and the applicant must sign a hold harmless agreement, holding the County, its agents and employees, blameless for injuries or damage which may be occasioned in waste removal on their property. (Code 2006; History: H.R. Res. 1989-10, § 4.0)

Sec. 28-55. Commercial And Industrial Solid Waste And Refuse Collection.

- (A) The owner and/or occupant of each commercial or industrial establishment in the County is responsible for the collection of all solid waste generated upon any premises. The owner and/or occupant shall have the option of contracting for refuse collection from the Refuse Department or a licensed private hauler.
- (B) Containers will be located in areas that are accessible for refuse collection vehicles and do not create a nuisance.
- (C) If a change of service from the Refuse Department to a private hauler is requested, the provisions of §§ 28-54(B) and 28-54(C) apply. (Code 2006; History: H.R. Res. 1989-10, § 5.0)

Sec. 28-56. Refuse Director; Commercial Contracts.

The Board authorizes the Director of the Shawnee County Solid Waste Department to enter into solid waste service contracts with commercial entities and franchise agreements with municipal entities. All contracts shall be subject to review and approval of the Shawnee County Counselor's Office.

(Code 2014; History: Res. 2013-106)

Sec. 28-57. Service Charges.

(A) The Director of the Shawnee County Solid Waste Department may set new fees annually, provided that residential fees shall not increase more than two percent (2%) per year without express approval from the Board of County Commissioners.

- (B) The Refuse Department is not responsible for licensed private hauler collection fees.
- (C) Solid waste collected by the Refuse Department from multiple family dwellings shall be collected from a single collection point. If other than a single collection point, the service charge for collection from each unit of the multiple family dwellings shall be the charge for single family dwellings.
- (D) The Refuse Department does not assume responsibility for timely and safe delivery of, or failure to receive billing statements.

(Code 2006; History: H.R. Res. 1989-10, § 6.0; amended by Res. 2011-92; amended by Res. 2012-19)

Sec. 28-58. Exemptions.

- (A) Exemptions from solid waste collection and service charges shall be granted only upon written application to the Director. Exemptions may be granted as provided for §§ 28-53(G) and 28-53(H).
- (B) Exemptions may be requested for unoccupied dwellings because of vacations, remodeling, the dwelling is for sale or rent, or similar circumstances and no solid waste is generated from the dwelling during this time.
- (C) Pursuant to § 28-58(B), only exemptions of thirty (30) or more days will be approved. A monthly minimum fee shall be charged during the exemption period. All exemptions that exceed the original thirty (30) day exemption period must be renewed every month. If a renewal application is not received, the applicant shall be liable for, and shall be billed for services starting the day following the thirty (30) day exemption period.
- (D) If, during any exemption period granted pursuant to § 28-58(B) the dwelling is found to be occupied, the applicant shall be liable for, and shall be billed for, any and all exempted charges, retroactive to the starting date of the initial exemption period.
- (E) Effective dates of approved exemptions granted pursuant to \S 28-58(B) shall coincide with the actual exemption dates.

(Code 2006; History: H.R. Res. 1989-10, § 7.0)

Sec. 28-59. Trash Service Exemption Fees.

- (A) Any household or business without current trash service and otherwise entitled to a trash service exemption shall be assessed an annual trash service exemption fee in the amount of Thirty-six Dollars (\$36).
 - (B) All trash service exemptions shall expire on January 1st of each year.
- (C) The annual fee for any trash service exemption granted after January 1st of any year shall be prorated for the remainder of the year by Three Dollars (\$3) per month.
- (D) The County Health Agency shall be responsible for the administration and collection of the fees provided for in this section.

(Code 2006; History: H.R. Res. 2002-15, §§ 1-4)

Sec. 28-60. Curbside Recycling Collection

- (A) The monthly fees for the provision of residential curbside recycling collection service to non-Shawnee County Solid Waste Department customers shall become effective upon commencement of the curbside recycling initiative in the amount of Seven Dollars (\$7) per month.
- (B) Residential curbside recycling collection services will be provided on an every-otherweek basis.

(C) The Director of the Shawnee County Solid Waste Department may set new fees annually, provided that fees shall not increase more than two percent (2%) per year without express removal from the Board of County Commissioners.

(Code 2014; History: Res. 2012-127)

Sec. 28-61. Collection Of Delinquent Service Charges.

- (A) The Board, its agents, attorneys, and employees shall collect delinquent fees which have been certified to them by the Refuse Department.
- (B) Any fees that remain unpaid for a period of sixty (60) or more days after the date they were billed may be collected by the County as provided by K.S.A. 65-3410.
- (C) At least quarterly, the Board shall cause the Refuse Department to prepare a report of delinquent fees due the County.
- (D) The Board shall not be limited to the collection remedies in K.S.A. 65-3410. (Code 2006; History: H.R. Res. 1989-10, § 8.0)

Sec. 28-62. Solid Waste Processing And Disposal Permits.

- (A) All refuse/solid waste and hazardous waste shall be disposed of at a processing facility or disposal site approved by the Department.
- (B) Solid Waste Disposal, Special Handling and Processing Facility Permits. Contact the Department.

(Code 2006; History: H.R. Res. 1989-10, § 9.0)

Sec. 28-63. Requirements For Licenses And Permits.

- (A) All licensees or permit holders are subject to the provisions of this article.
- (B) A license shall be issued to haulers engaged in the collection and disposal of domestic and/or commercial solid waste on a regularly scheduled basis. Vehicles used for this collection shall be compactor type.
- (C) Prior to issuing any license, all vehicles shall be inspected and approved by the Director. A license will not be issued until any or all deficiencies noted by the Director have been corrected.
- (D) All equipment shall be designed, equipped, constructed, maintained and operated so as to prevent the escape or spillage of wastes or any material from the vehicle or container.
- (E) The license and permit provisions shall not be construed to apply to employees of the holder of such license or permit.
- (F) License and permit applications shall be filed with the Director in such form as shall be prescribed.
- (G) Licenses and permits shall be issued for a period of one (1) year commencing on the second Tuesday of February and expiring on the second Monday of February of the following year. Applicants already licensed for the previous year shall make application for license for the current year on or before the second Tuesday of February. Late applicants shall pay late fees calculated at ten percent (10%) of application fees per month or part thereof their application is late.
- (H) License and permit fees shall be established by the Board. Individual license fees shall be based on the total number of each private hauler's customers as of January 1 of each year. Permit fees shall be a standard rate. If applicable, license and permit fees shall include an additional charge based on the capacity of licensed and permit vehicles.

- (I) The license fee shall be set at Two Hundred Eighty Dollars (\$280) for each five hundred (500) customers or portion thereof. The permit fee shall be set at Five Dollars (\$5) per vehicle.
- (J) New applicants shall pay a prorated fee based on the number of months remaining in the license or permit year and the fee schedule. Once a fee has been paid, no refunds shall be made.
- (K) One hundred percent (100%) of license and permit fee revenues shall be credited to the public health operating fund.
- (L) Vehicles shall display the license or permit number issued by the Director on the driver's side of the vehicle in such a manner that the number shall be clearly visible at all times.
- (M) No license or permit issued hereunder shall be assigned or transferred by persons holding same. However, vehicle registration may be changed under the following conditions:
 - (1) The vehicle to be newly registered for issuance of a license or permit shall be inspected or certified;
 - (2) The registration of the vehicle theretofore operated under such license or permit shall be surrendered;
 - (3) An amount as determined by the Board shall be paid by the licensee or permit holder to the public health operating fund as a fee for the transfer of the registration of such vehicle.
- (N) All equipment which has not had a continuous license or is licensed after the effective date of this article shall be compactor type.
- (O) A permit shall be issued to any person transporting material other than that classified as domestic and/or commercial solid waste.
- (P) Prior to issuing a permit, applications shall certify equipment used meets the requirements described in the application. No inspection is required for a permit to be issued. (Code 2006; History: H.R. Res. 1989-10, § 10.0; amended by Res. 1990-4, §§ 1-2; amended by H.R. Res. 1994-4, § 1)

Sec. 28-64. Hearings.

Upon complaint or by the request of the Board or the Director, proceedings shall commence to revoke a permit or license. Permits or licenses may be revoked for violation of these regulations or for other good and sufficient cause. The Director shall cause a hearing to be set before the Board and shall give ten (10) days notice in writing specifying the cause of the proposed revocation. At the hearing the Board shall rule and determine whether the permit or license in question shall be revoked, and if revoked, the person shall not be eligible to be reinstated for one (1) year from the date of revocation. The findings and determinations of the Board shall be final and binding on all parties and not subject to further appeal or review.

(Code 2006; History: H.R. Res. 1989-10, § 11.0)

Sec. 28-65. Reports.

(A) All licensed private haulers who collect refuse from residential and commercial customers on a scheduled basis shall electronically submit on the 1st day of each month a completed customer list to the Environmental Health section of the Shawnee County Health Agency. The format shall be electronic and have the following file layout:

- (1) Street—address where service is located, consisting of street number, direction, name, and suffix (all in one column);
- (2) City—identify the city in Shawnee County where the address is located;
- (3) Customer Name(s)—name(s) of person(s) responsible for service; and
- (4) Phone Number—contact number of responsible party.

Example:

Street	City	Customer Name	Phone Number
777 NW Lana Ct	Topeka	Mary Smith	123-7777
123 E 10 th St	Auburn	John Doe	456-7890
1977 SE 7 th St	Topeka	John or Jane Johnson	777-4321

- (B) Each private hauler shall also certify the number of days that collection is made available to each customer. No special or one-time collection shall be included.
- (C) Non-receipt of this report by the due date or incomplete information shall be cause for revocation or delay issuance of the hauler's license.
- (D) Additions and/or deletions to the customer list between report periods shall be submitted electronically to the Environmental Health section of the Shawnee County Health Agency on the next month's report.

(Code 2006; History: H.R. Res. 1989-10, § 12.0; amended by H.R. Res. 1993-6, § 4; amended by H.R. Res. 2005-20)

Sec. 28-66. Rules And Regulations.

The Director shall, subject to the approval of the Board, make, amend, revoke and enforce reasonable and necessary rules and regulations for the County Solid Waste Management System.

(Code 2006; History: H.R. Res. 1989-10, § 13.0)

Sec. 28-67. Prohibited Practices.

It shall be unlawful for any person to:

- (1) Deposit solid waste for collection on any property other than his or her own;
- (2) Interfere in any manner with solid waste collection equipment, or with solid waste collectors in the lawful performance of their duties;
- (3) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the Director;
- (4) Dispose of refuse/solid waste and hazardous waste by open dumping or at a location not approved by the Department;
- (5) Engage in the business of collecting or transporting refuse/solid waste without a license or permit from the Director, or in the operation of a disposal site without a permit from the department or to operate under an expired license or permit, or to operate after a license or permit has been suspended or revoked;
- (6) Maintain open dumping on a property unless exempted hereunder or the property is an authorized transfer facility or a licensed landfill; or
- (7) Engage in the business of collecting or transporting refuse/solid waste and failing to provide at least one (1) collection per week.

(Code 2006; History: H.R. Res. 1989-10, § 14.0; amended by H.R. Res. 1993-6, §§ 5-7)

Sec. 28-68. Unauthorized Dumping.

- (A) *Unauthorized dumping* means the act of dumping or abandoning trash, junk, or other personal property without permission or proper authority on the property of another.
- (B) Unauthorized dumping is unlawful and punishable by a One Thousand Dollar (\$1,000) fine per occurrence.
- (C) Citations for unauthorized dumping may be issued by law enforcement officers or County code enforcement officers, and shall be prosecuted by the Shawnee County Counselor.
- (D) This section shall not be interpreted to supersede or rescind this article or any amendments thereto. Under circumstances where conduct has occurred that violates both this article and this section, the County Counselor shall have the right to elect and seek the appropriate remedies.
- (E) This section shall be liberally construed to give the Board the broadest authority allowed by law; any word, phrase, sentence, or section found to be invalid or unconstitutional shall be severed from this section.

(Code 2006; History: H.R. Res. 2003-8, §§ 1-5)

Sec. 28-69. Penalties For Violation.

- (A) Any person who knowingly violates this article or any section thereof, shall be deemed guilty of a Class B misdemeanor and, upon conviction or a plea of guilty therefor, may be fined a definite sum of money not exceeding One Thousand Dollars (\$1,000).
- (B) Violation of the terms of this article by public or private haulers, firms or individuals, shall constitute a separate offense for each day the violation continues. (Code 2006; History: H.R. Res. 1989-10, § 15.0)

Sec. 28-70. Illegal Dumping; Reward For Information.

- (A) Pursuant to K.S.A. 12-1672a and amendments thereto, Shawnee County is authorized to offer a reward or contribution of up to Five Hundred Dollars (\$500) for information related to criminal acts.
- (B) There is hereby established the "Don't Trash Shawnee County" program whereby any person may receive a monetary reward of up to Five Hundred Dollars (\$500) for information that identifies any individual or entity responsible for dumping trash, junk, or other unwanted personal property in Shawnee County in violation of any law, ordinance, or resolution.
- (C) Reports of violations shall be addressed to the Shawnee County Counselor, 200 SE 7th Street, Room 100, Topeka, KS 66603, to the Shawnee County Sheriff's Office, 320 S. Kansas Avenue, Topeka, KS 66603, or to a Shawnee County code enforcement officer.
- (D) Shawnee County shall protect the identity of reporters pursuant to all applicable state law(s). *See* K.S.A. 60-436, K.S.A. 45-221(a)(5), and K.S.A. 22-3212 and amendments thereto.
- (E) Any claim for a reward, pursuant to this section, shall be presented to the Board for its consideration in the same manner as other claims seeking payment or reimbursement from the County. The Board will hear all such claims and shall have the sole discretion to determine: (a) whether a person is entitled to a reward, (b) the amount of any reward, up to Five Hundred Dollars (\$500), and (c) when any such reward will be paid.
- (F) The County shall pay for and install signs where frequent illegal trash dumping occurs, stating, "Persons with information of illegal trash dumping may call the County

Sheriff's Office and are eligible for a reward for information leading to the identification of any violators."

(G) Pursuant to K.S.A. 21-4603d and amendments thereto, whenever a person has been found guilty of a crime, the court may order the defendant to repay the amount of any reward paid by any public entity which materially aided in the apprehension or conviction of the defendant. The County may ask the court to order the defendant to repay the County for any reward it provides that led to the defendant's apprehension. (Code 2006; History: Res. 2003-113, §§ 1-7)

Secs. 28-71 - 28-130. Reserved.

ARTICLE III. DEMOLITION LANDFILLS

Sec. 28-131. Definitions.

The following words and phrases, when used in this article shall have the meaning respectfully ascribed to them:

- (1) Agency shall mean the Shawnee County Health Agency;
- (2) Agricultural waste means solid waste resulting from the production of farm or agricultural products;
- (3) Board means the Board of County Commissioners of the County of Shawnee, Kansas:
- (4) *Bulky waste* means interior household replacement items. Excludes room-sized carpeting or any item that has been affixed to the residence (inside or outside);
- (5) Commercial waste means all solid waste emanating from establishments engaged in business. This category includes, but is not limited to, solid waste originating in stores, markets, office buildings, restaurants, shopping centers and theaters;
- (6) Construction and demolition waste means waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, and pavements;
- (7) Demolition landfill means a landfill used exclusively for the disposal of construction/demolition waste:
- (8) Department means the Kansas Department of Health and Environment;
- (9) *Domestic solid waste* means refuse resulting from normal occupancy and use of a dwelling unit;
- (10) *Garbage* means the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking, and serving of meat, produce and other foods and shall include unclean containers;
- (11) Hazardous waste means waste or combination of wastes which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Secretary to cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous waste shall not include: (1) household waste; (2) agricultural waste returned to the soil as fertilizer; (3) mining waste and overburden from the extraction, beneficiation

- and processing of ores and minerals, if returned to the mine site; (4) drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal energy; (5) fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; (6) cement kiln dust; or (7) materials listed in 40 CFR 261.4, as in effect on July 1, 1983, as amended;
- (12) Industrial waste means all solid waste resulting from manufacturing and industrial processes which are not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant. Industrial solid wastes may include: Mining wastes from the extraction, beneficiation and processing of ores and minerals unless those materials are returned to the mine site; fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; and cement kiln dust;
- (13) Nonputrescible waste means anything that is not putrescible;
- (14) *Nuisance* means anything which is injurious to health, offensive to the senses, or the free use of property so as to interfere with the comfortable enjoyment of life or property; or adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted upon individuals may be unequal; and is caused by or is a result of the management of solid wastes in violation of K.S.A. 65-3401 *et seq.* or the regulations adopted under those statutes;
- (15) *Person* means individual, partnership, firm, trust, company, association, corporation, institution, political subdivision or State agency or Federal department or agency;
- (16) *Putrescible waste* means solid waste which contains organic matter capable of being decomposed by microorganisms and which are capable of attracting or providing food for birds and disease vectors;
- (17) Refuse/solid waste means garbage and other discarded materials including, but not limited to solid, semisolid, sludges, liquid and contained gaseous waste materials resulting from industrial, commercial, agricultural and domestic activities, such term shall not include hazardous wastes;
- (18) Sanitary landfill means a method of disposing of solid wastes on land without creating nuisances or hazards to the public health or safety of the environment at a permitted solid waste disposal area which meets the standards prescribed in K.A.R. 28-29-23;
- (19) Shawnee County includes all cities, townships and political subdivisions located therein; and
- (20) *Vector* means rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.

(Code 2006; History: H.R. Res. 1989-1, § 1.0)

Sec. 28-132. Permit Required.

Except as provided in this article, no person shall operate a demolition landfill within the County without first obtaining a demolition landfill permit. Application for a demolition landfill permit shall be made through the County Health Agency on forms so provided. This permit shall be in addition to any other licenses or permits required by the Kansas Department of Health and Environment.

(Code 2006; History: H.R. Res. 1989-1, § 2.1)

Sec. 28-133. Application.

Information submitted on the application shall include:

- (1) Name and address of property owner and name and address of operator;
- (2) Legal description of the site;
- (3) Access routes to the fill site with a statement from the Director of Public Works that the routes are adequate to serve heavy truck traffic;
- (4) An area map showing the fill site and its surroundings;
- (5) A map of the fill site showing:
 - (a) Ingress and egress;
 - (b) Internal roads;
 - (c) Lateral and vertical extent of the fill;
 - (d) Location and types of fences and gates;
 - (e) Drainage patterns, present and final;
 - (f) Extent and slope of all finished faces; and
 - (g) Sequence of filling;
- (6) A narrative operation procedure which states:
 - (a) The maximum time interval between cover applications;
 - (b) The depth of cover layers, both intermediate and final cover;
 - (c) How ingress to the fill site will be controlled;
 - (d) The type of demolition landfill materials which will be deposited at the site;
 - (e) The grade of all finished slopes;
 - (f) The ultimate land use of the site; and
 - (g) The estimated filling time schedule and closure date;
- (7) A statement of fire protection procedures;
- (8) A statement of salvaging procedures if allowed; and
- (9) A statement the permit holder will comply with all applicable laws, rules and regulations of the State of Kansas and the County.

(Code 2006; History: H.R. Res. 1989-1 § 2.2)

Sec. 28-134. Permit Fee; Inspection; Performance Bond; Permit Issued; Waiver.

Upon receipt of an application and payment of a Five Hundred Dollars (\$500) permit fee, the County Health Agency shall cause an inspection of the proposed location to be made. If the Agency finds from the application and the inspection that operation of the proposed demolition landfill is in compliance with this article and applicable regulations, the applicant shall deposit a performance bond to insure proper site closure. The amount of the bond shall be set after consultation with the County Engineer. Then a permit shall be issued. Information submitted on the application form may be made a condition of the permit. The fee shall be deposited in the public health operating fund. Once the permit is granted, the permit fee shall be non-refundable. The Board may waive the permit fee for local governmental entities upon written request. The performance bond for local governmental entities may be waived also.

(Code 2006; History: H.R. Res. 1989-1, § 2.3; amended by H.R. Res. 1989-7, § 1)

Sec. 28-135. Permit Holder Pays Cost Of Survey.

The cost of the survey to be conducted by the County Engineer on each demolition landfill on or before June 1 of each year shall be paid by the permit holder. Payment shall be received before any permit is issued or renewed. Said survey is deemed necessary for implementation and collection of the surcharge assessed against demolition and construction wastes deposited in permitted demolition and construction landfills. (Code 2006; History: H.R. Res. 1992-7, § 1)

Sec. 28-136. Permit Not Transferable.

No permit issued under this article shall be transferred or assigned or used by any other person other than the one to whom it was issued and no permit shall be used at any location other than the one described in the application upon which it was issued. (Code 2006; History: H.R. Res. 1989-1, § 3.0)

Sec. 28-137. Operational Requirements.

- (A) A permanent benchmark shall be established on the site.
- (B) Filling operations shall be no closer than twenty (20) feet to the adjacent property line. The County Health Agency may vary this requirement upon request.
- (C) The maximum time interval between deposition of material and covering shall be fifteen (15) working days for leveling and thirty (30) working days for slope cover. No more than thirty (30) working days shall pass from time of depositing construction and demolition waste and slope cover. In no event shall any cell be more than a one hundred (100) feet extension of the fill face.
 - (D) Intermediate cover depth shall be no less than six (6) inches.
 - (E) Final cover depth shall be no less than twenty-four (24) inches total.
- (F) Ingress by vehicle to the fill site shall be controlled by a fence with a lockable gate. Such gate shall be locked at all times an attendant is not on duty. An attendant shall be on duty when the gate is unlocked.
 - (G) The maximum finish grade on any slope shall be three-to-one (3 to 1).
- (H) No putrescible, liquid or hazardous wastes shall be dumped at a demolition landfill site. Should such wastes be deposited on site, they shall be removed and disposed of properly within twenty-four (24) hours.

- (I) All interior roads in the landfill site shall be at a minimum rock base or equivalent. All such roads shall be so constructed that they prevent tracking of mud onto the public roadways adjacent to the site.
- (J) The demolition landfill shall be operated in compliance with the operations plan and any restrictions on the permit.
- (K) The filling operation shall maintain at least two (2) feet vertical separation between waste material and the seasonal high water table.
- (L) Section 28-137(K) shall not apply to used asphalt, used concrete, rock or uncontaminated dirt.

(Code 2006; History: H.R. Res. 1989-1, § 4.0; amended by H.R. Res. 1990-3, § 1)

Sec. 28-138. Permit Renewal.

All demolition landfill permits shall expire on the first day of July following the date of issuance. A permit may be renewed upon payment of a One Hundred Dollars (\$100) renewal fee and compliance with this article. Such fee shall be deposited in the public health operating fund.

(Code 2006; History: H.R. Res. 1989-1, § 5.0)

Sec. 28-139. Site Closure.

- (A) The site shall be closed in accordance with the K.A.R. 28-29-6. Bulky items shall not protrude through the top or side slopes. The finished surface of the filled area shall be covered and maintained with adequate topsoil and seeded to provide vegetation. Seeded slopes shall be covered with straw or similar material to prevent erosion.
- (B) After closure of a demolition landfill site, a detailed description, including a legal description, shall be filed with the County Register of Deeds. The description shall include location of wastes, depth of fill and other information of interest to future landowners. (Code 2006; History: H.R. Res. 1989-1, § 6.0)

Sec. 28-140. Notice Of Violation.

Whenever the County Health Agency determines that there has been a violation of any provisions of this article, said Agency shall give notice of such alleged violation to the demolition landfill permit holder. Such notice shall:

- (1) Be in writing;
- (2) State the particular violations alleged to exist or have been committed; and
- (3) Provide a reasonable time for correction of the particular violation; which shall in no case be more than ninety (90) days.

(Code 2006; History: H.R. Res. 1989-1, § 7.0)

Sec. 28-141. Penalties For Violation.

- (A) Any person found to be in violation of this article shall be deemed guilty of a Class B misdemeanor, and upon conviction or a plea of guilty thereof, may be fined a definite sum of money not exceeding One Thousand Dollars (\$1,000).
- (B) Violation of the terms of this article by any person shall constitute a separate offense for each day the violation continues.

(Code 2006; History: H.R. Res. 1989-1, § 8.0)

ARTICLE IV. TIRE MONOFILLS

Sec. 28-191. Definitions.

The following words and phrases, when used in this article shall have the meaning respectfully ascribed to them:

- (1) Agency shall mean the Shawnee County Health Agency;
- (2) Board means the Board of County Commissioners of the County of Shawnee, Kansas;
- (3) Department means the Kansas Department of Health and Environment;
- (4) Hazardous waste means waste or combination of wastes which because of its quantity, concentration or physical, chemical, biological or infectious characteristics or as otherwise determined by the Secretary to cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous waste shall not include: (1) household waste; (2) agricultural waste returned to the soil as fertilizer; (3) mining waste and overburden from the extraction, beneficiation and processing of ores and minerals, if returned to the mine site; (4) drilling fluids, produced waters and other wastes associated with the exploration, development and production of crude oil, natural gas or geothermal energy; (5) fly ash, bottom ash, slag and flue gas emission control wastes generated primarily from the combustion of coal or other fossil fuels; (6) cement kiln dust; or (7) materials listed in 40 CFR 261.4, as in effect on July 1, 1983, as amended;
- (5) Nuisance means anything which is injurious to health, offensive to the senses, or the free use of property so as to interfere with the comfortable enjoyment of life or property; or adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted upon individuals may be unequal; and is caused by or is a result of the management of solid wastes in violation of K.S.A. 65-3401 et seq. or the regulations adopted under those statutes;
- (6) Person means individual, partnership, firm, trust, company, association, corporation, institution, political subdivision or state agency or federal department or agency;
- (7) *Processed tires* means tires that have been shredded, cut, chipped or crumbled to reduce them to at least fifty percent (50%) of their original volume;
- (8) Putrescible waste means solid waste which contains organic matter capable of being decomposed by microorganisms and which are capable of attracting or providing food for birds and disease vectors;
- (9) Secretary means the Secretary of the Kansas Department of Health and Environment;
- (10) Shawnee County includes all cities, townships and political subdivisions located therein;
- (11) Solid waste means garbage and other discarded materials including, but not limited to solid, semisolid, sludges, liquid and contained gaseous waste materials

- resulting from industrial, commercial, agricultural and domestic activities. Such term shall not include hazardous wastes:
- (12) *Tire monofill* means a permitted solid waste landfill or landfill cell in which only processed tires are placed; and
- (13) *Vector* means rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.

(Code 2006; History: H.R. Res. 1995-5, § 1.0)

Sec. 28-192. Permit Required.

Except as provided in this article, no person shall operate a tire monofill within the County without first obtaining a tire monofill permit. Application for a tire monofill permit shall be made through the County Health Agency on forms so provided. This permit shall be in addition to any other licenses or permits required by the Kansas Department of Health and Environment.

(Code 2006; History: H.R. Res. 1995-5, § 2.0)

Sec. 28-193. Application.

Information submitted on the application shall include:

- (1) Name and address of property owner and name and address of operator;
- (2) Legal description of the site;
- (3) Access routes to the fill site with a statement from the Director of Public Works that the routes are adequate to serve heavy truck traffic;
- (4) An area map showing the fill site and its surroundings;
- (5) A map of the fill site showing:
 - (a) Ingress and egress;
 - (b) Internal roads;
 - (c) Lateral and vertical extent of the fill;
 - (d) An engineering or architectural plan showing the location and size of the monofill cells;
 - (e) Location and types of fences and gates;
 - (f) Drainage patterns, present and final;
 - (g) Extent and slope of all finished faces; and
 - (h) Sequence of filling;
- (6) A narrative operational procedure which states:
 - (a) The maximum time interval between cover applications;
 - (b) The depth of cover layers;
 - (c) How ingress to the site will be controlled;
 - (d) The grade of all finished slopes;
 - (e) The ultimate land use of the site; and
 - (f) The estimated filling time schedule and closure date;
- (7) A statement of fire protection procedures;

- (8) A statement of salvaging or harvesting procedures, if any; and
- (9) A statement the permit holder will comply with all applicable laws, rules and regulations of the State of Kansas and the County.

(Code 2006; History: H.R. Res. 1995-5, § 2.2)

Sec. 28-194. Permit Fee; Inspection; Performance Bond; Permit Issued.

Upon receipt of an application and payment of a Five Hundred Dollars (\$500) permit fee, the County Health Agency shall cause an inspection of the proposed location to be made. If the Agency finds from the application and the inspection that operation of the proposed tire monofill is in compliance with this article and applicable regulations, the applicant shall deposit a performance bond to insure proper site closure. The amount of the bond shall be set after consultation with the County Engineer. Then a permit shall be issued. Information submitted on the application form may be made a condition of the permit. The fee shall be deposited in the public health operating fund. Once the permit is granted, the permit fee shall be non-refundable.

(Code 2006; History: H.R. Res. 1995-5, § 2.3)

Sec. 28-195. Permit Non-Transferable.

No permit issued under this article shall be transferred or assigned or used by any other person other than the one to whom it was issued and no permit shall be used at any location other than the one described in the application upon which it was issued.

(Code 2006; History: H.R. Res. 1995-5, § 3.0)

Sec. 28-196. Operational Requirements.

- (A) A permanent benchmark shall be established at the site.
- (B) Requests for deviations from the approved operational plan shall be submitted in writing for approval by the County Health Agency prior to the occurrence of the deviation.
- (C) Final cover depth shall be no less than twenty-four (24) inches total, with a layer of topsoil that will be seeded with grass.
- (D) Ingress by vehicle to the fill site shall be controlled by a fence with a lockable gate. Such gate shall be locked at all times an attendant is not on duty. An attendant shall be on duty when the gate is unlocked.
 - (E) The maximum finish grade on any slope shall be three-to-one (3 to 1).
- (F) No putrescible, liquid or hazardous wastes shall be dumped at a tire monofill site. Should such wastes be deposited on site, they shall be removed and disposed of properly within twenty-four (24) hours.
- (G) All interior roads in the tire monofill site shall be at a minimum rock base or equivalent. All such roads shall be so constructed that they prevent tracking of mud onto the public roadways adjacent to the site.
- (H) The tire monofill shall be operated in compliance with the operations plan and any restrictions on the permit.
- (I) The filling operation shall maintain at least five (5) feet vertical separation between waste material and the seasonal high water table.

(Code 2006; History: H.R. Res. 1995-5, § 4.0)

Sec. 28-197. Permit Renewal.

All tire monofill permits shall expire the first day of January following the date of issuance. A permit may be renewed upon payment of a One Hundred Dollars (\$100) renewal fee and compliance with this article. Such fee shall be deposited in the public health operating fund.

(Code 2006; History: H.R. Res. 1995-5, § 5.0)

Sec. 28-198. Site Closure.

- (A) The site shall be closed in accordance with the K.A.R. 28-29-28, *et seq*. The finished surface of the filled area shall be covered and maintained with adequate topsoil and seeded to provide vegetation. Seeded slopes shall be covered with straw or similar material to prevent erosion. Bulky items shall not protrude through the top or side slopes.
- (B) After closure of a tire monofill site, a detailed description, including a legal description, shall be filed with the County Register of Deeds. The description shall include location of wastes, depth of fill and other information of interest to future landowners. (Code 2006; History: H.R. Res. 1995-5, § 6.0)

Sec. 28-199. Notice Of Violation.

Whenever the County Health Agency determines that there has been a violation of any provisions of this article, said Agency shall give notice of such alleged violation to the tire monofill permit holder. Such notice shall:

- (1) Be in writing;
- (2) State the particular violations alleged to exist or have been committed; and
- (3) Provide a reasonable time for correction of the particular violation; which shall in no case be more than ninety (90) days.

(Code 2006; History: H.R. Res. 1995-5, § 7.0)

Sec. 28-200. Penalties For Violation.

- (A) Any person found to be in violation of this article shall be deemed guilty of a Class B misdemeanor, and upon conviction or a plea of guilty thereof, may be fined a definite sum of money not exceeding One Thousand Dollars (\$1,000).
- (B) Violation of the terms of this article by any person shall constitute a separate offense for each day the violation continues. (Code 2006; History: H.R. Res. 1995-5, § 8.0)

Secs. 28-201-28-240. Reserved.

ARTICLE V. ROLLING MEADOWS RECYCLING AND DISPOSAL FACILITY

Sec. 28-241. Special Use Permit For Landfill.

(A) History. The Board, by Res. 1978-168, granted a special use permit to the N.R. Hamm Co., to operate a sanitary landfill on property generally located about the west side of U.S. 75 Highway and extending between Northwest 70th and Northwest 78th Streets, and legally described on Exhibit "A." Res. 1985-68 reassigned responsibility for the use and operation of the sanitary landfill to Topeka Waste Systems, Inc. Said special use permit was issued on June 22, 1978, for a period of five (5) years to be followed by two (2) consecutive five (5) year options, Res. 1985-68 and Res. 1988-89, respectfully. Howard Johnston, General Manager of Rolling Meadows Recycling and Disposal Facility, a division of Waste

Management of Kansas, Inc., has requested that said special use permit be extended for a period of one hundred (100) years.

(B) Special Use Permit Extended for Remaining Life of Landfill. The special use permit as originally granted by Res. 1978-168 is hereby extended for the remaining life of the landfill subject to review on or before June 22, 1998, and every five (5) years thereafter. It shall be the responsibility of the operator to submit a report of landfill operations to date, including an updated site plan indicating completed landfill areas with final established grades and vegetative cover, remaining phases of landfill operation, stockpile areas, and updated site life calculations indicating bank cubic yards of in-place airspace. The operator shall submit the report and plan to the County Public Works Director and County Health Officer for review and report to the Board. Should modifications to the original Operations Plan or Restrictions of Use be proposed, the Board may submit such modifications to the Topeka-Shawnee County Metropolitan Planning Commission for public hearing and recommendation, prior to final consideration by the governing body.

(Code 2006; History: Res. 1993-77, § 1)

Sec. 28-242. Restrictions.

The extension of said special use permit shall be conditioned upon and subject to the following Restrictions of Use:

- (1) The sanitary landfill shall be operated in accordance with the "Operations Plan-Rolling Meadows Recycling and Disposal Facility" dated March 1993 (Exhibit "B").
- (2) The County Health Agency (hereafter "Health Agency") shall be the responsible local agency for the inspection of the operation and the enforcement of compliance with all applicable health and sanitary regulations heretofore or hereafter established by the County Health Agency and/or the Kansas Department of Health and Environment (hereafter "KDHE"). Such inspections shall be conducted by the County Health Agency at the prerogative of the Health Officer, but, not less than one (1) inspection per month will be conducted by said County Health Agency and a written report on the findings filed with the Board. The County Public Works Department is authorized to assist said Health Officer in conducting the inspections to determine the adequacy of property surface drainage.
- (3) Such property and the operation of the sanitary landfill shall, at all times, be under the control of the operator to prevent the unauthorized use of such sanitary landfill or the disposal of solid or liquid waste by persons other than employees of the operator.
- (4) The property on which the sanitary landfill is located shall be fenced at all times, limiting access to the sanitary landfill to only one (1) point of access through the fence, which point of access will be protected by a gate which shall be locked at all times when an attendant is not present.
- (5) The eastern boundary of the property bordering U.S. 75 Highway shall be properly maintained by use of a grass covered earthen berm and/or planting of trees to provide necessary screening.
- (6) The property shall be fenced with appropriate fencing which will intercept debris and prevent the same from leaving the property on which the sanitary landfill is located. The adjacent area shall be regularly policed by the operator, in order to prevent the accumulation of unsightly or unsanitary debris which may have

- originated from the sanitary landfill. The adjacent area shall include public and private property located within one-half (1/2) mile of the subject property.
- (7) There shall be at all times an operable tractor or earth moving equipment located on the property and under the ownership or management or control of the operator. The operator shall enter into an agreement with a reputable equipment dealer, a copy of which agreement shall be on file with the County Clerk, which agreement will insure and guarantee that such equipment will be operative at all times and in no event shall the site be operated when such equipment is inoperative for more than four (4) hours.
- (8) Adequate and appropriate sanitation facilities as determined and approved by the Health Agency shall be provided on the site and be available for use of employees of the operator.
- (9) At no time shall any material located at the sanitary landfill be burned and in the event that a fire is unavoidably started through no fault of the operator, its agents or employees, all reasonable effort shall be made to extinguish the same.
- (10) All access roads located within the sanitary landfill which shall be traversed by delivery-type motor vehicles shall be composed of a surface of a liquid cut-back asphalt, or other approved material to insure a dust-free surface.
- (11) In no case will the final elevations be higher than those of the adjacent land, and the completed topography shall closely resemble the surface before landfill operations began.
- (12) The landfill shall be developed in accordance with the Site Development Plan, (Exhibit "C") and upon completion of each area, the operator shall, in writing, request an inspection by the Health Officer and a Certificate of Completion shall be issued upon the approval of the Health Officer prior to commencing the operation in any other area of the sanitary landfill.
- (13) The final surface shall be prepared as indicated in the Operations Plan and upon completion, the operator shall request a final inspection by the Health Officer, County Engineer and County agent to determine the state of completion. The Health Officer shall submit a completion report to the Board, who shall, if satisfied that all requirements are complied with, issue an order to release any performance of surety bonds outstanding against the operator.
- (14) A performance bond, with sufficient corporate surety approved by the Board, shall be filed with the County Counselor's office for the following purpose and in the following amount: to guarantee compliance with the provisions of the special use permit and restrictions of use thereon, and to insure that each requirement and restriction is complied with in the face amount of Fifty Thousand Dollars (\$50,000).
- (15) This special use permit shall be terminated by the Board upon the acceptance of said Board of the final completion report as above required.

(Code 2006; History: Res. 1993-77, § 2)

Sec. 28-243. County Not Responsible For Operation Or Closing Of Landfill.

It is expressly understood and agreed that the Board shall not be liable or responsible for the operation or closing of the sanitary landfill.

(Code 2006; History: Res. 1993-77, § 3)

Sec. 28-244. Topeka Waste Systems Bound By Special Use Permit.

By the signature of its authorized agents, Topeka Waste Systems, Inc., and its heirs, assigns, and successors in interest agree to be bound by the provisions of this special use permit and shall herein be known as the "Operator."

(Code 2006; History: Res. 1993-77, § 4)

Sec. 28-245. Compliance Officer; Complaint Procedure.

The operator shall designate and notify the Board of the name, address, and telephone number of its compliance officers (and in case of change, forthwith renotify) who shall have the responsibility of handling and investigating all complaints and claims involving this landfill operation. Such compliance officer shall, within thirty (30) days from such complaint or claim, respond to such complaint with resolution or setting forth its position with regard to such claim or complaint. The complainants shall have the right thereafter to contact the Board which shall have the authority to ask for further explanation and response from the operator, if the Board deems necessary. This provision, however, shall not affect or abrogate any legal rights involved by any of these parties. The operator shall also summarize claims and complaints and the present status of each and forward such report to the Board annually as of the date of this permit renewal.

(Code 2006; History: Res. 1993-77, § 5)

Sec. 28-246. County Authority To Inspect, Revoke Permit; Remedial Measures.

The Board, or an appointed representative, shall have the right, without advance notice, to enter the premises and inspect the landfill/quarry operation for compliance with the conditions of the permit, and shall have the authority to:

- (1) Order the stoppage of any operation occurring without a permit;
- (2) If there is a failure to comply with any of the provisions of the permit, order the operator to adopt such remedial measures as are necessary to comply with the terms of this permit. The operator shall be given up to ninety (90) days to rectify the condition. If such conditions have not been resolved within this time period, the Board shall have the authority to revoke all or any portion of this permit;
- (3) Order the immediate suspension of operations if, after due notice and an opportunity to be heard, it is determined by the Board that the permitted operation is causing, or can reasonably be expected to cause, a significant, eminent danger to the health, safety, or welfare of the public, or to the environmental quality of the surrounding area. Where it is found that the danger cannot be abated, the Board may immediately suspend the operation. Where the conditions do not pose an eminent threat, the operator shall be given up to ninety (90) days to rectify the problem. If the conditions have not been resolved within that time period, the Board shall have the authority to revoke all or a portion of the permit;
- (4) If a pattern of unwarranted violation of the conditions of the permit is found to exist as a result of the permitted use, the Board shall have the right, after due notice and hearing to suspend the permit; and/or
- (5) Order the operator to adopt such remedial measures as are necessary to comply with the terms of the permit and to issue, after due process, a final order revoking the permit when the required actions have not been taken.

(Code 2006; History: Res. 1993-77, § 6)

Sec. 28-247. Adherence To Applicable Laws.

All applicable regulations of the KDHE and any other applicable agency shall be strictly adhered to and any permit required by these agencies shall be obtained by the operator. It is the intent of the Board that the operator be subject to such stricter regulations of any other applicable State and/or Federal agencies, if any, which may be adopted in the future by any such agency without further action by the Board and that the operator shall comply with any and all changes in law and regulations then applicable accordingly. The Board reserves the right to apply such new laws or regulations effective to the operator by reference and incorporation into this permit accordingly.

(Code 2006; History: Res. 1993-77, § 7)

Sec. 28-248. Quarry Activity.

In conjunction with the sanitary landfill, limited quarry activity shall be permitted whose operations shall be limited as follows:

- (1) Quarry operations including the removal of overburden, and the extraction and processing of limestone; transportation and hauling of limestone and materials; and, blasting operations shall be limited to the same days and hours of operation as the sanitary landfill as listed in the "Operations Plan" dated March 1993. It is the intent of the operator that the hours of operation shall be the maximum time and shall be operated at such maximum time only as demand and construction requirements dictate. The operator shall endeavor to preplan such requirements wherever possible to limit the need of maximum time; and
- (2) Blasting operations shall be limited to weekdays between the hours of 8:00 A.M. to 6:00 P.M. All blasting operations shall be performed by qualified personnel, and will be licensed and inspected by the United States Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms and by the United States Department of Interior Mining Enforcement and Safety Administration. Blasting charges shall be minimal, and shall be set off only in delays. No single day shall be larger than one hundred fifty (150) pounds of explosives. However, in no case shall the United States Bureau of Mining Standard of Scale Distance (SD) exceed seventy (70) for the closest structure. Exceptional conditions, *i.e.* approaching thunderstorms, may require earlier or later blasting for safety reasons, however, blasting under these special conditions shall be documented. The SD may be reduced if the operator submits an instrument monitored program approved by the Board.

(Code 2006; History: Res. 1993-77, § 8)

Sec. 28-249. Filing Locations.

This article and all exhibits referenced herein shall remain on file with the County Health Agency, County Public Works Department, County Clerk, and Board. (Code 2006; History: Res. 1993-77, § 9)

ARTICLE VI. REFUSE RATES

Sec. 28-281. Refuse Director Sets Commercial Refuse Rates.

The service charges, or fees, for collection of refuse by the County Refuse Department from each commercial account shall be set by the County Refuse Director or his or her designee and shall become effective immediately.

(Code 2006; History: Res. 1999-187, § 1)

Sec. 28-282. Refuse Director Sets Residential Refuse Rates.

- (A) The service charges, or fees, for collection of refuse by the Shawnee County Refuse Department from each residential account may be set by the County Refuse Director or his or her designee and shall become effective immediately, provided however, that residential fees shall not increase more than two percent (2%) per year without express approval from the Board.
- (B) The current Shawnee County residential rates shall remain in full force and effect until same are amended as provided herein. (Code 2006; History: 2002-244, §§ 1-2)

Sec. 28-283. Refuse Collection In Non-Ninety Gallon Containers.

- (A) The County Refuse Department will continue to collect trash not in the ninety (90) gallon containers under the following conditions:
 - (1) The customer has first filled the ninety (90) gallon container, except in infrequent situations in which the container would have to remain at curbside for an extended period of time, such as when the customer is out of town. Multi-family housing will continue to be serviced by dumpsters, cans and bags;
 - (2) The additional trash does not exceed the existing sixty-five (65) pound weight limit per can or bag and is a manageable amount of waste for a residential collection route;
 - (3) The additional trash is placed at the same alley or curbside location as the container:
 - (4) The trash is in some form of container, either trash bag or can. If the additional trash is branches, it must be tied in bundles as specified by the Refuse Department;
 - (5) No biological, chemical or other hazardous household waste will be collected; and
 - (6) For bulk items such as furniture and appliances, the customer must call and schedule a separate time for collection.
- (B) Customers are encouraged to purchase a second cart if the amount of waste consistently exceeds what can be placed in the ninety (90) gallon containers. (Code 2006; History: Res. 1997-138, §§ 1-2)

Sec. 28-284. Refuse Rate Waiver For Community Groups.

(A) Community groups, upon written application to the County Refuse Department, may have dumpster containers placed in their communities by the Refuse Department, free of charge.

- (B) The granting of such applications shall be dependent on the availability of the desired size of dumpster container at the desired time of placement.
- (C) This section is enacted with the intent that waiver of the normal cost or rental fee for dumpster containers shall enable use by the general public, and shall be for the betterment of the community as a whole.
- (D) This section is not enacted with the intent to thwart the legitimate business purpose served by the County Refuse Department making available its dumpster containers for a set cost or rental fee.
- (E) This section is not to be construed to allow private individuals or for-profit entities to obtain waivers of the normal cost or rental fee charged for the placement and use of Refuse Department dumpster containers.

(Code 2006; History: Res. 1996-122, §§ 1-5)

Secs. 28-285-28-340. Reserved.

ARTICLE VII. UTILITY BILLING SYSTEM

Sec. 28-341. Combined Utility Bill.

The City of Topeka Water Department will administer the production of, the delivery to the customer of, and the collection of revenue from a combined utility bill for the City of Topeka Water Department, City of Topeka Water Pollution Control Division and the County Refuse Department and charge an administrative fee to the Water Pollution Control Division and Refuse Department for this service.

(Code 2006; History: H.R. Res. 1982-21, § 1)

Sec. 28-342. Cost Allocating Method.

In determining the costs to be allocated among the entities as set forth in this article, the Water Department shall include only those costs which are customarily allocable costs of billing, collecting, and meter reading as determined by reference to generally accepted accounting procedures. The computation of cost allocations shall be subject to at least annual review by an independent certified public accountant from the firm employed to perform the annual audit for the City of Topeka Water Department. The data and methods to be used to arrive at an equitable sharing of the appropriate costs in producing, delivering and collecting revenues from a combined utility bill shall be defined as follows:

- (1) Costs to be allocated:
 - (a) City of Topeka Computer Service Department billings to the Water Department for the combined bill which include:
 - (i) Support system costs;
 - (ii) Device rental/purchase and maintenance costs;
 - (iii) Form costs; and
 - (iv) Professional services fees. Provided, computer devices and special reports used exclusively in the Water Pollution Control Division or Refuse Department are not shared costs;
 - (b) Employee salaries and salary related employee benefits, including taxes, insurance premiums, retirement contributions, clothing allowances and uniforms provided, for those Water Department employees engaged in the following work functions:

- (i) Customer service inquiry;
- (ii) Data entry;
- (iii) Cashier/collections;
- (iv) Meter reading; and
- (v) Meter maintenance;
- (c) Vehicle expenses, including operation, maintenance, depreciation and insurance, incurred for:
 - (i) Meter reading; and
 - (ii) Meter maintenance;
- (d) Material and supplies, including meter books, equipment, repair parts and supplies, used for:
 - (i) Meter reading; and
 - (ii) Meter maintenance;
- (e) Postage;
- (2) Data for determining allocation:
 - (a) Appropriate Water Department expenses as described in § 28-342(1)(a);
 - (b) Number of customers billed for each utility;
 - (c) Number of Water Pollution Control Division customers billed computed on water consumption;
 - (d) Revenue produced from each utility's portion of the bills. (*Revenue* does not include taxes, delinquent service charges or other fees charged to the customer over and above the regular bill to be computed from rate schedule of each utility.);
- (3) Method of allocating costs:
 - (a) The Water Department will use data gathered from the period from January through June to compute the administrative fee to be charged to the Water Pollution Control Division and Refuse Department during the succeeding months of August through January, and data gathered from the period of July through December to compute the administrative fee to be charged to the Water Pollution Control Division and Refuse Department during the succeeding months of February through July;
 - (b) When the combined billing system starts producing and delivering bills to the customer, data gathered from the three (3) utilities' records for the preceding six (6) month period will be used to initially compute the administrative fee until a complete January through June or July through December data compiling period has elapsed;
 - (c) The administrative fee will be charged monthly to the Water Pollution Control Division and Refuse Department and will be a flat fee which changes only after a new administrative fee has been established in accordance with the procedure set forth herein;
 - (d) The administrative fee will be computed as follows:

- (i) For the Water Pollution Control Division and Refuse Department: Total expenses for computer services, customer service inquiry, data entry, cashier/collections and postage in the preceding data compiling period divided by six (6); multiplied by the weighted average of the number of customers billed for each utility to the total number of customers billed for all three (3) utilities and each utility's revenue to total revenue derived from the bills for the data compiling period;
- (ii) For the Water Pollution Control Division, the amount computed in § 28-342(3)(d)(i) shall be added to an amount to be computed as follows: One-half (1/2) of total expenses for Meter Reading and Meter Maintenance for the data compiling period divided by six (6) and multiplied by the percentage of total Water Pollution Control Division customers billed on the basis of metered water to total Water Department customers billed in the data compiling period.

(Code 2006; History: H.R. Res. 1982-21, § 2)

Sec. 28-343. Administration.

- (A) Collections. All amounts billed on the system will be collected by the Water Department and will be considered Water Department money.
- (B) Payments, Deductions, Charges. At the end of each month, the Water Department will pay to the Water Pollution Control Division and Refuse Department respectively the total amount billed to each utility's customers for the preceding month, plus or minus adjustments, plus uncollectible account amounts (previously charged back to the appropriate utility) that have been paid, minus current uncollectible accounts, minus the administrative fee.
- (C) Data Entry, Mailing, Delinquency, Control, Customer Applications, Inquiries and Complaints, Adjustments. The Water Department will administer:
 - (1) All data entry that affects the combined billing database;
 - (2) The printing and mailing of all bills;
 - (3) Delinquency control which will consist of:
 - (a) Mailing delinquent notices;
 - (b) Turning off water service, and
 - (c) Turning over to an outside collection agency unpaid accounts (uncollectible accounts) that do not respond to delinquent notices and/or water turn off; and
 - (4) Customer applications, inquiries, complaints and adjustments for Water Pollution Control Division and Refuse Department customers as authorized and agreed to in writing by the head of each utility.
- (D) Internal Accounting. The Water Department will collect all payments and post to the accounts. The internal accounting control will be as follows:
 - (1) The Water Department portion of the bill, including unpaid delinquent service charges, other fees and taxes will be paid first;
 - (2) After the Water Department portion is paid and payment is not sufficient to pay the Water Pollution Control Division and Refuse Department portions in full, payment will be applied to the two (2) portions to each's percentage of the total of both unpaid portions;

- (3) If a second bill is rendered and an unpaid balance is carried forward from the preceding bill, the balance carried forward will be paid first as in §§ 28-343(D)(1) and 28-343(D)(2);
- (4) If a check in payment of an account is uncollectible and must be charged back to the account, it will be charged back in reverse order to its original application to the account;
- (5) Overpayments will be applied to future billings in the order described in §§ 28-343(D)(1), 28-343(D)(2) and 28-343(D)(3);
- (6) Water consumer deposits will be applied to the total combined bill as described in §§ 28-343(D)(1), 28-343(D)(2) and 28-343(D)(3) unless the customer gives specific instructions to apply the deposit to the Water Department portion only; and
- (7) All credit balances on closed accounts will be considered Water Department money and will be ultimately advertised with unclaimed Water Consumer Deposits as provided in § 44-55 of the Code of the City of Topeka.

(Code 2006; History: H.R. Res. 1982-21, § 3)

Sec. 28-344. Review.

From the date the billing system starts producing and delivering combined bills to the customer, this article shall be reevaluated at least quarterly by the department heads of the City of Topeka Water Department, City of Topeka Water Pollution Control Division and County Refuse Department.

(Code 2006; History: H.R. Res. 1982-21, § 4)

Secs. 28-345-28-390. Reserved.

ARTICLE VIII. LANDFILL SURCHARGES

Sec. 28-391. Rescission Of Landfill Surcharges.

- (A) Home Rule Resolutions 1990-10, 1991-3, 1992-11, 1994-1, and any other resolutions in conflict with the intent to rescind all Shawnee County surcharges on any landfill in Shawnee County are hereby rescinded.
- (B) Nothing in this section should be construed to limit or reduce the solid waste reduction and recycling program in Shawnee County. (Code 2006; History: H.R. Res. 1997-2, §§ 1-2)

Secs. 28-392 - 28-430. Reserved.

CHAPTER 29. ZONING AND PLANNING

- Art. I. In General, §§ 29-1-29-50
- Art. II. Shawnee County Planning Commission, §§ 29-51 29-100
- Art. III. Shawnee County Planning and Zoning Department, §§ 29-101 29-150
- Art. IV. Addresses, §§ 29-151-29-180
- Art. V. Airports, §§ 29-181 29-220
- Art. VI. Capital Improvements, §§ 29-221-29-250
- Art. VII. Comprehensive Plan, §§ 29-251 29-300
- Art. VIII. Historic Preservation Plan, §§ 29-301 29-340
- Art. IX. Floodway And Floodway Fringe District Regulations, §§ 29-341 — 29-390
- Art. X. Neighborhood Revitalization, §§ 29-391-29-450
- Art. XI. Regional Trails And Greenways Plan, §§ 29-451 29-550
- Art. XII. Subdivision Regulations, \S 29-551 29-700
- Art. XIII. Transportation Plan, §§ 29-701-29-800
- Art. XIV. Vacation Of Plats, Streets, Alleys, Public Easements, Reservations, \$\$ 29-801-29-900
- Art. XV. Zoning Regulations, \S 29-901 29-950
- Art. XVI. Building Permit Procedure, §§ 29-951 29-1000
- Art. XVII. Floodplain Management Service Fees, §§ 29-1001 29-1050

ARTICLE I. IN GENERAL

Sec. 29-1. Exemption From K.S.A. 12-741 et seq.

- (A) The Board hereby exempts itself from and makes inapplicable to it the provisions of the general planning and zoning law for the state of Kansas, K.S.A. 12-741 *et seq*.
- (B) Section 29-51 establishing the Shawnee County Planning Commission and Shawnee County Planning Department shall remain in effect, with the reference to K.S.A. 12-744(a) replaced by a reference to the County's home rule authority.
- (C) Section 29-552 adopting Shawnee County Subdivision Regulations shall remain in effect, with the reference to K.S.A. 12-749 replaced by a reference to the County's home rule authority.

(Code 2006; History: Charter Res. 2004-1, §§ 1-3)

Sec. 29-2. Shawnee County Board Of Zoning Appeals

The Shawnee County Planning Commission is hereby designated as the Shawnee County Board of Zoning Appeals. The Board of Zoning Appeals shall be organized in accordance with K.S.A. 12-759(a) and shall perform the functions delineated in K.S.A. 12-759(c), (d) and (e). (Code 2006; History: Res. 2004-45, § 1.

ARTICLE II. SHAWNEE COUNTY PLANNING COMMISSION

Sec. 29-51. Shawnee County Planning Commission Created.

There is hereby created and established a body which shall be known as the Shawnee County Planning Commission. The County Planning Commission shall assume all powers, duties, responsibilities and functions provided by the laws of the state of Kansas and resolutions of the Board.

(Code 2006; History: H.R. Res. 2003-14, § 1[a])

Sec. 29-52. Membership Of Commission.

The County Planning Commission shall consist of seven (7) members who shall be appointed by the Board. Each County Commissioner shall select two (2) members who shall reside in said Commissioner's district. The seventh member shall be selected by the Board *en banc*

(Code 2006; History: H.R. Res. 2003-14, § 1[b])

Sec. 29-53. Terms.

In order to insure that the terms of not more than two (2) members expire at the same time, the terms of the initial appointees to the County Planning Commission shall be staggered as follows: Two (2) members shall be appointed to one (1) year terms; two (2) members shall be appointed to two (2) year terms; and three (3) members shall be appointed to a three (3) year term. The Chair of the Board shall select which members shall serve which terms. Thereafter, all appointments to the County Planning Commission shall be for a term of three (3) years. All terms shall commence and be effective in January of each year; provided, that all members shall continue to serve until their successors are appointed or until such member has been reappointed.

(Code 2006; History: H.R. Res. 2003-14, § 1[c])

Sec. 29-54. Functions.

For property located in the unincorporated areas of Shawnee County, the County Planning Commission shall be authorized to:

- (1) Approve subdivision plats;
- (2) Make recommendations to the Board on amendments to zoning regulations;
- (3) Make recommendations to the Board concerning planning issues, including, but not limited to: comprehensive plan, subdivision regulations, zoning regulations, transportation, neighborhood revitalization, and capital improvements; and
- (4) Perform other functions as are authorized by state law and County resolutions. (Code 2006; History: H.R. Res. 2003-14, \S 1[d])

Sec. 29-55. Meetings.

The County Planning Commission shall convene for its first meeting at such time and place as shall be fixed by the Chairperson of the Board and shall thereupon proceed to organize, adopt by laws, elect officers and determine times and places of future meetings, which meetings shall not be less frequent than four (4) times each year. Special meetings may be called by the Chairperson of the County Planning Commission, or, if absent, by the Vice-Chairperson, on not less than three (3) days notice, such notice to be by mail sent to the address given to the Secretary of the County Planning Commission by each member. The County Counselor shall provide legal representation to the County Planning Commission and attend its meetings.

(Code 2006; History: H.R. Res. 2003-14, § 1[e])

Sec. 29-56. Quorum And Voting.

A quorum of the County Planning Commission shall consist of four (4) members. Except as otherwise provided by state law requiring a higher number of votes, any matter requiring approval by the County Planning Commission or a recommendation to the Board shall require the affirmative votes of not less than a majority of the quorum present at such meeting of the County Planning Commission. Matters pertaining only to the administration of the County Planning and Zoning Department shall require only a simple majority vote of the quorum as set out in this section. The Secretary shall record all votes taken by name, indicating whether the member voted in the affirmative, the negative or abstained. A copy of such record shall be transmitted to Board following each meeting of the County Planning Commission. The Planning Director shall serve as Secretary to the County Planning Commission and shall cause a proper record to be kept of all proceedings of the County Planning Commission.

(Code 2006; History: H.R. Res. 2003-14, § 1[f])

Secs. 29-57 - 29-100. Reserved.

ARTICLE III. SHAWNEE COUNTY PLANNING AND ZONING DEPARTMENT

Sec. 29-101. Department Created.

There is hereby established and created the Shawnee County Planning and Zoning Department which shall act as staff of the County Planning Commission. (Code 2006; History: H.R. Res. 2003-14, § 2[a])

Sec. 29-102. Planning Director; Appointment, Qualifications, Termination.

The director of such department shall be known as the Planning Director and shall be appointed by the Board. The Planning Director shall have a bachelor's degree from a college or university in municipal planning, civil engineering, architecture, landscape architecture, or other related field, plus five (5) years of planning experience, or in the alternative, a master's degree in city or regional planning which shall be deemed the equivalent of two (2) years of planning experience. The termination of the Planning Director's employment shall require a vote of the majority of the County Commissioners.

(Code 2006; History: H.R. Res. 2003-14, § 2[b])

Sec. 29-103. Planning Director Functions.

The Planning Director is authorized to employ, and terminate the employment of all other employees of the County Planning and Zoning Department as he or she may deem necessary to the expeditious handling of the department. The Planning Director shall be responsible for developing, directing, implementing and administering the short- and longrange planning programs to insure orderly growth in the unincorporated areas of Shawnee County. The Planning Director will oversee and supervise what was formerly known as the Shawnee County Zoning and Development Office, including the County Zoning Administrator. The Planning Director shall promote efficient use of County resources in compliance with resolutions, state statutes, policies and procedures pertaining to land use, development, zoning, and economic development. The Planning Director shall serve as Secretary to the County Planning Commission and perform the functions set forth in § 29-54. The Planning Director shall perform other functions as directed by the Board.

(Code 2006; History: H.R. Res. 2003-14, § 2[c])

Secs. 29-104 - 29-150. Reserved.

ARTICLE IV. ADDRESSES

Sec. 29-151. Authorization To Change Addresses.

- (A) The County Zoning Administrator is hereby authorized to correct the out of sequence numbered addresses by assigning new addresses.
- The owner of any property whose address is changed pursuant to this section may appeal the County Zoning Administrator's decision to the Board. (Code 2006; History: Res. 1996-209, §§ 1-2)

Sec. 29-152. Authorization To Establish House Numbering System.

The County Planning Commission is hereby authorized to establish a uniform house numbering system for all homes in Shawnee County not located in incorporated cities, and to assign numbers accordingly as soon as practicalities permit. (Code 2006; History: Res. 1968-74)

Secs. 29-153 - 29-180. Reserved.

ARTICLE V. AIRPORTS

Sec. 29-181. Forbes Field And Phillip Billard Airport Hazard Zoning.

There are hereby incorporated by reference, as if set out fully herein, the airport regulations adopted by the governing bodies of the City of Topeka, Kansas, and Shawnee County, Kansas, as prepared by the Topeka Planning Commission. Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street), the Topeka Planning Department (515 S. Kansas Avenue), and City of Topeka Code, Article II, Forbes Field and Phillip Billard Airport Hazard Zoning, §§ 22-26 et seq. (Code 2006)

ARTICLE VI. CAPITAL IMPROVEMENTS

Secs. 29-221-29-250. Reserved.

ARTICLE VII. COMPREHENSIVE PLAN

Sec. 21-251. Adoption of Shawnee Comprehensive Plan.

- (A) In accordance with K.S.A. 19-2958, the Board of County Commissioners of the County of Shawnee, Kansas hereby adopts the "Shawnee County Comprehensive Plan" ("Plan") (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street] or the Shawnee County Planning Department [1515 NW Saline Street]) to be applicable in the unincorporated area of Shawnee County. The Plan shall constitute the basis or guide for public action to insure a coordinated and harmonious development or redevelopment which will best promote the health, safety, morals, order, convenience, prosperity and general welfare, as well as a wise and efficient expenditure of public funds.
- (B) In accordance with K.S.A. 19-2958(d), all reports and documents forming the Plan as adopted shall bear the signature, or facsimile thereof, of the Chair of the Board of County Commissioners and an attested copy of the same shall be filed in the Office of the Shawnee County Clerk and shall be a public record. In addition, the Shawnee County Planning Department shall provide copies to legislative and administrative agencies affected by the Plan.
- (C) In accordance with the procedures in K.S.A. 19-2958(e) through (h), the Shawnee County Planning Commission shall review the Plan for the purpose of determining if any portion of the Plan has become obsolete and shall make a report to the Board regarding the same on or before June 1 of each year.
- (D) In accordance with the procedures in K.S.A. 19-2958(e) through (h), the Board of County Commissioners or the Planning Commission may review or reconsider the Plan or any part thereof at any time and may propose, by resolution, any amendments, extensions or additions to the same.

(Code 2018; History: H.R. Res. 2018-2)

Secs. 29-252-29-300. Reserved.

ARTICLE VIII. HISTORIC PRESERVATION PLAN

Sec. 29-301. Amendment To Text And Map; Historic Preservation Plan.

- (A) The Topeka-Shawnee County Metropolitan County Planning Commission is responsible for preparation of a Comprehensive Metropolitan Plan for the physical development and redevelopment of the Topeka-Shawnee County Metropolitan Area.
- (B) The Historic Preservation Plan is a policy framework to guide the revitalization, stabilization, preservation, development and redevelopment of historic properties in Topeka and Shawnee County. The Historic Preservation Plan sets forth a 25 year vision, goals, policies, and action steps related to the strategic investment of historical, housing, infrastructure, economic, and environmental resources in a comprehensive manner that recognizes the desire to ensure a high level of health for historic properties in Topeka and Shawnee County.

- (C) A cross-section of stakeholders, primarily represented by a Topeka-Shawnee County Landmarks Commission, developed, reviewed, and submitted the Historic Preservation Plan to the Topeka-Shawnee County Metropolitan Planning Commission for consideration.
- (D) Pursuant to Kansas Statutes, the Topeka-Shawnee County Metropolitan Planning Commission held a public hearing on December 18, 2000 and received testimony on the Historic Preservation Plan as an amendment to the Comprehensive Metropolitan Plan. The Planning Commission voted 14-0-0-0 in favor of recommending the Historic Preservation Plan as a part of the Comprehensive Metropolitan Plan.
- (E) The Topeka-Shawnee County Comprehensive Metropolitan Plan is hereby amended to include the Historic Preservation Plan attached hereto labeled Exhibit A. (Code 2006; History: Res. 2001-68, §§ 1-5)

Secs. 29-302-29-340. Reserved.

ARTICLE IX. FLOODWAY AND FLOODWAY FRINGE DISTRICT REGULATIONS

Sec. 29-341. Regulations Incorporated.

There are hereby incorporated by reference, as if set out fully herein, certain regulations governing floodway districts in the unincorporated areas of Shawnee County, Kansas, as adopted by the governing body of Shawnee County, Kansas and prepared by the County consisting of Res. 2011-145 and amendments thereto. Copies of these regulations may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

Secs. 29-342-29-390. Reserved.

ARTICLE X. NEIGHBORHOOD REVITALIZATION

Secs. 29-391 - 29-450. Reserved.

ARTICLE XI. REGIONAL TRAILS AND GREENWAYS PLAN

Sec. 29-451. Regional Trails And Greenways Plan Adopted.

- (A) Chapter 5, Part D, of the Topeka-Shawnee County Comprehensive Metropolitan Plan recognizes the need for greenways and linear parks in the region. Chapter 2, Section 6 of the Topeka-Shawnee County Transportation Plan recognizes the need for a regional trail system and the need to provide facilities for bicycles and pedestrian transportation.
- (B) The Topeka-Shawnee County Regional Trails and Greenways Plan, as amended, provides long-range guidance for the future growth and development of the region's greenway and trail systems. The Trails and Greenways Plan is Part 1 of the Parks and Open Space Element of the Comprehensive Metropolitan Plan. This Trails and Greenways Plan is closely coordinated with the Topeka-Shawnee County Transportation Plan which also addresses pedestrian and bicycle transportation issues and sets policy for these forms on non-motorized transport.
- (C) The Topeka-Shawnee County Comprehensive Metropolitan Plan is hereby amended by the addition of the amended Topeka-Shawnee County Regional Trails and Greenways Plan as Part 1 of the Parks and Open Space Element. (Code 2006; History: Res. 2001-33, §§ 1-3)

Sec. 29-452. Introduction.

- (A) Across America, people's zeal for trails and greenways is growing. Why? The key attribute in trails and greenways is in providing linkages. Trails are popular because they are different from other transportation and recreational opportunities. Trails take people somewhere. Greenways are popular because they link natural areas and open spaces to where people live and work.
- (B) Trails and greenways are often places where people can experience a bit of nature in the midst of an intensely built-up urban area. Many trails and greenways combine with other features, such as a riverfront or mountain, to create a "sense of place" for an area and to distinguish one urban area from another. All of these factors and more have made trail and greenway projects popular over the last two decades.
- (C) Trails are more than a means to get from place to place. Trails provide linkages between open space areas and provide public access to open spaces. In many instances, trails and greenways serve as linear areas of open space. Trails take users through a variety of environments, including forests, wetlands, river and lake shorelines, farms, shopping areas, residential areas, and even industrial areas. Trails also bring people into closer contact with nature, history, culture, and geography.
- (D) Greenways preserve ribbons of green, densely vegetated areas often featuring native plants that provide unique wildlife habitats in the middle of town. Greenway development is a traditional and proven tool for managing our natural and cultural resources. Greenways can also be designed to slow stormwater runoff, reduce erosion, and improve water quality. By linking open spaces with natural corridors, greenways provide ecological, economic, and recreational benefits to a local community.

(Code 2006; History: Res. 2001-33)

Sec. 29-453. Trails And Greenways.

- (A) *Trails* is a generic term used to denote routes designed to be used by non-motorized forms of transportation, and recreation trail users may include pedestrians, skaters, bicyclists and equestrians. This type of facility can be paved or unpaved. Trail users can vary from trail to trail depending on the design and construction of the trail.
- (B) *Greenways* is a generic term used for wide variety of linear open spaces that provide connections and foster movement of some sort. Greenways can range in scope from areas left in a pristine natural state that provide routes for wildlife movements to landscaped linear urban parks that include shared use paths for bicyclists and pedestrians. A greenway can include a trail but does not have to.

(Code 2006; History: Res. 2001-33)

Sec. 29-454. Same; Quality Of Life And Image Benefits.

Trails and greenways enhance a community's quality of life. Trails promote health and fitness by providing an enjoyable and safe place for walking, cycling, horseback riding, and other activities removed from the hazards of motor vehicles. Trails and greenways contribute to economic vitality and greater tourism. Trails and greenways educate people of all ages about the value and importance of the natural environment. Trails offer an alternative travel mode choice to motorized vehicles by connecting homes with schools, offices, shopping areas, and by contributing to healthier environment, with cleaner air and less traffic. A trail system can also contribute significantly to a region's positive first impression presented to visitors and potential investors.

(Code 2006; History: Res. 2001-33)

Sec. 29-455. Same; Aesthetic And Land Use Benefits.

- (A) Trails provide a wide range of benefits to trail users, local landowners, and local communities since they are multiple use, multiple benefit resources. Residents and visitors alike enjoy the aesthetic beauty and protected open space of trail corridors, while local communities receive benefits from tourism generated business and increased community pride.
- (B) Trail corridors can also be used to provide buffers between different land use districts, such as a light industrial use district on one side of a trail corridor and a residential district on the other. Having different types of uses along a trail corridor can make travel along the trail more interesting and reinforce the need for the trail to not only act as a travelway, but also as a buffer zone. Trail corridors can also improve the aesthetics of the edge of a district, such as an industrial district, that has not historically been associated with good looking development; and trails can help establish a smooth transition from a zone, such as a residential district, where aesthetic factors are important to a district where they may be less valued. Since many trails follow creeks, rivers, and railroads, this aesthetic buffering role of trail corridors is often a welcomed aspect of trail system development in metropolitan areas.

(Code 2006; History: Res. 2001-33)

Sec. 29-456. Same; Economic Benefits.

Trails and greenways provide economic benefits. They can create jobs, enhance property values, expand local business and promote our community. Quality of life is an important factor in making business location decisions. Sites adjacent to trails can be more attractive to prospective tenants. Active well-maintained trail corridors can send a strong signal to prospective investors that a region is vibrant and populated by people that take pride in their region. Trails also portray a positive image of community. Trails can help a community make a statement that it is concerned about quality in its built environment and that it wants to attract and retain high quality businesses. A region that presents this positive image is more likely to attract economic development, and a good trail system can help do that. (Code 2006; History: Res. 2001-33)

Sec. 29-457. Same; Recreation Benefits.

Trails provide easily accessible and low cost outdoor recreation for an incredibly diverse group of people. Walking, running, pushing a stroller, roller blading, bicycling, horseback riding, bird watching, or studying nature are just a few of the things that can be done along trail corridors. Trails often become locations where all age groups and social classes interact socially and develop a common interest — enjoyment and protection of the trail system (Code 2006; History: Res. 2001-33)

Sec. 29-458. Same; Transportation Benefits.

Trails provide safe, alternative transportation routes between work places, parks, residential areas, shopping centers and schools. Unlike some modes of transportation, trails are available to everyone, including children, seniors, and persons with disabilities. Bicycling and walking require less space than motor vehicles, thus increased use of non-motorized travel helps decrease roadway congestion and the space needed for motorized transportation facilities. The development of a regional trail system that is coordinated with the roadway and transit systems can enhance the entire regional transportation system and provide many choices for mobility. Although the automobile may be the only feasible mode choice for many longer trips in our region, the development of a well connected regional trail system can provide a good non-motorized option for many of the shorter trips (≤ 3 miles) made by residents of our metropolitan area.

(Code 2006; History: Res. 2001-33)

Sec. 29-459. Same; Environmental Benefits.

- (A) Increased use of trails and the availability of open space provide a significant opportunity to help our environment. One of the greatest environmental benefits of bicycling and walking is the decreased use of fossil fuels of which we have become so dependent. This is a critical factor in many metropolitan areas that do not meet Federal air quality standards. Although the Topeka area is currently an attainment area for air quality standards, it is still important to encourage non-motorized travel where possible so that our region can more easily maintain our clean air quality.
- (B) Another environmental benefit from trails is that many trail corridors can be used to re-establish places for stormwater management projects that can reduce erosion and river silting as well as establishing urban wetlands that can help improve water quality. Trail corridors can also discourage the illegal dumping that threatens the environment. (Code 2006; History: Res. 2001-33)

Sec. 29-460. Same; Wildlife Protection Benefits.

Trails and open spaces provide the opportunities to protect habitat and wildlife while providing a means for people to observe and learn about these species. Trail corridors can also serve to maintain and/or re-establish wildlife habitat connectivity and by doing so preserve the variety of wildlife in the urbanized parts of the region. (Code 2006; History: Res. 2001-33)

Sec. 29-461. Same; Heritage Awareness And Cultural Preservation Benefits.

Trails provide ways to observe and protect our heritage. Trails give us the opportunity to protect and preserve lands and buildings of historic and cultural interest which link us to our past. Since much of our history was based on pedestrian, horse trail, and railroad travel, many trail corridors can serve to retain the paths used by historic figures and/or pathways of historic significance in the region. Many times a trail will more closely follow these historic paths than a nearby highway. Trail corridors can also be developed around a historic theme, such as the Underground Railroad or the Westward Migration. Therefore, trail corridors can be both thematic and interpretive historical assets.

(Code 2006; History: Res. 2001-33)

Sec. 29-462. Same; Health And Physical Fitness Benefits.

Increased levels of trail use can result in significant benefits in terms of health and physical fitness, not only in the individual, but also for the community as a whole. Activities that build strength, endurance, balance, and flexibility have been shown to protect against injury and disability. A healthy population is typically a positive attribute for a region's economy and quality of life.

(Code 2006; History: Res. 2001-33)

Sec. 29-463. Same; Land Use Planning And Street Design Benefits.

- (A) Trail systems can provide welcomed connections in and between neighborhoods so that people can easily walk or bicycle around their part of town instead of always having to jump in the car to make even short trips. The ability to easily make short trips (\leq 3 miles) via a trail system instead of a motorized vehicle dominated road system can have tremendous impacts on neighborhood design and street network design. Trail systems can encourage some people to use their car less, buy fewer cars per household, and most importantly not assume that every trip must be taken by car.
- (B) Trail systems can also encourage the use of Traditional Neighborhood Development (TND) principles in redevelopment and newly developed areas. TND encourages the construction of houses without garage doors on the front façade (garages are hidden around back or on the side), and TND encourages the use of features that increase the "walkability" of neighborhoods.
- (C) Trails can have significant impacts on both land use and transportation system planning. Trails can help make land uses more enjoyable for residents in the area by providing aesthetically pleasing connections. Trails can help reduce public maintenance costs for streets by discouraging the overbuilding of local streets to standards desired to accommodate auto dependency rather than necessary property access and mobility. (Code 2006; History: Res. 2001-33)

Sec. 29-464. Vision And Purpose Statement.

- (A) Vision Statement. The vision of the future trails and greenways system in the Topeka-Shawnee County region is that all Topekans live within one (1) mile of a trail or greenway and that all residents of Shawnee County live within a fifteen (15) minute drive of a trail or greenway, and that all residents of the region use trails and greenways for mobility and for recreation. The Topeka-Shawnee County metropolitan area should have a regional trails and greenways system that is convenient and practical to use for both transportation and recreation, and that significantly improves both the transportation and recreation experiences of area residents.
- (B) Purpose Statement. It is the policy of the Topeka-Shawnee County region to use design, funding, and scheduling guidelines to direct the creation of a series of trails linked to one another and to public parkland and recreational facilities, historical sites, and various neighborhoods throughout the region, in order to create a non-motorized transportation network and recreational trail network throughout Topeka and Shawnee County. (Code 2006; History: Res. 2001-33)

Sec. 29-465. Things Provided By The Regional Trails And Greenways Plan.

- (A) The proposed trail and greenway links discussed in this Plan (text and map) and this Plan document itself will provide, but are not limited to, the following:
 - (1) Alternative transportation network;
 - (2) Recreational choices featuring the use of trails and greenways;

- (3) Landscaped corridors;
- (4) Access to natural areas and historic sites;
- (5) Ties to open space recreational areas both inside Topeka and outside of the corporate boundaries of Topeka in adjacent communities and the unincorporated areas of Shawnee County; and
- (6) Time line for the development of trails in the region.
- (B) The recreational uses provided by the trail linkages will focus on an extensive system of hike/bike trails that are joined with one another and to existing and proposed public parklands and facilities. The trails will be along natural drainageways, the flood dike system, abandoned rail beds, and existing roadways. Landscaping enhancements of open spaces along the trail corridors will, where feasible, be provided in conjunction with the development of the hike/bike trails.
- (C) A key benefit of the Plan is that City and County parkland, residential, and employment areas will be joined with one another, and with other public uses such as schools, Monroe School Historic Site, the Historic Ritchie House, Cedar Crest, State Historical Museum, the Great Overland Station, and the Expocentre. The trails also integrate and help preserve natural areas such as the Warren Nature Area (east of Felker Park), the Kansas River, and the Shunganunga Creek. (Code 2006; History: Res. 2001-33)

Sec. 29-466. Development Process For Trails And Greenways.

- (A) The Trails and Greenways Plan will be used by the City Council, County Commission, and Metro Planning Commission in their review of all manner of site development proposals and capital improvements programming. This Plan and its trail development guidelines will also assist in the zoning and platting process by helping to direct future land use planning in trail and greenway corridors.
- (B) The Trails and Greenways Plan will be reviewed annually thereafter to ensure that the Plan continues to reflect current City and County policy. Together, the Trails and Greenways Plan and the trail development guidelines will comprise a major part of the Parks and Open Space Element of the Comprehensive Metropolitan Plan, but it will also be used in conjunction with other parts of the Comprehensive Plan and local policy guides (e.g., Transportation Element, Land Use Element) in directing land development in the Topeka-Shawnee County region.

(Code 2006; History: Res. 2001-33)

Sec. 29-467. Land Dedications For Trails and Greenways.

The means for bringing about the proposed Trails and Greenways Plan is dependent upon landowners/developers, the Federal Government, the State of Kansas, Shawnee County, and the City of Topeka. The affected landowners/developers along the proposed trail routes will be encouraged to dedicate a permanent easement or fee simple title for the linkages as depicted on the Trail System Map. The City and County may also use other means to obtain trail right-of-way as needed. The City and County commitments are to prepare the necessary general concept planning and the individual site plans, install the landscaping, build the hike/bike trails, and maintain the trails and landscapes easements once they are completed.

(Code 2006; History: Res. 2001-33)

Sec. 29-468. General Steps For Trails And Greenways Development.

The general steps taken in acquiring, building and maintaining individual segments of the Regional Trail System are as follows:

- (1) Area shown for a trail linkage is identified and incorporated into the site planning for a preliminary plat, preliminary plan, rezoning or special use permit proposal;
- (2) The land identified on a preliminary site plan is dedicated to the City or County as a permanent easement or by fee simple title at the time of final plat or final development plan approval;
- (3) The City and/or County prepares the landscaping plan for the trail and/or greenway area;
- (4) The City and/or County designs and builds all hike/bike trails along the preserved corridor, and makes such improvements as required in accordance with the site's landscaping plans; and
- (5) Once the trail is built, the City or County maintains all trail and landscape easements in the trail/greenway corridor.

(Code 2006; History: Res. 2001-33)

Sec. 29-469. Corporate And Volunteer Involvement In Trail Development.

The partnerships created by corporate and volunteer involvement in trail development can enhance the trail development process by helping to raise funds, organizing volunteer labor and providing grass roots support for projects. As an example, Western Resources Green Team has shown an interest in helping with the Freedom Pathway and Landon Trail developments. As more trail mileage is developed in the region it is hoped that several groups will become interested in trails. This interest in trails may lead to an "Adopt a Trail" program in the region by which interested groups can agree to help local governments with the maintenance of specific trail segments.

(Code 2006; History: Res. 2001-33)

Sec. 29-470. Implementation Strategies.

As discussed earlier, dedication of trail easements by private land developers will be encouraged as one way to develop the regional trails system. Another effective implementation tool is rail banking. As particular rail lines go off-line in the future, the opportunity could arise for the City and/or County to enter into agreements to use the abandoned rail beds. The Landon Trail is a prime example of this. Another implementation strategy would be to develop a policy by which the City and/or County would obtain trail easements at the same time as sewer easements are being secured. Joint easements that are wide enough to accommodate both sewer line installation and trail development may be used in the future. Finally, another strategy is the use of levee land or other public lands for trails. (Code 2006; History: Res. 2001-33)

Sec. 29-471. Special Implementation Issues.

Selected trail corridors using levee land or other public lands will need use agreements between the local government operating the trail (e.g. City of Topeka or Shawnee County) and the landowner/manager (e.g. U.S. Army Corps of Engineers). Intergovernmental agreements may be needed for some trails and greenways. Selected trail segments using land controlled by railroads, crossing railroad rights-of-ways and/or near railroad traffic will also need to be developed in a coordinated fashion with railroad officials. Likewise, trail segments within or crossing highway rights-of-ways will have to be developed in coordination with Kansas Department of Transportation (KDOT) and/or other highway officials. (Code 2006; History: Res. 2001-33)

Sec. 29-472. School/Trail Connections.

Special consideration needs to be given to the location of trails in relation to schools in the region. Trails located in close proximity to schools provide an alternative transportation option by which children can safely bike or walk to school. Trail connections to schools also help reduce the number of car trips taken each day to transport children to and from school. All school/trail connections (e.g. crosswalks, etc.) should be designed for safety first, be intuitive for children to use properly, and be easy to use. Special care needs to be taken to design trails near schools so that these trails can be used to encourage children to learn safe cycling practices and trail etiquette. Additional signage to inform children of these trail use rules may be appropriate in school vicinities. Trail segments near schools may be used in the future for bicycle safety and trail use education activities.

(Code 2006; History: Res. 2001-33)

Sec. 29-473. Trail Development Guidelines And Standards.

(A) Regional Trail System Map. The Trail System Map is a graphic display of the overall layout, individual locations, and types of designated trail linkages overlaid on a map of the Topeka-Shawnee County region. The map, a copy of which may be found in the office of the County Clerk (200 S.E. 7th Street), depicts the planned regional trails system, and this map sets the policy for trail locations in the region. Amendments to this map may be made without amending the text of this Plan.

(B) Types of Trails.

- (1) Concrete trails do exist in the region, such as the ones that currently make up the Shunga Trail. These existing trails are eight (8) feet wide concrete construction. The new standards require ten (10) feet minimum trail width. These trails are fully accessible and new sections will be designed to meet current Americans with Disabilities Act (ADA) Standards. Expected types of users: walkers, joggers, bicyclists, wheelchair users, and rollerbladers. This type of trail construction shall be used in parts of the region where nearby residential densities are at four (4) dwelling units/acre or higher, where trail use is expected to he heavy, where the operation of graders or other heavy equipment needed for trail maintenance will be difficult, or where engineering factors indicate a need for a concrete surface. Other hard surfaces may also be used if the project engineer approves it.
- (2) Loose material trails are made up of limestone screening, gravel, asphalt milling, fly ash mixtures, and/or other loose materials that are typically spread and compacted on the trail. These trails shall also be ten (10) feet wide. Expected types of users: walkers, joggers, and bicyclists. Grades and access shall meet the ADA standards. This type of trail may be used on levee locations and in locations outside the urban core of the region where nearby residential densities are lower

- than four (4) dwelling units/acre. Surfaces on these trails should be engineered to accommodate road bicycles with thin tires and wheelchairs under most weather conditions. These trails should be designed to be passable by walkers and mountain bike cyclists even in wet weather conditions.
- (3) Equestrian trails are planned to run parallel with selected hike/bike trails in designated areas. These equestrian trails will be constructed with mulch and dirt materials and designed for equestrian clearances. These equestrian trails may share some structures (e.g. bridges, roadway crossings) with nearby hike/bike trails.
- (4) Hiking/walking trails are trails that are primarily designed to accommodate pedestrian traffic but do not meet AASHTO shared use path standards necessary to officially designate them for bicycle use. Enhanced sidewalks may be developed as walking trail corridors in urban areas.
- (5) Shared use pathways are trails that meet the American Association of State Highway and Transportation Officials (AASHTO) standards for pathways designed and built for pedestrian and bicyclist use. These facilities are commonly referred to bike paths.
- (C) Bicycle Facility Standards and Trails. All trails that are noted for bicycle use and shown in this Plan will be designed to meet the design standards set forth in the latest edition of the GUIDE FOR THE DEVELOPMENT OF BICYCLE FACILITIES published by the AASHTO. The Kansas Department of Transportation and local governments use these AASHTO standards for bikeway projects funded by Federal programs. Trails that do not meet these standards will not be officially designed as bicycle use facilities. However, trails that do not meet these AASHTO standards may exist and be designed for pedestrian and/or equestrian use.

(Code 2006; History: Res. 2001-33)

Sec. 29-474. Trail Use Guidelines.

- (A) The shared use of trails, utility corridors, abandoned rail lines, and other suitable routes by hikers, equestrians, bicyclist, and other non-motorized trail users is encouraged to the extent that public safety, environmental impacts, land management and ownership constraints, and user conflicts do not present overriding concerns. Environmental impact and public safety conditions on trails are affected by all trail use modes and are considered manageable situations. Education to reduce user conflict should promote trail ethics of courtesy and environmental responsibility.
- (B) Trail use problems should be resolved through planning and a management process that:
 - (1) Evaluates specific factors relating to safety, environmental impact, management constraints, and user conflicts;
 - (2) Involves the public; and
 - (3) Mitigates adverse conditions or situations
- (C) Use prohibitions should be considered only as last resort when problems are found to be directly related to those uses. (Code 2006; History: Res. 2001-33)

Sec. 29-475. Same; Trail User Involvement In Management Issues.

It is recognized that all forms of trail use result in some amount of trail degradation. Design and maintenance are important to effective trail management. Trail users must be involved in the development and maintenance of trails. Partnerships for trail design, development, and maintenance should be created. Activities that foster those partnerships may include, but are not limited to, the review of trail development plans by local trail interest groups, the creation of an "Adopt-A-Trail Program", and support from various local government applications for discretionary funding for trail development. (Code 2006; History: Res. 2001-33)

Sec. 29-476. Same; Trail Etiquette And Safety.

It is easy to take for granted the clean and beautiful trails. Although no one likes rules, all trail users must follow certain guidelines to ensure the continued maintenance of trails and to exhibit respect for nature and each other. The following guidelines should be followed when using the trails.

(1) In general:

- (a) Obey all trail-use rules posted at trailheads;
- (b) Stay to the right except when passing;
- (c) Pass slower traffic on their left; yield to oncoming traffic when passing;
- (d) Give a clear warning signal when passing; for example, call out, "passing on your left";
- (e) Always look ahead and behind when passing;
- (f) Travel at a reasonable speed;
- (g) Keep pets on a leash and keep pets from depositing urine or feces on or directly adjacent to the trail-riding surface;
- (h) Move off the trail surface when stopped to allow others to pass; and
- (i) Yield to other trail users when entering and crossing the trail.
- (2) Stay on the trail. Respect the property of the landowners adjacent to trail boundaries and the vegetation that grows there.
- (3) Do not litter. Trail users should carry all trash with them if it is brought in, it should be brought out. If users see litter along the way, they should take a moment to pick it up, leaving the trail a nicer place than when they found it.
- (4) Respect wildlife. Do not harass any wild animals or remove any plants from the trail area.

(5) Safety.

- (a) It is the trail user's responsibility to ensure his or her own safety and exercise caution while using trails. This includes knowing the limits of their own abilities and wearing a helmet when bicycling and following the rules specific to the trail they are on.
- (b) By design, trails accommodate a variety of trail users. While this is generally one of the many benefits of trails, it also can lead to occasional conflicts among trail users. Everyone should take responsibility to ensure trail safety by following a few simple trail etiquette guidelines. One of the most basic etiquette rules is, "Wheels yield to heels." Generally, this means that trail

users need to warn other users (to whom they are yielding) of their presence. If, as a bicyclist, a user fails to warn a walker that he or she is about to pass, the walker could step in front causing an accident that could have been prevented. Similarly, it is best to slow down and warn an equestrian when a trail user is about to pass. A horse can be startled by bicyclists making sudden movements or doing something unexpected, so it is important to make verbal contact with the rider and be sure it is safe to pass.

(c) Bicyclists should also realize that trails with a variety of users are not built and operated to be high-speed freeways for cyclists. Moderate bicycle speed and interaction with slower forms of traffic are common on trails. High-speed bicycle movements are more appropriate on bike lanes in arterial roads than on trails that accommodate both wheeled and heeled traffic.

(6) Conflict Resolution.

- (a) Speed and surprise are important factors contributing to perceived trail user conflicts. Frequently, solutions to conflicts that address the differential in speed of trail use modes can be instrumental in resolving conflicts between trail users. Other factors contributing to trail use conflict can include:
 - (i) Overcrowding;
 - (ii) Unrealistic user expectations, such as exclusive use;
 - (iii) Poor trail design and/or maintenance;
 - (iv) Poor signage or no signage;
 - (v) Lack of communication; and
 - (vi) Agency management policies.
- (b) Improved communication among all trail users and with land managers can help resolve many perceived conflicts. Trail users have a responsibility to educate themselves regarding trail etiquette and agency regulations as well as having sensitivity toward the needs and expectations of other trail users. Trail managers should assist the education process through personal contact, signs, informative printed materials, and use of the media.
- (c) Trail managers and users should encourage commercial providers of trailrelated equipment and services to take additional action to educate their customers about responsible, ethical, courteous trail use.
- (d) Those commercial providers already involved in such programs should be recognized and encouraged to continue such policies.

(Code 2006; History: Res. 2001-33)

Sec. 29-477. Planning Process For Trails And Greenways.

- (A) Government agencies and trail users should work together on planning for trails. Every effort should be made by agencies to involve all types of trail users when developing trail master plans or specific trail plans. Trail users need to make the effort to become aware of this planning process. Specific trail planning should evaluate the trail's capability to accommodate various trail use modes and should identify trail management objectives that are appropriate to the trail's condition and potential. Trails should be developed for all trail users through the process of evaluation, public involvement, and mitigation.
- (B) The trail system planning process should strive to create a trail system that has connectivity between different trails and between trails and other transportation facilities.

This connectivity is needed in order for the regional trails system to enhance mobility for the region's residents.

(C) The trails planning process should include design and engineering elements that optimize the recreation experience for trail users, minimize maintenance requirements, eliminate potential obstacles when possible, and provide a network of interconnected trails with sufficient signage to lead users on an enjoyable and informative journey. Trail planning and design should incorporate practices for developing trails that are less vulnerable to damage by specific trail use modes. Trail planning should also incorporate Crime Prevention Through Environmental Design (CPTED) principles and facility designs that incorporate vandal resistant features. These items will help reduce inappropriate behavior in trail corridors and keep maintenance costs low.

(Code 2006; History: Res. 2001-33)

Sec. 29-478. Education And Enforcement Of Trail And Greenway Rules.

- (A) Education should be used to assist in resolving user conflicts by helping trail users and land managers better understand each other. Education can reduce environmental impacts by stressing the importance of proper use and care of the trail to avoid damage. Finally, education can increase public safety by stressing the use of safety equipment, encouraging proper trip planning and preparation, identifying recommended routes and closed areas, and defining trail ethics.
- (B) Even with comprehensive educational efforts, there are some individuals, regardless of travel mode, who will bind or break rules. Effective rule enforcement and appropriate penalties must supplement even the best educational programs. The City of Topeka Police Department has a bike patrol as part of its service to the citizens of Topeka. Local police officials must be prepared to write tickets to bicyclists and pedestrians who disregard traffic and other rules on the streets, as well as on the trails in the region. (Code 2006; History: Res. 2001-33)

Sec. 29-479. Relationship And Connectivity To Bikeways And Transit Routes.

- (A) In order to create a regional system of facilities that accommodates non-motorized travel and provides the benefits of that travel to our region's residents, the trails and greenways in the region need to be part of a larger regional mobility system. The connections between trails to bike routes and bike lanes is one way in which the mobility system and the regional greenways/linear park system can effectively interact to both increase mobility options for people and provide people with access to greenways and natural/scenic areas in the region. Some of the trails in the region will be designed and built to serve as shared use pathways (bike paths) in the mobility system and those trails should become part of the regional bikeway system as that system develops. Other trails may not meet AASHTO bikeway standards but still be well-built walking paths that can provide greater pedestrian mobility. The trails not built to AASHTO standards should not be designated as bikeways, but they still may have an important role in the regional system of non-motorized transportation facilities. Currently, there are no bike lane-trail connections in the region.
- (B) It is also possible that sometime in the future the Topeka area will have transit services that are compatible with bicycle travel and the connections between trails and transit routes will become locations for intermodal travel. Bike racks have been mounted on the front of buses in some metropolitan areas and bike-bus commutes have been accommodated.
- (C) The main thing to understand is that since the trails in the region will increase the mobility choices for the area's residents, the connections of trails to other transportation facilities needs to be considered both when developing trails and when developing the other

transportation systems. The most likely situation in which the regional trails will first interact in a meaningful way with other transportation facilities is the connection between signed shared roadways (bike routes) on local streets to nearby trails. This will facilitate the use of the trail by people living in adjacent neighborhoods and facilitate non-motorized travel as well as recreation. The location of the bike routes will likely be influenced by the location of the trails, and these different types of facilities will reinforce the utility of each other. It is also likely that as that trail system and bikeway systems develop, the region will have several locations where bike lanes on major collector and arterial roads connect to trails. These connections may also have transit routes running on those streets so the points where all of these forms of transportation come together could potentially become major transfer points for non-motorized and alternative travel modes. All of these existing and potential connections need to be considered when planning and designing any of these facilities. Currently, there are no connections between bikeways, trails, and transit routes. However, there are many locations in the region that have this potential and may have those connections in the future as the trail and bikeway systems in the region develop.

(D) Parts of the trails system will also become part of the bikeway system in the transportation-planning program. In other words, some trails will also be bikeways and vice versa. Both trails and bikeways need to be coordinated with the development of the regional roadway and transit route systems. All of the various transportation facilities and services need to be coordinated on a regional scale and in some instances on a state level too. This can be better accomplished by having all of those transportation facilities and services develop as part of the Comprehensive Metropolitan Plan for our region, and that is why both the trails and bikeways are included in elements of our region's comprehensive plan. A series of studies to address bikeway system planning for our region and bikeway-trail relationships will be undertaken in the near future. This effort will lead to the future adoption of a regional bikeway system plan as part of the regional transportation planning process. (Code 2006; History: Res. 2001-33)

Sec. 29-480. Kansas River Crossings For Trails.

- (A) There are currently three bridges near Downtown Topeka that have pedestrian walkways on one side of the bridge. These are the Sardou Bridge, the Kansas Avenue Bridge and the Topeka Boulevard Bridge. Historically, the Topeka Boulevard Bridge had walkways on both sides and stairway towers that allowed pedestrian traffic to travel from one riverbank to the other, but those towers have now been closed to pedestrian traffic. Pedestrians must now access this bridge at its ends at 2nd Street and Norris Street. This makes it a rather long walk to use this bridge to cross the river on foot. This also makes it difficult to use this bridge to connect trails that run along the levee tops.
- (B) Access and trail connections are similarly cumbersome at the Sardou and Kansas Avenue Bridges. Unfortunately, none of these three bridges are ideal for trail crossings of the Kansas River. However, these are the only facilities that now allow pedestrians to cross the river. The pedestrian sidewalks on these bridges do not meet AASHTO standards for a shared use path (bike path), but some bicycle traffic has been observed using these bridge sidewalks. For the short-term these bridge sidewalks will need to serve as trail connections across the river.
- (C) The Topeka Boulevard Bridge has a limited and foreseeable life span, and it is now in its final stage of useable life. It is anticipated that this bridge, which was originally built in 1933, will need to be replaced within the next twenty years. At the time this is done the new bridge should be designed to include a trail connection across the river. Another idea that has been raised is that a pedestrian/bikeway bridge should be built on the Kansas Avenue alignment to better connect the Great Overland Station and KAW Reserve Trail to Downtown Topeka. If this new bridge for non-motorized traffic were built then it too would

serve as a major river crossing on the trail system. The conversion of the Santa Fe Railroad Bridge to a trail bridge has also been mentioned as a possibility, but to date no formal discussions between the City and the Railroad have taken place.

- (D) There are several options for providing trail river crossings in Topeka, but all of them are quite expensive. In order to minimize cost and the number of structures put in the river, it may be best to place a trail crossing on an existing bridge or new replacement bridge. It may be prudent to do this when the Topeka Boulevard Bridge is replaced. On the other hand, the construction of a separate pedestrian/bikeway bridge that puts foot and pedal traffic closer to the water also has appeal and would connect well to trails and compliment riverfront park development. There is also the option of designing a trail bridge that hangs on the same towers as a highway bridge but is lower and closer to the water. The trail bridge could hang below the highway bridge on the same alignment.
- (E) It is now unclear what specific trail bridges in our region will be built in the future. A new trail bridge as part of replacing the aging Topeka Boulevard Bridge appears to be sensible, but it is not the only option. In the near-term, trail users will have to use existing sidewalks on the existing three bridges near Downtown Topeka to switch from the Shunga, KAW Reserve and Oregon Trails.

(Code 2006; History: Res. 2001-33)

Sec. 29-481. Current Status Of Trail System Development In The Region.

The current inventory of trails in the region consists of a few miles of official trail segments operated and maintained by the region's local governments. Other trail segments have been identified and legally exist as rights-of-way but have not been improved. The list below shows the existing (as of August 31, 2000) trail network in the region and the status of each trail segment:

TRAIL NAME	LOCATION	OWNER/ OPERATOR	SURFACE TYPE	SURFACE WIDTH	LENTH (APPROXIMATE)
Shunga	Fairlawn to Topeka Blvd.	City of Topeka	Concrete	8'	4.5 miles
Shunga	Santa Fe Park to Oakland Billard Park	City of Topeka	Concrete	8'	.9 miles
Lake Shawnee	South end of lake	Shawnee County	Concrete/Loose Material with edging	8-10'	.75 miles
Lake Shawnee	On top of the dam	Shawnee County	Rock	8-10'	.5 miles
Landon	15 th Street to Shunga Creek	City of Topeka	Graded RR bed	10' +	.6 miles

(Code 2006; History: Res. 2001-33)

Sec. 29-482. Short-Term (2001-2006) Development Plan.

The following portrays the short-term recommended development plan for trail system development in the region. This recommended development plan is a guide only and can be modified through the annual adoption of local capital improvement programs, the regional transportation improvement program and other budget documents.

(1) The Shunga Trail.

- (a) Location. Topeka Boulevard (by the Expocentre) east along the north side of the Shunganunga Creek to the Kansas River then back to Oakland Billard Park via the dike system. Currently this trail runs 4.6 miles from Southwest Fairlawn to the Expocentre, and .9 miles from Santa Fe Park to Oakland Billard Park.
- (b) Length. Planned completion length is sixteen (16) miles.
- (c) Design Factors.
 - (i) The next phase of this trail should be constructed in 2001 and consist of a concrete trail from the Expocentre to the Landon Trail. The next phase after that will extend the concrete trail further east to Ripley Park. At that point the trail could change surface type and be constructed with asphalt millings, fly ash or limestone screenings or a combination of these materials. All of the levee system east along the Shunganunga Creek from Ripley Park to the Oakland Billard Park could be paved with this type of material at a considerable cost savings over concrete. This portion of the trail system would likely have less traffic than the portions of the trail closer to Downtown Topeka. The region currently has One Hundred Thirty-nine Thousand Dollars (\$139,000) of City funds in the FY 2000 CIP for the next phase and Topeka received a Transportation Equity Act for the 21st Century (TEA-21) Enhancement award for Four Hundred Sixteen Thousand (\$416,000) in Federal Funds. This funding will construct this trail through a difficult portion of constrained right-of-way just east of the Expocentre. This next eastward extension of the trail will include undercrossings of both Topeka Boulevard and Kansas Avenue.
 - (ii) This trail is also designed to connect to pedestrian facilities, such as the Swygart Street Pedestrian Bridge, which connects Oakland and East Topeka and facilitates student access to Scott Magnet School. This pedestrian bridge is now being designed for replacement and upgrades to pathway standards compatible with its connection to the Shunga Trail. Once that is done this pedestrian bridge (that will probably be relocated to the Market Street alignment) will become part of the regional trails system.
 - (iii) The west end of the Shunga Trail currently ends at Fairlawn Road. The trail could be extended to the west along the Shunga Creek and go under Interstate 470 and under 29th Street. This linkage would open up a number of large subdivisions to the trail system.
 - (iv) Another small extension would be a passage under 29th Street near Randolph and the Brookwood Shopping Center. This linkage will take advantage of the 29th Street crossing of the Shunga Creek. A bridge to replace the three (3) large culverts at this location now has been designed, but funding has not been available to complete this project. This trail undercrossing is planned for construction when the 29th Street Bridge over the creek is built in the foreseeable future.
- (d) Current CIP. There is funding for the Shunga Trail in the 2001-2006 CIP Schedule.
- (2) Lake Shawnee Trail.
 - (a) Location. This trail is located along the perimeter of Lake Shawnee in Shawnee County, Kansas. Currently this trail runs approximately ¾ mile along the south edge of Lake Shawnee. In addition, the top of the dam on the north end of the lake can be used as a pedestrian path to take advantage of the views it offer Lake Shawnee. This portion of the Lake Shawnee Trail is approximately ½ mile.

- (b) Length. Planned completion length is approximately seven and one-half (7 ½) miles.
- (c) Design Factors.
 - (i) The Lake Shawnee Trail takes advantage of the park land surrounding the lake. The trail will run along the perimeter of the lake. It is anticipated that the entire length of this trail will be surfaced with concrete. The easterly portion of this trail could be developed in conjunction with an ongoing sewer project. The Shawnee County Parks & Recreation Department is currently in the process of searching for additional funding to develop more segments of this trail.
 - (ii) Shawnee County Parks & Recreation is pursuing innovative ways to keep cost down for this trail development project. One idea is being investigated is the use of obsolete county road bridges as bridges for the trail at Lake Shawnee. Shawnee County Parks & Recreation is in discussions with Shawnee County Public Works to acquire old road bridges as the Public Works Department replaces them with new bridges. The old road bridges, while no longer functional to carry vehicle traffic, could be converted for use as trail bridges. This is a good idea that will save money and recycles bridges that haven't yet outlived their usefulness.
 - (iii) This trail is expected to have a wide variety of users including bicyclists, walkers, skateboarders, rollerbladers, etc. This trail, in conjunction with the Deer Creek Trail, will provide a major connection between the County and City parts of the regional trail system. This connection will make Lake Shawnee all the more accessible to residents of the City of Topeka.
- (d) Special Issues. The County operated trail at Lake Shawnee will need to connect to the City operated Deer Creek Trail. Therefore, the City and the County will need to coordinate trail designs. This trail will also cross creeks and other drainage channels leading to Lake Shawnee. The design of this trail will likely include bridges and culverts to accommodate drainage across the trail. Some places around the lake also have steep slopes that the trail will need to consider in its design.

(3) The Landon Trail.

- (a) Location. Abandoned Missouri-Pacific Railroad (Mo-Pac) line between Southeast 15th Street and Sanneman Drive (south city limit north of Forbes Field).
- (b) Length. Four and one-half (4 ½) miles in the City of Topeka
- (c) Design Factors.
 - (i) The City of Topeka has executed a lease agreement with the Kansas Horseman Foundation for a long-term lease of this trail right-of-way. Maintenance of the trail has been turned over to the City and improvements will start by the Summer of 2000. Improvements will include: cleaning up trash, construction and repair of bridges over stream crossings, cutting back brush and tree limbs, grading the trail, and adding signage.
 - (ii) This trail will be largely made up of ballast that is existing on the railroad right-of-way. It is the recommendation of City of Topeka Parks & Recreation Staff to develop this trail in the future as a concrete trail. At that time a parallel trail made of mulch and dirt would be established for horses. This trail is missing some bridges that will need to be constructed in the future. There is an existing railroad bridge with some fire damage at the Shunga

Creek on approximately the 20th Street alignment. This bridge will have to be repaired and modified for pedestrian, bicycle, and equestrian traffic. These modifications will include decking and railing.

- (d) Historical/Cultural Context.
 - (i) Alf Landon, a former Kansas Governor and the 1936 Republican presidential candidate, spend over half of his 100 years in Topeka. After losing his bid for the White House, Landon returned to Topeka to build his own white house. The elder statesman entertained every succeeding president through President Reagan on the portico of his beautiful home, which is now a Topeka landmark at 521 Westchester Road.
 - (ii) In addition, Topeka has a strong railroad history. In the mid-1800s, Cyrus K. Holliday, widely regarded as the "father" of Topeka, wrote a charter for a railroad for Topeka while serving in the state senate. Topeka's central location was perfect for a railroad hub. The railroads have been one of Topeka's major industries for over a century. The use of the abandoned MoPac railroad line is significant for Topeka, and should stand as a model for future trail development on abandoned rail lines.
- (e) Current CIP. There is funding for the Landon Trail in the 2001-2006 CIP Schedule.
- (f) Special Issues. This trail is being developed on the former Mo-Pac rail line that was rail banked when it was abandoned. The existing ballast of the rail line is predominantly intact. Trail preparation will include grading and rolling of the rail bed. Portions of this trail may serve as test sites for the development of a trail surface that can utilize a surplus of recycled asphalt that the City of Topeka has in storage.
- (4) The Kaw Reserve Trail.
 - (a) Location. This trail runs along the north side of the Kansas River from Highway 75 east to Highway 24 and Happy Hollow Road.
 - (b) Length. Seven (7) miles.
 - (c) Design Factors. The existing Kansas River Levee maintenance road could easily be converted into a hike and bike trail. The existing surface on the levee is in good shape and some top-dressing of asphalt millings, fly ash, or limestone screenings would enhance the surface. This trail would be the easiest of all the proposed trails to convert to public use due to the condition of the surface, good access and few barriers. There is a section of the trail that would require 600' of fencing to keep people out of a private equipment area. This could be construction with chain link fence. Signage would be needed to establish the trailheads. Trailheads could be located at following points along the trail:
 - (i) West trailhead: Highway 75 at the Sunflower Soccer fields;
 - (ii) Tyler Street;
 - (iii) Quincy Street;
 - (iv) Sardou Avenue; and
 - (v) Highway 24: Near Happy Hollow Road.
 - (d) Historical/Cultural Context. The first White (Caucasian) explorers who arrived in the area of Topeka found the area inhabited by the Kansa or Kaws a tribe of native Americans of Siouan stock whose name meant "People of the South Wind."

In 1846 the Kaws sold their property in the Topeka Region and moved further west. "Floats", half-breed land grants provided by the US Government for the children of White men and Kaw women, were located along the riverbank. In 1854, the first building in the first neighborhood of the City of Topeka was erected on one of the Kaw half-breed floats which was purchased for One Thousand Two Hundred Dollars (\$1,200).

- (e) Current CIP. There is funding for the Kaw Reserve Tract Trail in the 2001-2006 CIP Schedule.
- (f) Special Issues. This trail requires a use agreement between the City of Topeka and the US Army Corps of Engineers. The City staff has contacted the Corps to discuss this project, and an agreement is being drafted. Additionally, the City will need to obtain permission from the Union Pacific and Santa Fe Railroads to cross their tracks along this route and design appropriate railroad crossings for this trail. Also, the City will need to work with Sunflower Soccer and KDOT to arrange for this trail to pass under US Highway 75 and have its western terminus at the soccer complex.

(5) Freedom Pathway.

- (a) Location. This path is located along a low volume railroad corridor beginning at 15th Street by the Monroe School north to the Ritchie House utilizing the Mo-Pac Railroad line. The northern border of this trail is hard to define at this time. It is hoped that the trail can be linked to the Downtown Area. It is understood that the Mo-Pac line will be abandoned from 15th Street to 10th Street allowing for possible development of this portion of the proposed trail. A possible connection into the Downtown Area could be made by this trail crossing from the rail line grade up to the Ritchie House property and through the south end of Downtown to Kansas Avenue. Connections to Kansas Avenue using 10th Street and 6th Street are also possible.
- (b) Length. 15th Street to 10th Street, one-half (½) mile; and 15th Street to 6th Street, one (1) mile.
- (c) Design Factors. The Freedom Pathway Trail serves several important links in the future Topeka trail system. The trail would start at 15th Street just to the east of the Monroe School National Historic Site. This is a continuation of the Landon Trail that runs from 15th Street south. The Freedom Pathway Trail would continue north and link with another significant historic site, the Ritchie House. The trail also serves another important function besides the historical and educational aspect. This trail becomes a link between the Shunga Trail, Landon Trail, and Downtown Topeka. This linkage could serve as a major transportation trail for workers in Downtown Topeka as well as residents in the Monroe Neighborhood. Due to the high volume of users and tourists that could be using this section of trail, it should be constructed of concrete.

(d) Historical/Cultural Context.

(i) Topekans such as John Ritchie battled for the abolition of slavery as Kansas approached statehood in the early 1850s. Following designation of territorial status for Kansas in 1854, the original founders of Topeka agreed that the new town would be a free-state haven. As the town grew, southern sympathizers and proslavery Kansans tried to block people from entering the free-state settlement. James H. Lane, a political activist, conceived a road through Iowa and Nebraska, and south to its terminus in Topeka that would maintain a steady flow of free-staters. The so-called Lane Trail became a

- branch of the Underground Railroad, transporting freed slaves out of the slave-holding states of the South. John Ritchie's house became a meeting place for the free-state faction and a station on the Underground Railroad. Ritchie's home, at 1116 South Madison, is noted as Topeka's oldest house.
- (ii) In 1954, the United States Supreme Court issued a decision overturning the separate but equal doctrine in *Brown v. Board of Education*. That landmark decision began the school integration process in the United States and helped touch off the civil rights movement. The Monroe School, now a National Historic Site, was part of the focus of dispute that led to the groundbreaking decision.
- (e) Current CIP. There is funding for the Freedom Pathway in the 2001-2006 CIP Schedule.
- (f) Special Issues. This trail is dependent on the City successfully negotiating a use agreement or railroad abandonment with the Union Pacific Railroad to secure trail right-of-way in this corridor.

(6) Oregon Trail.

- (a) Location. This trail would start at the Kansas Avenue Bridge and continue west along the south side of the Kansas River as far as the Kansas History Museum.
- (b) Length. Six and one-half (6 ½) miles.
- (c) Design Factors. This trail follows the levee system along the south bank of the Kansas River. It will link up Downtown, MacLennan State Park, Cedar Crest, and the Kansas History Center, as well as giving users access to the edge of the Kansas River. This trail has some major obstacles to overcome: railroad crossings (two [2] or three [3] depending on the trail design), creek channel crossings (bridges), approval from the State of Kansas, one (1) or more private landowners, and the Menninger Foundation. This trail link could prove to be one of the most scenic trails within the whole system. Trailheads could be established at the follow locations:
 - (i) Near the Kansas Avenue Bridge;
 - (ii) MacLennan State Park (park land around the Governor's Mansion);
 - (iii) Historic Limestone Water Works Building; and
 - (iv) State History Museum.
- (d) Historical/Cultural Context. In the mid-1800s, the Oregon Trail was used by settlers traveling to the West Coast. The trail originated at Independence, Missouri and followed the Kaw River Valley through Eastern Kansas. Hunters and trappers first used this trail. In 1835, missionaries to the Oregon Country journeyed over it, and in 1841 pioneers seeking new homes and fertile soil trekked the road. Soon after that came thousands of Forty-Niners in the gold rush days.
- (e) Current CIP. There is funding for the Oregon Trail in the 2001-2006 CIP Schedule.
- (f) Special Issues. The City of Topeka needs use agreements with the US Army Corps of Engineers, the Union Pacific Railroad and the State of Kansas.
- (7) Soldier Creek Trail.

- (a) Location: Soldier Creek Trail would start at Garfield Park and follow Old Soldier Creek through North Topeka under Highway 24, north to Soldier Creek following the creek levee east to the Kansas River.
- (b) Length. Five (5) miles.
- (c) Design Factors.
 - (i) The Soldier Creek Trail takes advantage of the Soldier Creek basin as a corridor through North Topeka. The trail would run along the south side of the creek starting at Garfield Park. Due to part of the trail being developed in the heart of North Topeka, the construction of that section would be similar to the concrete Shunga Trail. This portion of the trail will have a variety of users including bicyclists, walkers, skateboarders, rollerbladers, etc. Once the trail reaches Highway 24, the level of trail construction may change to a loose type of material, such as limestone screening, asphalt millings or fly ash.
 - (ii) The Charles Curtis Greenway is a project being planning to enhance the appearance of North Topeka Boulevard north from the Kansas River. Where the Soldier Creek Trail intersects Northwest Topeka Boulevard, development of the Soldier Creek Trail and the Charles Curtis Greenway will be coordinated.
- (d) Historical/Cultural Context. The history of the area around Soldier Creek is filled with frequent flooding, most notably in 1903 and 1951. After the floods of 1903 and 1908, a levee system was built to protect North Topeka from future floods. However, in 1951 a major flood once again inundated the community, causing tremendous damage. Many homes were razed or left uninhabitable following the flood. In the mid-1950s, the Army Corps of Engineers built a new levee system to protect the area from flooding and reassure property owners. The Historic North Topeka neighborhood is now in the midst of moving forward with implementing a revitalization plan approved in 1999.
- (e) Current CIP. There is funding for the Soldier Creek Trail in the 2001-2006 CIP Schedule.
- (f) Special Issues. The City of Topeka needs agreements with KDOT and the Local Drainage District/Army Corps of Engineers in order to build this trail on levee right-of-way and cross State highways. The City of Topeka is now planning to improve stormwater facilities in the North area, and the design of these facilities is being coordinated with trail development in North Topeka. The discussions about how to coordinate trail and stormwater facility designs are ongoing and are expected to continue through the ongoing cooperation between the City Department of Public Works, Metro Planning, and other agencies.
- (8) Deer Creek Trail.
 - (a) Location. Deer Creek Trail would start at Shunga Trail south of the Billard Airport and follow Deer Creek going south to Dornwood Park and Lake Shawnee.
 - (b) Length. Five (5) miles.
 - (c) Design Factors.
 - (i) The trail would start at the location where Deer Creek drains into the Shunganunga Creek. Deer Creek Trail would link up to Eastborough Park and then follow Deer Creek to 21st Street, through Dornwood Park, Vinewood Park, finally ending at Lake Shawnee.

- (ii) The Deer Creek Trail takes advantage of the Deer Creek Basin as a corridor through East Topeka. The trail would run along the west side of the creek to Dornwood Park. At 21st Street the trail would switch to the east side of the creek to Dornwood Park. The trail would continue south to the Wittenberg Overpass. This would allow the trail to cross under the turnpike. Once the trail has passed the Kansas Turnpike/I-70 the trail would parallel the Turnpike back to Deer Creek; this area has long been known as Vinewood Park. From Vinewood Park the trail would follow Deer Creek south to the Lake Shawnee Dam. In Dornwood Park the trail would take advantage of a bridge in the park to cross over to the east side of Deer Creek and connect to an existing trail system within the park.
- (iii) Due to the location of the trail being developed in the heart of East Topeka, the construction of this section would be similar to the concrete surface of Shunga Trail. This trail will have a wide variety of users including bicyclists, walkers, skateboarders, rollerbladers, etc. This trail is being planning as a major connection between the City and County parts of the regional trail system.
- (d) Current CIP. There is funding for the Deer Creek Trail in the 2001-2006 CIP Schedule.
- (e) Special Issues. This trail needs to cross the Kansas Turnpike and the City will coordinate the trail's design with the Kansas Turnpike Authority. This City operated trail will also need to connect to County operated trails in Lake Shawnee Park so the City and County will need to coordinate trail designs.
- (9) Washburn-Lane Parkway.
 - (a) Location. The Washburn-Lane Parkway would start in the Potwin Square Retail District at 6th Street and advance south via Washburn Avenue and Lane Street to 21st Street.
 - (b) Length. Two (2) miles.
 - (c) Design Factors.
 - (i) A continuous pedestrian greenspace through the length of the parkway will link Willow Park to the Shunga Trail. This parkway links unique districts by means of a pedestrian system: Washburn residential district, medical district, College Hill entertainment district, cultural arts district, and the Potwin Square retail district. The five (5) key elements in the primary principles of the Washburn-Lane Parkway Master Plan are: greenspace, neighborhood traffic controls, historic center, streetscape, and unique districts.
 - (ii) This portion of the trail system will have a wide variety of users including walkers, joggers, skateboarders, rollerbladers, etc. The nature of this corridor will be an enhanced walking environment. This parkway corridor may also include facilities for bicyclists if those facilities can be designed to meet current AASHTO standards. However, unless these facilities can meet AASHTO bikeway standards they will not be officially designated as bicycle facilities and the City should not encourage their use by bicyclists.
 - (iii) Bicyclists are permitted to use public streets in this corridor, including Washburn and Lane Avenues. The feasibility of placing bike lanes on Washburn and Lane Avenues may be studied as part of a future bikeway system planning effort in the region. However, right-of-way along these two avenues is limited, and it may not be possible to place bike lanes on these

roads within the foreseeable future. It may be possible to create parallel bike routes along the Washburn-Lane Corridor, install "share the road" signs in the area, and/or do other things to make bicycling in this corridor more attractive without the installation of bike lanes on Washburn and Lane Avenues.

(d) Current CIP. There is funding for the Washburn-Lane Parkway in the 2001-2006 CIP Schedule.

(Code 2006; History: Res. 2001-33)

Sec. 29-483. Proposed CIP Plan For Trail Development.

(A) Based on approved City of Topeka CIP 2001-2006, the proposed CIP Plan for trail development (as of 8/31/2000), is as follows:

TRAIL	2001	2002	2003	2004	2005	2006	TOTAL
Shunga	100,000	25,000	25,000	0	0	0	150,000
Kaw	50,000	0	0	0	0	0	50,000
Landon	100,000	50,000	0	0	0	0	150,000
Freedom	0	25,000	0	0	0	0	25,000
Oregon	0	0	25,000	0	0	0	25,000
Soldier	0	0	50,000	0	0	0	50,000
Deer	0	0	50,000	0	0	0	50,000
Washburn/ Lane	0	100,000	100,000	0	0	100,000	300,000
Unspecified Trails					100,000	100,000	200,000
Total By Year	250,000	200,000	250,000	0	100,000	200,000	1,000,000

(B) All proposed CIP expenditures would have a possible 80% Federal/20% City funding split for construction if TEA-21 Enhancement funds were awarded to each project. Design costs are the responsibility of the local governments. It is unlikely that all of these projects could get Federal funding. Some projects are likely to be wholly City funding and some are likely to be partially Federal funded.

(Code 2006; History: Res. 2001-33)

Sec. 29-484. Trail Phasing Plans.

(A) Shunga Trail phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2001	Construction from the Expocentre east to the Landon Trail	\$555,000	\$416,000 TEA-21 Grant \$139,000 CIP (Awarded)
2002	Construction east to Ripley Park	\$500,000	\$400,000 TEA-21 Grant \$100,000 CIP (Proposed)
2003	Construction improvements on levee in Oakland	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2004	Construction of underpass of 29th Street	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2005	Construction west of Fairlawn	\$200,000	\$175,000 TEA-21 Grant \$25,000 CIP (Proposed)

(B) Landon Trail phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	Bridge modifications	Operational	Donations/operations
2001	Bridge replacement	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2002	Trail improvements between 15 th and 29 th Streets	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2003	Trail improvements between 29th and 47th Streets	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)

(C) Kaw Reserve Trail phasing plan. The Kaw Reserve Trail could be opened to public use in the year 2001 with the understanding that a fence and other improvements are to be made as funding becomes available.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	Signage	\$1,000	Operational
2001	Top-dress levee with fly ash	Operations	Donation
2002	Top-dress levee	Operations	Donation
2003	Develop Highway 75 trailhead	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2004	No development		
2005	Trail development between and	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)

(D) Freedom Pathway Trail phasing plan. The City of Topeka is currently waiting to see if the Union Pacific Railroad is going to abandon this section of Mo-Pac Railroad right-of-way. The Santa Fe Railroad also possesses a number of lines in the same corridor. It is our belief that they may also abandon some lines in this corridor.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	No development		
2001	No development		
2002	Develop trail between 10 th and 15 th Streets	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2003	No development		
2004	No development		
2005	No development		

(E) Oregon Trail phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	No development		
2001	No development		
2002	No development		
2003	Trail development between and	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2004	Trail development between and	\$250,000	\$200,000 TEA-21 Grant \$50,000 CIP (Proposed)
2005	Trail development between and	\$250,000	\$200,000 TEA-21 Grant \$50,000 CIP (Proposed)

(F) Soldier Creek Trail phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	No development		
2001	No development		
2002	Trail development between Garfield Park and N. Topeka Blvd.	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2003	Trail development between N. Topeka Blvd. and Highway 24	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)
2004	No development		
2005	Trail improvements between North Highway 24 and East Highway 24	\$100,000	\$75,000 TEA-21 Grant \$25,000 CIP (Proposed)

(G)Deer Creek Trail phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	No development		
2001	No development		
2002	Development of connection point to Shunga Trail		
2003	No development		
2004	No development		
2005	Development of connection point to Lake Shawnee Trail operated by Shawnee County		

(H) Washburn-Lane Parkway phasing plan.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2000	Pedestrian Lighting	\$190,000	\$190,000 CIP
2001	No development		
2002	Pedestrian Lighting	\$100,000	\$100,000 CIP
2003	Pedestrian Lighting	\$100,000	\$100,000 CIP
2004	No development		
2005	No development		
2006	Pedestrian Lighting	\$100,000	\$100,000 CIP

(I) Shawnee County trail projects.

YEAR	IMPROVEMENTS	FUNDING REQUIREMENTS	FUNDING SOURCES
2001	Develop trail along Deer Creek Interceptor Sewer Line project		
2002	Develop trail along Deer Creek Interceptor Sewer Line project		
2003	Develop trail along Deer Creek Interceptor Sewer Line project		
2004	Develop trail along Deer Creek Interceptor Sewer Line project		
2005	Develop trail along Deer Creek Interceptor Sewer Line project		

(Code 2006; History: Res. 2001-33)

Sec. 29-485. Definitions.

- (A) *Bicycle* means a vehicle upon which a person rides, having two tandem wheels and propelled solely by human power applied to pedals. (A tricycle has three wheels arranged with two parallel wheels with a third wheel usually forward of the parallel wheels.)
- (B) *Bicycle facilities* means a general term denoting improvements and provisions made by public agencies to accommodate or encourage bicycling, including parking and storage facilities, and shared roadways not specifically designated for bicycle use.
- (C) *Bicycle lane* or *Bike lane* means a portion of a roadway which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.
- (D) *Bikeway* is a generic term for any road, street, path, or way which in some manner is specifically designated for bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.
- (E) *Rail-Trail* means a shared use path, either paved or unpaved, built within the right-of-way of an existing or former railroad.
- (F) *Right-of-way* is a general term denoting land, property, or interest therein, usually a strip, acquired for or devoted to transportation purposes.
- (G) *Right of way* means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian.
- (H) *Roadway* means the portion of the highway or street right-of-way used for vehicle travel, including shoulders, but exclusive of sidewalks or paths.
- (I) Shared roadway means a roadway which is open to both bicycle and motor vehicle travel. This may be an existing roadway, street with wide curb lanes, or road with paved shoulders.
- (J) Shared use path (bike path) means a bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way. Shared use paths may also be used by pedestrians, skaters, wheelchair users, joggers, and other non-motorized users.
- (K) *Shoulder* means the portion of the roadway outside the normal travel lanes for motor vehicles. Shoulders may be designated for bicycle travel.
- (L) Signed shared roadway (signed bike route) means a shared roadway which has been designated by signing as a preferred route for bicycle use.
- (M) Traveled way means the portion of the roadway for the movement of vehicles, exclusive of shoulders.
- (N) *Unpaved path* means paths not surfaced with asphalt or concrete. (Code 2006; History: Res. 2001-33)

Sec. 29-486. References.

There is hereby incorporated by reference, as if set out fully herein, Appendix 3 to the "Topeka-Shawnee County Regional Trails and Greenways Plan." Copies of this appendix may be found in the office of the County Clerk (200 S.E. 7th Street). (Code 2006)

ARTICLE XII. SUBDIVISION REGULATIONS

Sec. 29-551. Authority To Adopt Regulations Within Three Miles Of City Of Topeka.

(A) The Board hereby designates that the County Planning Commission shall have the authority to establish subdivision regulations for all or for parts of the unincorporated areas of Shawnee County, Kansas.

(Code 2006; History: Charter Res. 2003-5, §§ 1-4)

Sec. 29-552. Shawnee County Subdivision Regulations.

- (A) The Board hereby adopts the Shawnee County Subdivision Regulations, as such are reflected in Exhibit A (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]), as governing the unincorporated areas of the County of Shawnee, Kansas.
- (B) That any provisions therein which would solely apply to areas within the city limits of any incorporated municipality shall be deemed to be of no force or effect. (Code 2006; History: H.R. Res. 2004-4)

Secs. 29-553 - 29-700. Reserved.

ARTICLE XIII. TRANSPORTATION PLAN

Sec. 29-701. Transportation Plan.

- (A) The Transportation Plan 2015, a copy of which may be found in the office of the County Clerk (200 S.E. 7th Street), identifies the types, locations and extent of existing and projected major transportation routes and networks, including the various modes of land transportation systems throughout the Metropolitan Area, as prepared and recommended by the Metropolitan Planning Commission.
- (B) The Council of the City of Topeka, Kansas and Board of County Commissioners of Shawnee County, Kansas find the Transportation Plan 2015 appropriate and consistent with the goals and objectives, and the same shall be followed and used as a guide in the planning and implementation process with respect to the transportation system improvements, revisions or modifications. (Code 2006; History: Res. 1996-60, §§ 1-2)

(Code 2000, 1115tory, Ites, 1550-00, 33 1-2

Secs. 29-702 - 29-800. Reserved.

ARTICLE XIV. VACATION OF PLATS, STREETS, ALLEYS, PUBLIC EASEMENTS, RESERVATIONS

Sec. 29-801. Vacation Of Plats, Streets, Alleys, Public Easements, Reservations.

- (A) All applications for the vacation of certain plats, streets, alleys, public easements or reservations, or part thereof, for the unincorporated areas of Shawnee County, Kansas shall be filed with the County Planning and Zoning Department. All such applications shall follow the regulations and instructions of said Planning Department.
- (B) The application fee for vacation of certain plats, streets, easements, or reservations fully complying with K.S.A. 58-2613 shall be One Hundred Fifty Dollars (\$150). (Code 2006; Res. 2003-164, §§ 2-3)

ARTICLE XV. ZONING REGULATIONS

Sec. 29-901. Regulations Adopted.

- (A) The Board hereby adopts as the Shawnee County Zoning Regulations the existing Topeka-Shawnee County Zoning Regulations, as such are reflected in Exhibit A (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]), and only such provisions therein as may be applicable in the unincorporated areas of the County of Shawnee, Kansas.
- (B) Any provisions therein which would solely apply to areas within the city limits of any unincorporated municipality shall be deemed to be of no force or effect and that any provisions that may be deemed to conflict with the independent authority and establishment of the County Planning Commission shall likewise be deemed to be of no force or effect.
- (C) This section shall only be effective until such time as the County Planning Commission has the opportunity to review and suggest any appropriate changes, alterations, deletions or additions to such code, and until such time as the Board may review and approve such changes to be adopted as the applicable zoning code.

(Code 2006; History: H.R. Res. 2003-17; amended by H.R. Res. 2006-8, amended by H.R. Res. 2011-1; amended by H.R. 2012-8; amended by H.R. Res. 2013-7)

Secs. 29-902 - 29-950. Reserved.

ARTICLE XVI. BUILDING PERMIT PROCEDURE

Sec. 29-951. Procedure Adopted.

- (A) The Board hereby adopts the Shawnee County Building Permit Procedure, as such is reflected in Exhibit A (a copy of which may be found in the office of the County Clerk [200 S.E. 7th Street]), as governing unincorporated areas of the County of Shawnee, Kansas.
- (B) Any provisions therein which would solely apply to areas within the City limits of any unincorporated municipality shall be deemed to be of no force or effect. (Code 2006; History: H.R. Res. 2002-5; *amended by* H.R. Res. 2006-12, *rescinded by* H.R. Res. 2010-12)

Secs. 29-952 - 29-1000. Reserved.

Sec. 29-1001. Fee Schedule Established.

The Board hereby adopts the following fee schedule for floodplain management services:

- 1. Floodplain Development Permit: \$75.00
- 2. Flood Zone Determination (written determination requested): \$15.00
- 3. Floodplain Variance Request: \$200.00
- 4. The permit fee associated with each application for a Floodplain Development Permit is non-refundable. The permit fee shall be in addition to any fees required pursuant to other applicable county regulations. The permit fee shall be \$500.00 for permit application filed after development has already commenced or been completed. (Code 2010; History: Res. 2010-111)

ARTICLE XVIII.

Secs. 29-1002 - 29-1050. Reserved.

APPENDIX A. CHARTER RESOLUTIONS

Note: The charter resolutions included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each resolution as adopted are on file in the Office of the County Clerk. Date of passage by the governing body of each resolution is shown in parentheses at the end of the text.

CHARTER RESOLUTION 1974-1. PERSONAL PROPERTY TAX COLLECTION

That within the jurisdictional limits of Shawnee County, Kansas, K.S.A. 79-2018 shall be amended to delete the following words: "by persons no longer residents of such county," so that within said jurisdiction and as applicable to said jurisdiction the statute in question shall read as follows:

"The Board of County Commissioners of any county having a population of more than one hundred thousand (100,000) may employ attorneys or other persons to assist the County Counselor in the collection of personal property taxes remaining unpaid from and after the date the same became a judgment. . . . The employment of such attorney or other persons shall be in writing and shall be a contingent fee basis, but in no event shall the fees and charges for said collections exceed the sum of fifty percent (50%) of the amount collected. Any taxes so collected shall be credited ratably to the funds for which said taxes where levied and the cost of collecting shall be apportioned and charged ratably against the funds for which such taxes were collected."

(September 5, 1974)

CHARTER RESOLUTION 1974-3

Repealed (Charter Res. 1977-4)

CHARTER RESOLUTION 1977-4

Charter Resolution 1974-3 dated November 20, 1974 is hereby repealed. (April 26, 1977)

CHARTER RESOLUTION 1977-5

Repealed (Charter Res. 2003-1)

CHARTER RESOLUTION 1977-6. GENERAL OBLIGATION BONDS FOR PARK/RECREATIONAL PURPOSES

Shawnee County, Kansas hereby elects to exempt itself from and make inapplicable to it the provisions of K.S.A. 19-2823 and provide substitute and additional provisions as hereinafter set forth in this resolution. Such reference provision is applicable to Shawnee County but not applicable uniformly to all counties.

Shawnee County, Kansas is herewith authorized to acquire and improve real and personal property for park and recreational purposes and issue and sell its General Obligation Bonds to provide funds to pay the cost of the same. (November 9, 1977)

CHARTER RESOLUTION 1978-4

Repealed (Charter Res. 1982-2)

CHARTER RESOLUTION 1978-5. CORONER SALARY/FEES

That the provisions of K.S.A. 19-1027 and K.S.A. 19-1028 that set the salary and fees for the District and Deputy District Coroners do not apply for Shawnee County and the Third Judicial District.

That the salary and fees for the District and Deputy District Coroners shall be in an amount to be fixed by the Board of County Commissioners of the county comprising such judicial district.

(August 2, 1978)

CHARTER RESOLUTION 1978-16. BOARD OF PARK COMMISSIONERS

That the provisions of K.S.A. 19-2853 through K.S.A. 19-2858 which provides for the establishment of a County Board of Park Commissioners shall not apply to Shawnee County. (November 22, 1978)

CHARTER RESOLUTION 1978-18. LEVY LIMITATION FOR PARKS

That the levy limitation as set out in K.S.A. 79-1947 for the establishment and maintenance of parks as authorized by K.S.A. 19-2803 shall not apply to a levy for said purposes by Shawnee County.

(November 22, 1978)

CHARTER RESOLUTION 1978-19. LEVY LIMITATION FOR LAKES/RECREATIONAL GROUNDS

That the levy limitation as set out in K.S.A. 79-1947 for lakes and recreational grounds as authorized by K.S.A. 19-2803(e) shall not apply to a levy for said purposes by Shawnee County.

(November 22, 1978)

CHARTER RESOLUTION 1979-1. LEVY LIMITATION FOR ROADS/BRIDGES

That the Consolidated Road and Bridge Fund of Shawnee County shall be exempt from the levy limitations provided by K.S.A. 79-5001 through K.S.A. 79-5017. (January 16, 1979)

CHARTER RESOLUTION 1979-2

Repealed (Charter Res. 1979-3)

CHARTER RESOLUTION 1979-3. LEVY LIMITATION FOR APPRAISER'S OFFICE

That the tax levy limitation provided by K.S.A. 79-5001 through 79-5016, and any amendments thereto, shall be inapplicable to the extent of the total costs incurred by Shawnee County in the operation of its Office of Appraiser. (May 11, 1979)

CHARTER RESOLUTION 1979-5, AUDITOR PUBLICATION REQUIREMENTS

That the Shawnee County Auditor shall be exempt from the publication requirements provided by K.S.A. 19-609.

(August 7, 1979)

CHARTER RESOLUTION 1980-1

Repealed (June 11, 1980 meeting of Board)

CHARTER RESOLUTION 1980-2. SHAWNEE COUNTY JUVENILE DETENTION CENTER

The Board, intending to exercise the power vested in Kansas counties pursuant to K.S.A. 19-101(a), (b), (c), (d), (e) and (f), does hereby elect to exempt itself from and make inapplicable to it the provisions of K.S.A. 38-538 and provide substitute and additional

provisions as hereinafter set forth in this resolution. Such referenced statutory provisions are applicable to Shawnee County but not applicable uniformly to all counties.

The Shawnee County Youth Center shall be under the supervision of a director who shall be selected by, and who shall be accountable to, the Shawnee County Director of Corrections.

The Director of the Shawnee County Youth Center shall select such other staff and employees. Such staff and employees shall be under the supervision of said Director of the Shawnee County Youth Center.

The Director of the Shawnee County Youth Center and its staff and employees shall, in cooperation with and under the supervision of the Shawnee County Director of Corrections and the Board of County Commissioners establish program principles for the care and treatment of children committed to the center and shall generally supervise the operation of the center consistent with the juvenile code of this state and good child care principles.

A Shawnee County Youth Center Advisory Board is hereby established. Said Advisory Board shall consist of six (6) citizens of the county appointed and qualified hereinafter set forth. The judges of the County having jurisdiction over the juvenile code of the state shall appoint three (3) members of the board of directors as follows: A person expert in the care and treatment of the illnesses of children, both physical and emotional; a member of the board of education of the city of the first class school system within the County; and a practicing member of the bar of the County. The Board of County Commissioners shall appoint three (3) persons as follows: A person expert in law enforcement within the County; a person expert in business methods, bookkeeping, record keeping and accounting, and a representative or citizen at large. The members of the Advisory Board shall serve terms of three (3) years commencing July 1 of the year of their appointment and ending at the expiration of three (3) years unless terminated by resignation or inability to serve, said inability to be determined by the appointing authority.

It shall be the duty and the responsibility of the Advisory Board to advise and consult with the Shawnee County Director of Corrections, the Shawnee County Community Corrections Advisory Board and the Board of County Commissioners of Shawnee County, Kansas, regarding the long and short range plans for the Shawnee County Youth Center and to develop suggestions and recommendations for the operation of the Shawnee County Youth Center. In carrying out its duties, the Advisory Board shall be authorized to initiate suggestions and recommendations and to forward suggestions and recommendations to the Director of Corrections of Shawnee County, the Shawnee County Community Corrections Advisory Board, and the Board of County Commissioners. It shall also be the duty and responsibility of the Advisory Board to act upon the advice and recommendations and requests of the Board of County Commissioners regarding specific matters of interest to said Board regarding the operation of the Shawnee County Youth Center.

The Shawnee County Youth Center Board of Directors, as constituted on the effective date of the adoption of this resolution, shall become the first Shawnee County Youth Center Advisory Board. The terms of each of the first members of the Advisory Board shall be the balance of term of each as a member of the Shawnee County Youth Center Board of Directors.

(December 10, 1980; Editor's Note: The Shawnee County Youth Center was renamed the Shawnee County Juvenile Detention Center when the new Center opened in March 1998. Section 5 regarding the Youth Center Advisory Board was repealed with the enactment of the Shawnee County Juvenile Corrections Advisory Board (see Chapter 9, Article XVII.)

CHARTER RESOLUTION 1981-2

Repealed (Res. 1981-185)

CHARTER RESOLUTION 1982-1

Repealed (Charter Res. 1983-3)

CHARTER RESOLUTION 1982-2. REPEAL OF JUDICIAL FUND

Charter Resolution 1978-4, establishing a Judicial Fund outside the County General Fund for the purpose of funding the Third Judicial District Court System, is hereby repealed. (January 13, 1982)

CHARTER RESOLUTION 1983-2

Repealed (Charter Res. 1987-2)

CHARTER RESOLUTION 1983-3. LEVY LIMITATIONS

Shawnee County, Kansas, under authority of K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, K.S.A. 79-1946, and amendments thereto.

Shawnee County hereby elects to exempt itself from and make inapplicable to it, the aggregate levy limitations of K.S.A. Chapter 79, Article 50, and amendments thereto.

The Board is hereby authorized and empowered to levy taxes in each year on each dollar of assessed tangible valuation of said County for County purposes in an amount necessary to meet the requirements of its adopted budget. (May 11, 1983)

CHARTER RESOLUTION 1983-4

Repealed (Charter Res. 1987-2)

CHARTER RESOLUTION 1983-5. CIVIL SERVICE BOARD

Repealed (Charter Res. 2003-1)

CHARTER RESOLUTION 1983-6

Repealed (Charter Res. 1983-7)

CHARTER RESOLUTION 1983-7

Repealed (Charter Res. 1984-1)

CHARTER RESOLUTION 1984-1. GENERAL OBLIGATION BONDS AND DEBT LIMITATIONS

The provisions of K.S.A. 19-15,140 and K.S.A. 19-15,141 are hereby reapplied to Shawnee County, Kansas.

Shawnee County Charter Resolution 1983-7 is hereby repealed. (March 1, 1984)

CHARTER RESOLUTION 1986-1. LEVY LIMITATION FOR TRANSIENT GUEST TAX

Shawnee County, Kansas, under authority of K.S.A. 19-101a and K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, K.S.A. 12-1699, and amendments thereto.

(July 11, 1986)

CHARTER RESOLUTION 1987-1. OUTSIDE COUNSEL

Shawnee County, Kansas, under authority of K.S.A. 19-101a and K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, K.S.A. 28-319, and amendments thereto.

(February 27, 1987)

CHARTER RESOLUTION 1987-2. CEREAL MALT BEVERAGES

Shawnee County, Kansas, shall be exempt from the provisions of K.S.A. 41-2702(d) (as amended by § 98, Chapter 182, of the 1987 Session Laws of Kansas), and as may be amended or redesignated from time to time, which prescribes the fee for cereal malt beverage licenses for consumption on the premises within Shawnee County.

Shawnee County, Kansas shall be exempt from the provisions of K.S.A. 41-2702(g) (as amended by § 98, Chapter 182, of the 1987 Session Laws of Kansas), and as may be amended or redesignated from time to time, which prescribes the fee for cereal malt beverage licenses to sell cereal malt beverages in original and unopened containers, and not for consumption on the premises within Shawnee County.

The Board shall by resolution set the fee for cereal malt beverage licenses for consumption on the premises within Shawnee County and the fee for cereal malt beverage licenses to sell cereal malt beverages in original and unopened containers, and not for consumption on the premises within Shawnee County.

Shawnee County Resolution 1983-144 which sets the fee for cereal malt beverage licenses is in effect and shall remain in effect until such time as it may be amended or revised by the Board.

Shawnee County Resolutions 1983-2 and 1983-4, and any previous resolutions pertaining to the above subjects, are hereby repealed. (September 22, 1987)

CHARTER RESOLUTION 1991-1

Repealed (Charter Res. 1993-1)

CHARTER RESOLUTION 1993-1. BOARD MEETINGS

The Board hereby exempts itself from the requirements of K.S.A. 19-209.

The Board may have fewer than two meetings each week when approved in advance by a majority vote of all members of the Board.

This resolution is intended to replace Charter Resolution 1991-1 and upon this resolution becoming effective, then Charter Resolution 1991-1 is repealed. (January 19, 1993)

CHARTER RESOLUTION 1993-2. COUNTY AUDITOR

The Board hereby exempts itself from and makes inapplicable to it, K.S.A. 19-620 *et seq.*, more specifically those provisions which require the appointment of a county auditor and set out the duties of that office.

The statutory duties of the county auditor shall be carried out by the Shawnee County Financial Administrator who shall be appointed by the Board. (July 8, 1993)

CHARTER RESOLUTION 2003-1. CIVIL SERVICE SYSTEM FOR THE SHAWNEE COUNTY SHERIFF'S OFFICE

Repealed (Charter Res. 2003-2)

CHARTER RESOLUTION 2003-2. CIVIL SERVICE SYSTEM FOR THE SHAWNEE COUNTY SHERIFF'S OFFICE

Repealed (Charter Res. 2003-4)

CHARTER RESOLUTION 2003-3. ALCOHOLIC LIQUOR SALES ON SUNDAY AND ON HOLIDAYS

The following is hereby substituted for the provisions of K.S.A. 41-712, as amended:

Sale at retail; hours of sale. No person shall sell at retail any alcoholic liquor: (1) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or (2) before 12:00 noon or after 7:00 p.m. on Sunday.

(July 21, 2003)

CHARTER RESOLUTION 2003-4. CIVIL SERVICE SYSTEM FOR THE SHAWNEE COUNTY SHERIFF'S OFFICE

There is hereby created a civil service system for law enforcement officers employed by the Shawnee County Sheriff's Office pursuant to K.S.A. 19-4303 *et seq.*, subject to the modification contained in paragraph 2, herein.

The Civil Service Board created hereunder shall operate pursuant to K.S.A. 19-4303 *et seq.*, except:

- (a) The Civil Service Board shall have no responsibilities or authority with regard to the hiring of new officers. In accord with same, no reference to hiring or the powers, duties, or responsibilities related to hiring in K.S.A. 19-4303 *et seq.* shall have any force or effect. The hiring process established in the Shawnee County Personnel Rules and Regulations and administered by the County Department of Human Resources shall apply to the hiring of any new officer by the Shawnee County Sheriff's Office; and
- (b) The Civil Service Board shall consist of three (3) members. One (1) member shall be appointed by each Commissioner of Shawnee County from his or her respective commission district to serve during the term of office of the appointing Commissioner; any vacancy on the Civil Service Board shall be filled in the same manner. In accord with same, no reference to the number, appointment, terms, or etc. of the members of the Civil Service Board in K.S.A. 19-4303 *et seq.* shall have any force or effect.

This charter resolution shall supercede Charter Resolution 2003-2. (September 4, 2003)

CHARTER RESOLUTION 2003-5. AUTHORITY TO ADOPT SUBDIVISION REGULATIONS WITHIN THREE MILES OF THE CITY OF TOPEKA

The Board hereby exempts itself from, and makes inapplicable to it, the provisions of the general planning and zoning law as they relate specifically to the subdivision of lands located within three miles of any incorporated city located within the County, more specifically, K.S.A. 12-749, 12-750 and 12-751.

The Board hereby designates that the county planning commission shall have the authority to establish subdivision regulations for all or for parts of the unincorporated areas of Shawnee County, Kansas.

This charter resolution shall apply to all of the unincorporated areas of Shawnee County, and specifically shall include all such land located within a three-mile radius of the city limits of the City of Topeka, Kansas.

Unless otherwise provided by act of the Board, the general zoning and planning law, K.S.A. 12-741 *et seq.* shall continue to apply to all other land located in the unincorporated areas of Shawnee County.

(October 16, 2003)

CHARTER RESOLUTION 2004-1. EXEMPTION FROM K.S.A. 12-741 ET SEQ.

The Board hereby exempts itself from and makes inapplicable to it the provisions of the general planning and zoning law for the state of Kansas, K.S.A. 12-741 *et seq*.

Shawnee County H.R. Res. 2003-14 establishing the Shawnee County Planning Commission and Shawnee County Planning Department shall remain in effect, with the reference to K.S.A. 12-744(a) replaced by a reference to the County's home rule authority.

Shawnee County H.R. Res. 2004-4 adopting Shawnee County Subdivision Regulations shall remain in effect, with the reference to K.S.A. 12-749 replaced by a reference to the County's home rule authority. (June 14, 2004)

CHARTER RESOLUTION 2005-1. EXEMPTION FROM K.S.A. 12-1696 ET SEQ AND K.S.A. 12-16,101 RELATING TO THE LEVY OF A TRANSIENT GUEST TAX

The Board hereby exempts itself from certain provisions of K.S.A. 12-1696 *et seq.* and K.S.A. 12-16, 101.

SECTION 1.0 - DEFINITIONS. As used in this resolution:

- 1.1 "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons.
- 1.2 "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests.
- 1.3 "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days.
- 1.4 "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel, or tourist court located in the unincorporated area of Shawnee County, Kansas.
- 1.5 "Convention and tourism promotion" means: (1) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel; and (2) support of those activities and organizations which encourage increased lodging facility occupancy.

SECTION 2.0 - TRANSIENT GUEST TAX.

- 2.1 The Board of County Commissioners of the County of Shawnee, Kansas hereby exempts itself from certain provisions of the transient guest tax act set forth in K.S.A. 12-1696 *et seq.* and K.S.A. 12-16,101.
- 2.2 Transient guest tax levied; effective date; rate of levy. Beginning on October 1, 2005, a transient guest tax of six percent (6%) shall be levied upon the gross rental receipts derived from or paid by transient guests for lodging or sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court. Such tax shall remain in effect until abolished or modified by the Board of County Commissioners of the County of Shawnee, Kansas.

(Editor's Note: Section 2.2 of Charter Res. 2005-1 was amended by Charter Res. 2012-2)

- 2.2.1 Additional 1% transient guest tax dedicated to improvement of Sunflower Soccer Association Complex. Beginning on January 1, 2013, an additional transient guest tax of one percent (1%) shall be levied upon the gross rental receipts derived from or paid by transient guests for lodging or sleeping accommodations, exclusive of charged for incidental services or facilities, in any hotel, motel or tourist court. The proceeds of this tax shall be dedicated to defraying the bonded indebtedness required to fund infrastructure improvement to the Sunflower Association Complex. Such tax shall continue in effect until the debt service for the bonds has been paid in full. (Editor's Note: Section 2.2.1 was added to Charter Res. 2005-1 pursuant to Charter Res. 2012-2)
- 2.3 Basis of tax. The transient guest tax levied pursuant to this resolution shall be based upon the gross rental receipts collected by any business.
- 2.4 Collection and payment. The tax levied pursuant to this resolution shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly possible or practicable to the average equivalent thereto. Each business collecting the tax levied hereunder shall be responsible for paying over the same to the Kansas State Department of Revenue in the manner prescribed by this resolution, and the Kansas State Department of Revenue shall administer and enforce the collection of such tax.
- 2.5 When tax is due and payable; reporting and recordkeeping requirements. The tax levied and collected pursuant to this resolution shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of November 2005, but any person filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, may, with the approval of the secretary of revenue and upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time such person pays the retailer's sales tax. Each business shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.
- 2.6 Examination and inspection of books and records. The Secretary of Revenue or the Secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.
- 2.7 Failure to pay tax, file return; penalties. If any taxpayer shall fail to pay any tax levied, fail to file a return, fail to supply information necessary to determine the accuracy of the taxpayer's returns, files a false or fraudulent return, or willfully violates regulations of the Secretary of Revenue, then such taxpayer shall be subject to interest and penalties as set out in K.S.A. 12-1698a.
- 2.8 Administration and collection of tax. The administration and collection of said tax shall be by the Secretary of Revenue, as provided in subsection (c) of K.S.A. 12-1698 and herein.

- 2.9 Use of transient guest tax revenues. All transient guest tax revenues credited to the County Treasurer by the State Treasurer shall be deposited in the County general fund and, subject to lawful budget appropriations, may be used for the following purposes:
 - 2.9.1 To contract with any agency, organization or group of firms to promote conventions and tourism within the County;
 - 2.9.2 To provide for the operation, maintenance, expansion or development of County facilities connected with conventions and tourism:
 - 2.9.3 To defray the cost of providing municipal services to convention and tourism functions, including Sheriff, Public Works and Parks and Recreation Department functions:
 - 2.9.4 To create innovative projects and activities promoting conventions and tourism; and
 - 2.9.5 To promote the economic welfare of the County, including the attraction of industry.

SECTION 3.0. In accordance with the provisions of K.S.A. 19-101a(11), a portion of the proceeds of the transient guest tax levied herein shall be used to pay the principal of and interest upon bonds issued by any city located within Shawnee County under the authority of K.S.A. 12-1774, and amendments thereto. Prior to receiving any such payment from the County, a city shall submit a written request for such funds to the County Clerk certifying that it has outstanding bonds issued in accordance with K.S.A. 12-1774 and further stating the purpose and amount of the bonds. Upon receipt of such a request, the Board of County Commissioners shall forward to the requesting city a portion of the proceeds levied herein in an amount determined by the Board.

(July 11, 2005, certain provisions amended or added August 30, 2012)

CHARTER RESOLUTION 2010-1.

Repealed (Charter Res. 2010-2)

CHARTER RESOLUTION 2010-2

Charter Resolution 2010-1 dated August 20, 2010 is hereby repealed. (November 4, 2010)

CHARTER RESOLUTION 2012-1. EXEMPTION FROM K.S.A. 19-2960 RELATING TO THE REZONING OF THE SOUTH TOPEKA ECONOMIC GROWTH CORRIDOR

The Board hereby exempts itself from the provisions of K.S.A. 19-2960(d).

The following is hereby substituted for the provisions of K.S.A. 19-2960(d) as amended (substitute provisions in italics):

(d) Regulations adopted under authority of this act shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than 50% of its assessed valuation by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration, expansion or enlargement of a building or alteration of any land after the effective date of any such zoning resolution. No determination nor rule nor regulation shall be held to apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings thereon for such

purposes so long as such land and buildings erected thereon are used for agricultural purposes and not otherwise. Regulations adopted under authority of this act shall not prevent the alteration, expansion, enlargement, replacement or restoration of a residential dwelling in the South Topeka Economic Growth Area that was in existence on or before January 1, 2013.

No zoning regulations shall apply to the use of land for agricultural purposes nor for the erection or maintenance of agricultural buildings as long as such agricultural buildings are used for agricultural purposes and no other. Dwellings, garages and other similar accessory buildings shall not be considered as agricultural buildings. All buildings, including agricultural buildings, may be regulated as to setback requirements from public roads so as to protect the future use and improvement of such roads. (June 28, 2012)

CHARTER RESOLUTION 2012-2. AMENDING SHAWNEE COUNTY CHARTER RESOLUTION NO. 2005-1, RELATING TO THE LEVY OF A TRANSIENT GUEST TAX.

Amended Paragraph 2.2 of Charter Res. 2005-1. Added Paragraph 2.2.1 to Charter Res. 2005-1

(August 30, 2012)

APPENDIX B. DEPARTMENTAL CONSOLIDATIONS, REORGANIZATIONS, SEPARATIONS AND NAME CHANGES

Departmental Consolidations

CONSOLIDATION OF JAIL WITH DEPARTMENT OF CORRECTIONS

- (A) The Board hereby makes the following findings of fact:
 - (1) That the County Sheriff's Office has traditionally operated the County Jail through the service of deputies who are law enforcement officers;
 - (2) The County Jail has historically experienced a high turnover of deputies who either transfer to law enforcement duties at their first opportunity or who resign.
 - (3) The County Department of Corrections, established in 1980, now encompasses the County's other correctional operations.
- (B) Therefore, the Board hereby determines that the management and operation of the County Jail in its statutory functions and procedures can be more efficiently and effectively exercised by the County Department of Corrections because:
 - (1) The County Jail would be staffed by career correctional employees who have no opportunity to seek transfer to law enforcement duties within the County Sheriff's Office.
 - (2) The County Jail will not cause a manpower drain on the Sheriff's primary law enforcement function but will permit the Sheriff's employees to pursue a law enforcement career.
- (C) The Board hereby declares that effective July 1, 1981, the authority and responsibility for the operations, procedures, and functions performed by the County Jail shall be transferred from the office of the Sheriff of Shawnee County, Kansas to the County Department of Corrections; provided that the agreement contained in paragraph (F) of this section has been duly executed.
- (D) From and after July 1981, the effective date of the transfer operations, procedures, and functions of the County Jail to the County Department of Corrections, each and every person employed by said Department of Corrections to work in the County Jail shall be employed pursuant to personnel policies, rules, and regulations as shall be hereinafter adopted by the Board, provided that the agreement contained in paragraph (F) of this section has been duly executed.
- (E) No persons employed by the County Sheriff who have been assigned to and who are employed in the County Jail on or after July 1, 1981 shall be dismissed from employment by the County, lose rank, or forfeit their status or commissions as Deputy Sheriffs, with all of the rights, benefits, and privileges appertaining thereto, by reason of the transfer aforesaid.
- (F) Pursuant to K.S.A. 75-4403, the County Sheriff and the Director of the County Department of Corrections are hereby authorized to enter into an agreement whereby the County Sheriff, as the sending agency, shall loan to the County Department of Corrections, as the receiving agency, civil service personnel of the office of the County Sheriff, equivalent in number and rank, to the civil service personnel employed by the office of the County Sheriff to work in the County Jail on the effective date of this resolution. This section shall not become effective until such agreement has been duly executed by the County Sheriff and the Board. Such agreement shall become effective upon the assumption by the County

Department of Corrections of the authority and responsibility for the operations, procedures, and functions of the County Jail as set forth in paragraph (C) of this section. Such agreement shall be effective for a period of two (2) years from the effective date of said agreement.

- (G) From July 1, 1981 and thereafter all employment vacancies in the Jail caused by the resignation, termination or transfer of a Sheriff's Office employee shall be filled by the Department of Corrections Director with an employee, of the appropriate classification, of the Department of Corrections.
- (H) From and after July 1, 1981 all civil service employment vacancies in the Sheriff's Office shall be filed by the Sheriff by the transfer of an eligible civil service employee of the Sheriff who has been assigned to duties in the Jail pursuant to paragraph (F) of this section and who consent to such transfer.
- (I) Pursuant to K.S.A. 12-3907, the County Department of Corrections shall be the successor in every way to the powers, duties, and functions now or hereafter granted to or imposed by law upon the office of the County Sheriff as it relates to the operations, procedures, and functions of the County Jail.
- (J) On the effective date of the transfer of the administration and management of the County Jail to the County Department of Corrections, all non-law enforcement equipment located in the County Jail shall be transferred to the custody of the County Department of Corrections.
- (K) The County Sheriff and County Department of Corrections Director are hereby authorized to form a transition team to carry out the expressed intentions of this section. (Code 2006; History: Res. 1981-42)

CONSOLIDATION OF JUVENILE DETENTION FACILITY WITH DEPARTMENT OF CORRECTIONS

- (A) The Board, intending to exercise the power vested in Kansas counties pursuant to K.S.A. 19-101(a), (b), (c), (d), (e) and (f), does hereby elect to exempt itself from and make applicable to it the provisions of K.S.A. 38-538 and provide substitute and additional provisions as hereinafter set forth in this section. Such referenced statutory provisions are applicable to Shawnee County but not applicable uniformly to all counties.
- (B) The Shawnee County Juvenile Detention Center shall be under the supervision of a director who shall be selected by, and who shall be accountable to, the Shawnee County Director of Corrections.
- (C) The Director of the Juvenile Detention Center shall select such other staff and employees. Such staff and employees shall be under the supervision of said Director of the Juvenile Detention Center.
- (D) The Director of the Juvenile Detention Center and its staff and employees shall, in cooperation with and under the supervision of the Shawnee County Director of Corrections and the Board of County Commissioners establish program principles for the care and treatment of children committed to the center and shall generally supervise the operation of the center consistent with the juvenile code of this state and good child care principles. (Code 2006; History: Charter Res. 1980-2, §§ 1-4. Editor's Note: The Shawnee County Youth Center was renamed Shawnee County Juvenile Detention Center when the new center opened in March 1998.)

CONSOLIDATION OF EMERGENCY MANAGEMENT WITH EMERGENCY COMMUNICATIONS

Effective August 16, 1999, Emergency Management and Emergency Communications will consolidate and be known as the County Department of Emergency Communications. (Code 2006; History: Res. 1999-153)

CONSOLIDATION OF THE OPERATIONS, PROCEDURES, AND FUNCTIONS OF THE SHAWNEE COUNTY REFUSE AND RECYCLING DEPARTMENTS

- (A) The Board of County Commissioners of the County of Shawnee, Kansas finds that the operations, procedures, and functions of the Shawnee County Refuse Department and Shawnee County Recycling Department can be more efficiently exercised and provided as a consolidated activity performed by a single department.
- (B) The functions and operations of the office of the Shawnee County Refuse Department and the Shawnee County Recycling Department shall be consolidated and performed under the administrative authority of the Board of County Commissioners as the Shawnee County Solid Waste Department.
- (C) The Shawnee County Solid Waste Department shall be the successor in every way to the powers, duties, and functions now or hereafter granted to or imposed by law upon the Shawnee County Refuse Department and the Shawnee County Recycling Department. The Director of the Shawnee County Refuse Department shall be appointed as the Director of the Shawnee County Solid Waste Department.
- (D) Pursuant to K.S.A. 12-3906, in the event that the consolidation of the Shawnee County Refuse Department and the Shawnee County Recycling Department shall affect functions or services over which an officer or agency of the State of Kansas has constitutional or statutory powers of control, as a precedent to its entry into force, this resolution shall first be submitted to the state officer or agency having such power of control and shall be approved or disapproved by the officer or agency as to all matters within the jurisdiction of the officer or agency.

(Code 2011; History: Res. 2011-54)

CONSOLIDATION OF THE CITY OF TOPEKA PARKS AND RECREATION DEPARTMENT INTO THE SHAWNEE COUNTY PARKS AND RECREATION DEPARTMENT

K.S.A. 12-3901 *et seq.* authorizes the Council of the City of Topeka, Kansas and the Board of County Commissioners of the County of Shawnee, Kansas to more efficiently and effectively serve the needs of their constituents by consolidating the operations, procedures, and functions of any offices or agencies thereof.

The Council of the City of Topeka, Kansas and the Board of County Commissioners of the County of Shawnee, Kansas, have determined that duplication exists in the operations, procedures and functions of the City of Topeka Parks and Recreation Department and the Shawnee County Parks and Recreation Department.

The Council of the City of Topeka, Kansas and the Board of County Commissioners of the County of Shawnee, Kansas, have determined that the operations, procedures and functions of the City of Topeka Parks and Recreation Department and the Shawnee County Parks and Recreation Department can be more efficiently exercised or provided as a consolidated activity performed by the Shawnee County Parks and Recreation Department.

- 1. The Council of the City of Topeka, Kansas and the Board of County Commissioners of the County of Shawnee, Kansas hereby express their intention to consolidate the City of Topeka Parks and Recreation Department into the Shawnee County Parks and Recreation Department, effective January 1, 2012.
- 2. The Agreement shall provide for the form and manner of the consolidation pursuant to K.S.A. 12-3903(a).

(Code 2011; History: Res. 2011-129)

CONSOLIDATION OF HUMAN RESOURCES DEPARTMENT WITH COUNTY COUNSELOR'S OFFICE

(Code 2011; History: Res. 2011-142, repealed by Res. 2013-21.)

CONSOLIDATION OF FACILITIES MANAGEMENT DEPARTMENT WITH PARKS AND RECREATION DEPARTMENT

Effective October 1, 2011, the Director of the Shawnee County Parks and Recreation Department shall supervise and perform the overall facilities management duties for the County. Any County article referring to the duties and responsibilities of the "Facilities Management Department" shall hereafter be construed to mean the Shawnee County Parks and Recreation Department.

(Code 2011; History: Res. 2011-142)

CONSOLIDATION OF PURCHASING DEPARTMENT WITH FINANCIAL ADMINISTRATION DEPARTMENT

Effective January 1, 2012, the Shawnee County Financial Administrator shall supervise and perform the overall purchasing duties for the County. Any County resolution referring to the duties and responsibilities of the "Purchasing Director" or the "Purchasing Department" shall hereafter be construed to mean the Shawnee County Financial Administrator.

(Code 2011; History: Res. 2011-181)

Departmental Reorganizations

REORGANIZATION OF THE SHAWNEE COUNTY HEALTH AGENCY

In order to promote efficiency and economy, the Board of County Commissioners of Shawnee, Kansas hereby reorganizes the Shawnee County Health Agency. An organizational chart can be found in the office of the County Clerk [200 S.E. 7th Street. (Code 2011; History: Res. 2011-72)

REORGANIZATION OF THE REPORTING STRUCTURE OF SHAWNEE COUNTY DEPARTMENTS

In order to promote organizational efficiency and effectiveness, the Board of County Commissioners of Shawnee, Kansas hereby reorganizes the reporting structure of the following Shawnee County Departments effective January 1, 2015.

- (a) The Noxious Weeds Department will report to the Director of Parks and Recreation.
- (b) The Planning Department will report to the Director of Public Works/Solid Waste.
- (c) The Administrative Services Division is hereby established. Betty Greiner is hereby appointed the Director of Administrative Services and will oversee the following:
 - Audit Finance
 - Human Resources
 - Information Technology
 - Facilities Management

(Code 2014; History: Res. 2014-110, amended by Res. 2015-67)

REORGANIZATION/TRANSFER OF SHAWNEE COUNTY PAYROLL FUNCTION AND DUTIES TO THE SHAWNEE COUNTY HUMAN RESOURCES DEPARTMENT

- 1. The auditing functions and duties of Shawnee County payroll shall be performed by the Shawnee County Audit Finance Department including W-2s.
- 2. After the transition to OneSolution is complete, the Shawnee County Human Resources Department will work with Information Technology toward transferring some of the payroll functions currently performed by the Information Technology department to the Human Resources department. Information Technology staff will continue to have access to systems and applications necessary to correct problems and address special case situations.
- 3. The staff, budget, equipment, supplies and all other functions and duties of Shawnee County payroll and benefits administration shall be transferred from the office of the Shawnee County Clerk to the Shawnee County Human Resources Department. All existing payroll records up to the effective date of this transfer shall remain in the County Clerk's Office. All payroll records created after the effective date of this Resolution shall be maintained in the Shawnee County Human Resources Department.
- 4. The Shawnee County Human Resources Director shall become the Plan Administrator for KPERS, Employee Health Insurance, the County's Flexible Benefits Cafeteria Plan and the Kansas Public Employees Deferred Compensation Plan.
- 5. The Board appoints the Shawnee County Human Resources Director as the County's Privacy Officer for Health Insurance Portability and Accountability Act ("HIPAA") compliance purposes.
- The Shawnee County Human Resources Director shall periodically report to the Board, as to any needed changes in the Retirants Health Insurance Program, including information as to the costs thereof.
- 7. The Shawnee County Payroll Committee shall consist of the following members, or their designees:
 - a. Shawnee County Human Resources Director, Chair
 - b. Shawnee County Audit Finance Director
 - c. Shawnee County Counselor
 - d. Shawnee County IT Director
 - e. Shawnee County Payroll Officer
- 8. The functions and duties of the Shawnee County Health Insurance Committee and the Shawnee County Wellness Committee shall be combined into the Shawnee County Health Insurance and Wellness Committee. The Shawnee County Health Insurance and Wellness Committee shall be composed of the following individuals: Financial Administrator, County Counselor, Director of Human Resources, Payroll Officer, one (1) County employee from each Union (Teamsters, AFSCME, Communication Workers of America, and FOP), one (1) employee representing the classified employees, and one (1) employee representing the unclassified employees. The Board of Shawnee County Commissioners shall appoint the classified and unclassified employee each year after receiving a recommendation from the Director

- of Human Resources. Each Union shall notify the Director of Human Resources of its designee prior to September 1 of each year.
- 9. A recommendation regarding other aspects of the County cafeteria plan not related to health insurance shall be the responsibility of a core committee composed of the Director of Human Resources, the County Counselor, and the Financial Administrator. This shall also include recommending to the Board the percentage of coverage to be paid by the County toward cafeteria plan benefits.

(Code 2016; History: Res. 2016-69)

Departmental Separations

SEPARATION OF COMMUNITY CORRECTIONS FROM DEPARTMENT OF CORRECTIONS

- (A) Community Corrections shall be separated and apart from the Shawnee County Department of Corrections.
- (B) Community Corrections shall be known as the Shawnee County Department of Community Corrections.

(Code 2006; History: H.R. Res. 2000-2, §§ 1-2)

SEPARATION OF PURCHASING DIVISION FROM DEPARTMENT OF HUMAN RESOURCES

The Board removes the purchasing duties from the Department of Human Resources and Administrative Services and creates the Department of Purchasing with all the rights and privileges thereto.

(Code 2006; History: Res. 2000-186)

Departmental Name Changes

INFORMATION TECHNOLOGY; NAME CHANGE

The Shawnee County Data Processing Department is renamed the Shawnee County Department of Information Technology and may be informally referred to by the initials "I" """

(Code 2006; History: Res. 1998-115)

EMERGENCY COMMUNICATIONS; NAME CHANGE

The County Department of Emergency Communications is renamed the Shawnee County Consolidated Emergency Communications Center ("CECC"). (Code 2006)

SHAWNEE COUNTY HEALTH AGENCY; NAME CHANGE

The Shawnee County Health Agency is renamed the Shawnee County Health Department.

(Code 2016; History: Res. 2016-53)

APPENDIX C. FRANCHISES

HOME RULE RESOLUTION 1980-6. CABLE TELEVISION FRANCHISE POLICY

Section I. Definitions

- (A) *Person* means any individual, partnership, association, corporation, legal entity or organization of any kind.
- (B) CATV system means a system composed of, without limitation, antenna, cables, wires, fiber optics, lines, wave guides or other conductors, equipment or facilities, designed, constructed or used for the purpose of receiving, amplifying and distributing by coaxial cable audio-visual, television, electronic, electrical or radio signals to persons in the unincorporated area of the County for a fee.
- (C) Franchise means the non-exclusive authorization granted hereunder to use the roads, public ways and dedicated easements of the County to construct, operate, maintain or lease a CATV system and provide CATV service within the unincorporated area of the County.
- (D) *Grantee* means any person to whom a franchise as herein defined is granted by the County under this resolution.
- (E) CATV service means the product provided by the CATV system of a grantee under a franchise.
 - (F) Subscriber means any person receiving CATV service from a grantee.
- (G) Gross annual receipts means all monetary consideration received by a grantee from subscribers in payment for CATV service in a twelve-month period, except amounts collected as sales tax from the subscriber.
- (H) *Transfer* means sale, lease, assignment, consolidation, merger or any other disposition of the franchise or change in the ownership or control of the grantee.
 - (I) Service area means the area described by the map required by § II(B)(2).

Section II. Application For Franchise

- (A) No person shall use the roads, public ways or dedicated easements of the County to install or operate a CATV system, or provide CATV service in the County without a franchise. Any person may apply for a franchise. An independent contractor does not need a franchise to install a CATV system for a grantee. Application for franchise will be received to assist the Board in selecting from among the applicants.
- (B) The application shall be in writing to the County Clerk accompanied by a Two Hundred and Fifty Dollar (\$250.00) non-refundable application fee and should contain the following information:
- (1) The name, address and form of business organization of the applicant. If the applicant is a partnership, the application shall show the name and address of each partner. If the applicant or any of the partners is a corporation, the application shall show the names and addresses of its officers, directors, and stockholders, or any other person holding any security of the applicant; its principal place of business, and parent and subsidiary corporations, if any. In the event a corporation owns more than five percent (5%) of the stock of an applicant corporation, the application shall show for the holding corporation the same information as herein required for the applicant, unless the holding corporation has more than one hundred (100) stockholders, and in such event, applicant shall file only stockholders

owning more than ten percent (10%) of the total stock and the officers and directors of the holding corporation.

- (2) A description of the CATV system proposed to be installed or operated, including sufficient engineering details and minimum specifications to indicate the nature of the proposal or as may be required, and of the CATV service proposed to be furnished by the applicant; the proposed location of components of such CATV system; the manner in which applicant proposed to install or operate the same; the extent to which existing or future poles or other facilities of public utilities will be used for such system; the personnel and qualifications of the working organization proposed for the County; a map specifically showing the delineating of the proposed service area or areas within which applicant proposed to provided CATV service.
- (3) A copy of each agreement the applicant has with any other person relating to the proposed franchise. A statement setting forth all agreements and understandings, whether written, oral or implied, existing between applicant and any person, firm or corporation with respect to the proposed franchise or the proposed CATV operation. If a franchise is granted to a person, firm or corporation posing as a front or as the representation of another person, firm or corporation, and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever.
- (4) A copy of the CATV service agreement proposed for use by the applicant with its subscribers if such an agreement is to be used by the applicant.
- (5) A statement describing applicant, its officers and directors, partners or major stockholders, indicating business experience and other pertinent biographical information, including experience and performance in the CATV system and service field showing any interest in other franchise, the date of such franchises were granted and the status of installation and operation thereof, and the size and character of the operations under the other franchises.
- (6) A separate listing showing all County employees, officials or appointees that have any interest, direct or indirect, in the applicant.
- (7) A detailed statement showing the estimated cost of the system which applicant proposed to install, the amount of working capital necessary to operate the system during the first five (5) year period of the franchise. Include in application a projection of revenue and expenses for the first five (5) years of operation. Provide financial information to show how the foregoing capital requirement will be satisfied, attaching copies of pre-subscription agreements, loans, commitments or other sources and commitments relied upon if funds are not presently available in the corporation.
- (8) The application shall include a declaration by the applicant that the application is true and complete, and that no person not shown in the application has any interest in the application for franchise.
- (9) Applicants shall include in their application a statement setting forth those signals which the applicant would bring into the County, and in addition thereto, information regarding programming, setting forth the channels to be used.
- (10) A statement or schedule of proposed rates and charges to subscribers for installation and service.
- (11) A financial statement prepared by a certified public accountant or a licensed public accountant within the last one hundred and eighty (180) days, showing applicant's financial status and his financial ability to complete the construction and installation of the proposed CATV system. Supplemental material may be submitted along with a year-end financial statement if a current financial statement is not available.

(12) Any person operating a CATV system that has been in service for a period in excess of five (5) years prior to the adoption of this resolution may be granted a franchise for the area presently serviced upon filing application under this paragraph and providing the information hereinbefore described in all paragraphs except § (B)(6). Upon such application and in the event that the Board finds that the service presently provided and to be provided is and will be reasonably and satisfactorily provided by the applicant in the area described, the franchise in accordance with this resolution, shall be authorized.

Section III. Award Of Franchise

The Board shall consider each application, and may request reasonable additional information from the applicant. The Board will then award, on the basis of the applications, a franchise or franchises. The application will become part of the franchise, and any false information contained in the application shall be grounds for revocation of the franchise. Each grantee shall file an unconditional acceptance of the franchise.

Section IV. Rights Conferred By Franchise

The franchise confers on each grantee for twenty (20) years from its effective date, or until terminated, whichever happens first, the non-exclusive right to install and operate a CATV system in the County and to provide CATV service in accordance with this resolution, and for those purposes, to install in, on, over, under, upon, across and along any road, public way or dedicated easement, or any part of the CATV system of the grantee which may be necessary or desirable for operation of the CATV system and providing CATV service. All installations shall be subject to all existing and future resolutions of the County. The franchise does not confer rights other than as provided by this resolution and the franchise or permit granted.

Section V. Installation Of CATV System

The grantee shall begin installation of the CATV system within the time set out in § XXXIII. Installation shall continue with reasonable diligence and shall be performed in a workmanlike manner. The County shall have the right to inspect all work performed hereunder. Grantee's CATV system shall be located so as to cause the minimum of interference with the proper use of roads, the property adjoining the roads, and shall not interfere with any gas, electric or telephone fixture, water line hydrant or main. The grantee at his own cost shall restore any road or utility it disturbs to as good as condition as before the disturbance. If grantee fails to so restore or maintain, the County may do so and grantee shall pay the cost or restoration or maintenance, in addition to the other fees herein prescribed.

Section VI. Utilities Underground

Wherever public utilities facilities are underground, the CATV system when subsequently installed in that area, shall be installed underground to a maximum extent that existing technology reasonably permits the grantee to do so.

Section VII. Rights Of Way

The CATV system shall only be installed on property of the grantee, on existing pole facilities covered by utility approval, on property of a subscriber, or on dedicated easements, rights of way, or roads of the County; installation of new poles along the road is forbidden without the prior written consent of the County. The grantee may use such dedicated easements, rights of way or roads of the County.

Section VIII. Electric Code

The installation of the CATV system shall be in accordance with the requirements of the National Electrical Safety Code of the American Insurance Association and all applicable laws, rules, regulations of the State of Kansas.

Section IX. Trees

The grantee may trim trees which infringe upon easements, rights of way, or roads of the County to prevent trees from coming in contact with the CATV system. If the grantee does not, at the request of the County, trim trees which come in contact with the CATV system, the County, at its option, may do such trimming at the expense of grantee.

Section X. Temporary Removal

The grantee shall at its expense, protect, support, temporarily disconnect, relocate or remove any property of the grantee located on roads, rights of way and easements of the County, when required by the Board because of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by the County. If grantee fails to do so, the County may cause the necessary work to be completed and grantee shall pay the County the cost thereof within ten (10) days of receipt of an itemized account of such cost.

Section XI. Relocation Of Property Of Grantee

The grantee, at the request of any person holding a permit issued by the County, shall temporarily remove, raise or lower its wires to permit the moving of buildings or equipment. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the grantee may require such payment in advance. The grantee shall be given not less than five (5) working days of advanced notice to arrange for such temporary wire changes.

Section XII. Service To Subscribers

The grantee shall provide adequate service during all business hours, and have a listed telephone so that messages, complaints and requests for repairs or adjustments may be received at any time without toll charges.

Section XIII. Liability

The grantee shall pay all damages which the County is required to pay as a result of granting a franchise, including, but not limited to, damages arising out of copyright infringement, and damages arising out of the installation, or operation, of grantee's CATV system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. The grantee shall pay all expenses incurred by the County in defending itself with regard to claims for the foregoing damages, including, but not limited to, all out-of-pocket expenses, attorney fees for outside counsel, and the reasonable value of any service rendered by the County Counselor or his assistants, or by any employee of the County.

Section XIV. Indemnification

The grantee shall indemnify the County against any and all loss or liability arising from grantee's actions under the franchise.

Section XV. Insurance

The grantee at its expense shall maintain in effect during the term of the franchise a comprehensive general and automobile liability insurance policy, naming the County and the grantee as insureds, with liability coverage for grantee's premises, operations, automobiles (owned, non-owned and hired), products, completed operations, elevators, independent contractors, broad form contractual liability, and personal injury, in the minimum amounts

of: Five Hundred Thousand Dollars (\$500,000) for personal injury or death of any one person; Five Hundred Thousand Dollars (\$500,000) for person injury or death of two or more persons in any one occurrence; and One Hundred Thousand Dollars (\$100,000) property damage from any one occurrence.

Section XVI. Surety Bond

The grantee at its expense shall maintain in effect during the term of the franchise a corporate surety bond in a company and in a form approved by the County and in an amount to be determined by the County but in no event to exceed Two Hundred Thousand Dollars (\$200,000), conditioned upon the faithful performance of grantee under this resolution and the franchise, and providing that if grantee fails to comply with this resolution, or its franchise, the County can recover up to the full amount of the bond, jointly and severally from the principal and surety of such bond, any damage suffered by the County as a result of such failure to comply, including the cost of removal of the CATV system of the grantee.

Section XVII. Workmen's Compensation

The grantee shall maintain statutory workmen's compensation insurance, including One Hundred Thousand Dollars (\$100,000) coverage for employer's liability coverage.

The insurance and bond required by above sections must be in a form and issued by an insurance company approved by the Board, and originals or certified copies of such insurance policies and bond, along with written evidence of payment of premiums, shall be filed with the County Clerk.

Section XVIII. Fees And Charges

Grantee will file a schedule of the fees and charges it will make upon subscribers with the County Clerk upon issuance of the franchise. Any proposed change must be filed with the County Clerk at least thirty (30) days preceding the proposed effective date of the change. The proposed changes will become effective thirty (30) days after notice of such filing is made to the Board unless the Board shall set the proposed change for hearing for the purposes of determining whether such proposed changes are reasonable. If, after hearing, the Board determines that the proposed changes are not reasonable then the Board must determine what amount in excess of the existing fees and charges is reasonable and authorize the immediate filing of the schedule of fees and charges in said sums with the County Clerk.

Section XIX. Payments To The County

The grantee shall pay to the County, on or before January 31st and July 31st of each year, a franchise fee based on gross annual subscriber revenues received for cable television operations in the County for the preceding six (6) months. The term gross annual subscriber revenues shall mean payments actually received by grantee for sales of all services franchised hereunder, but not including installation and similar charges. The franchise fee shall be three percent (3%) of the gross annual subscriber revenues as defined above for the period covered by the agreement.

Section XX. Inspection Of Records

The County shall have the unqualified right at any time to inspect the grantee's records from which payments to the County are computed and the right of audit and recomputation of any and all amounts paid under § XIX. No acceptance of payment shall be construed as a release or satisfaction of any claim the County may have for further additional sums payable under this resolution or for the performance of any other obligation hereunder.

Section XXI. Prohibited Activities

(A) Any such franchise shall be a privilege to be held in personal trust by the original grantee. It cannot in any event be transferred, sold, leased, assigned or disposed of, in whole

or in part, directly or indirectly, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, without the prior consent of the Board which will not be unreasonably withheld; provided however, for the purposes of this section, transfer by inheritance, a transfer in trust, mortgage or other hypothecation as a whole, to secure an indebtedness to a financial institution, insurance company or other lender, commonly recognized as a source of credit for business shall not require Board approval. An indirect disposition of a franchise will, but not by way of limitation, occur when there is a transfer or other disposition of a substantial interest of five percent (5%) or more in the legal entity to which a franchise has been granted. Any transfer or assignment made without the authorization required herein, renders the franchise null and void from the time of transfer.

- (B) Any transfer or assignment proposed shall be by an instrument in writing, a duly executed copy of which shall be filed in the office of the County Clerk along with written instrument, an application as set forth in § II. The Board must act within thirty (30) days from the time application to transfer the franchise is made to approve or disallow the assignment or transfer. The said consent of the Board may not be arbitrarily refused, provided however, the proposed transferee must show financial responsibility and experience to qualify the said transferee as a qualified operator of the CATV system, and must agree to comply with all the provisions of this resolution.
- (C) No person may make an unauthorized connection with any part of a franchise CATV system within the County for the purpose of receiving television signals, radio signals, pictures, programs, or sound without the authorization or payment to the grantee.
- (D) No person may tamper with, remove or injure cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

Section XXII. Limitations Of Franchise

- (A) Any franchise granted under this resolution shall be non-exclusive.
- (B) No privilege or exemption shall be granted or conferred by any franchise granted under this resolution except those specifically prescribed herein.
- (C) Any privilege claimed under any such franchise by the grantee in any road, public property or dedicated easement shall be subordinate to any lawful occupancy of the roads, public property or dedicated easement.
- (D) The grantee shall have no recourse whatsoever against the County for any loss, cost, expense, or damage arising out of any provision or requirement of this resolution or any franchise issued hereunder or because of its enforcement.

Section XXIII. Renewal Of Franchise

The grantee may renew the franchise for an additional twenty (20) year term, subject to all the provisions of this resolution as amended in the event that the service provided under the franchise has been reasonably and satisfactorily provided by the franchise.

Section XXIV. Amendment By County

The County may amend any provision of this resolution and may adopt the regulation it finds necessary in the exercise of the police power, but such amendments and regulations shall be reasonable and not in conflict with the rights herein granted or with federal or state legislation and regulations.

Section XXV. Amendment By Grantee

The County shall amend any franchise upon the application of the grantee when necessary to enable the grantee to take advantage of any developments in the field of CATV

systems which if in the opinion of the Board will afford grantee an opportunity more effectively, efficiently and economically to serve its customers.

Section XXVI. Termination Of Franchise

Any franchise may be terminated prior to its expiration if the Board finds, after thirty (30) days notice to grantee and a public hearing regarding the proposed termination that:

The grantee has failed to comply with or, by act or omission, has violated any provision of, the franchise or this resolution, except where such failure or violation is a result of circumstances beyond grantee's control.

Grantee has been adjudicated a bankrupt or an insolvent by a court of competent jurisdiction, or has made an assignment for the benefit of creditors.

Section XXVII. Termination Of Franchise

Upon termination or expiration of a franchise, the grantee shall remove all its CATV systems from the roads within a reasonable time after expiration or termination; if the grantee fails to do so, the County shall have the right to remove all the property of the grantee at the grantee's expense. Nothing contained in this resolution shall preclude a grantee, upon the termination of the franchise, from the disposition of its interest therein, by sale or otherwise, within ninety (90) days after termination in accordance with and subject to the provisions of § XXI. This provision may be extended by the County for good cause shown.

Section XXVIII. Additional Filings Required

Copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission, Kansas Corporation Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any manners affecting CATV system and franchise, shall also be submitted simultaneously to the County. The grantee shall file with the County maps or plats of all existing and proposed installations. When not otherwise specified, all matters herein required to be filed with the County, shall be with the County Clerk.

Section XXIX. FCC Rules Prevail

The installation, construction, operation and maintenance of the said CATV system and the conduct of its business shall comply with all current federal, state, county, and city laws, regulations and ordinances applicable thereto, and all laws, ordinances and regulations thereafter passed or adopted. Any provision of this resolution which requires or prohibits the grantee to do or from doing an affirmative act as a condition to qualifying, obtaining, or operating under a franchise granted or to be granted under this resolution which is in conflict with or contrary to a rule or regulation of the Federal Communications Commission (FCC) that specifically prohibits or requires such affirmative act, as the case may be, and/or which cannot be fulfilled or complied with for reasons beyond control of grantee, with the result or consequence that the operation of the system is thereby prevented either because compliance with this resolution is to violate the rules and regulations of the FCC or compliance with the rules and regulations of the FCC is to violate this resolution then such provisions of this resolution shall be suspended and of no force and effect during the period that the rule and regulation of the FCC is in force and effect.

Section XXX. Waiver

Waiver of a breach of the franchise or this resolution is not a waiver of any other similar or different breach. Neither the granting of a franchise or any provision herein shall constitute a waiver or bar to the exercise of any governmental right or power of the County, including without limitation the right of eminent domain, and the right to grant additional franchise hereunder.

Section XXXI. Publication Costs

The grantee shall pay the cost of publication of the franchise resolution upon grantee's acceptance of the franchise.

Section XXXII. Severability

If any section, subsection, sentence, clause or phrase of this resolution is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this resolution shall not abate, reduce or otherwise affect any consideration of other obligation required of the grantee of any franchise granted hereunder.

Section XXXIII. Commencement Of Construction

The grantee must commence construction and the installation of cable within the designated service area as defined within twelve (12) months from the date said franchise is granted or the service area designated. Construction shall be completed and full service shall be made available to all residents within the designated service area within twenty-four (24) months from the date said franchise is granted or the service area designated.

Before the grantee shall expand the service area as defined or add additional service areas within the County, it shall submit to the Board its expansion plans in accordance with § II(B)(2) which shall define the new area to be served. Upon approval by the Board, the construction and installation of cable within the newly proposed service area shall begin within the same times as the initial service area and full service will be made available to all residents within the new service area within the same time frame as required for all other service areas.

In the event grantee fails to commence or complete construction or installation in accordance with this section, the County shall have the right to terminate the franchise for that particular service area, recover damages, including cost of removal of grantee's CATV system, and receive liquidated damages in the sum of Five Thousand Dollars (\$5,000).

Grantee will not be required to make service available to any resident who resides in two (2) or more service areas and such resident has had the opportunity to subscribe to cable services.

(May 28, 1980)

RESOLUTION 1980-140. HURST SYSTEMS, INC. FRANCHISE

Section I.

Upon franchise application made by Hurst Systems, Inc., to this Board in compliance with Home Rule Resolution 1980-6 of this Board there is hereby granted to said Hurst Systems, Inc., its successors, lessees and assigns, pursuant to Home Rule Resolution 1980-6, a franchise to construct, maintain and operate a CATV system in a service area within the unincorporated part of Shawnee County, Kansas, in accordance with the application filed August 22, 1980 and amendments thereto filed September 10, 1980. The service area authorized hereby shall include the areas identified in yellow on the map submitted with the application and designated H-1-A, H-1-B, H-1-C and H-1-D therein. This franchise shall include the right, authority and power to use and occupy the roads, public ways and dedicated easements of the County in the unincorporated areas of Shawnee County, Kansas, both within and without the service area, for the purpose of providing services within the service area authorized hereby and as may be authorized hereafter. This franchise is granted in accordance with Home Rule Resolution 1980-6 and in accordance with § III thereof,

subject to Hurst Systems, Inc., the Grantee, filing with this Board an unconditional acceptance thereof, proof of insurance in accordance with § XV of Home Rule Resolution 1980-6 and a surety bond in accordance with the terms of § XVI of Home Rule Resolution 1980-6.

Section II.

All provisions of this franchise resolution shall be binding upon the Grantee, Hurst Systems, Inc., and all successors, lessees and assigns of the Grantee, whether expressly stated herein or not and all of the rights, authorities, powers, grants and privileges secured by this franchise resolution to the Grantee shall be held to enure to the benefit of the Grantee and all successors, lessees and assigns of the Grantee; provided however, that this franchise may not be assigned without the consent of the County which consent shall not be unreasonably withheld and provided further that the Grantee comply with all of the provisions of Home Rule Resolution 1980-6 in accordance with its terms. (October 16, 1980)

RESOLUTION 80-142. TARACOM, INC. FRANCHISE

Section I.

Upon franchise application made by Taracom, Inc., to this Board in compliance with the provisions of law and Home Rule Resolution 1980-6 of this Board there is hereby granted to said Taracom, Inc., its successors, lessees and assigns, pursuant to Home Rule Resolution 1980-6, a franchise to construct, maintain and operate a CATV system in a service area within the unincorporated part of Shawnee County, Kansas, commonly known as Montara Subdivision and Montara North Subdivision of Shawnee County, Kansas, more specifically described in the franchise application and the maps attached thereto. The said franchise is granted in accordance with Home Rule Resolution 1980-6 and specifically in accordance with § III thereof, subject to Taracom, Inc., the Grantee filing with this Board an unconditional acceptance of the franchise specifically providing that the application filed by Taracom, Inc., will become a part of the franchise and any false information contained therein shall be grounds for revocation of the franchise and further subject to all of the provisions of Home Rule Resolution 1980-6 and the filing of proof of insurance in accordance with § XV of Home Rule Resolution 1980-6 in the amount of Five Thousand Dollars (\$5,000).

Section II.

All provisions of this franchise resolution shall be binding upon the Grantee, Taracom, Inc., and all successors, lessees and assigns of the Grantee, whether expressly stated herein or not and all of the rights, authorities, powers, grants and privileges secured by this franchise resolution to the Grantee shall be held to enure to the benefit of the Grantee and all successors, lessees and assigns of the Grantee; provided however, that this franchise may not be assigned without the consent of the County which consent shall not be unreasonably withheld and provided further that the Grantee comply with all of the provisions of Home Rule Resolution 1980-6 in accordance with its terms. (September 2, 1980)

RESOLUTION 1980-151. HORIZON COMMUNICATIONS CORPORATION D/B/A CABLEVISION OF TOPEKA FRANCHISE

Section I.

Upon the franchise application made for Horizon Communications Corporation of Kansas d/b/a Cablevision of Topeka, to this Board in compliance with Home Rule Resolution 1980-6 of this Board, there is hereby granted to said Horizon Communications Corporation of Kansas d/b/a Cablevision of Topeka, its successors, lessees and assigns, a franchise to

construct, maintain and operate a CATV system in a service area within the unincorporated part of Shawnee County, Kansas, in accordance with the application filed August 26, 1980. The service area authorized hereby shall include the areas identified on the map attached hereto and designated as C-1-A, C-1-B, C-1-C, C-1-D and C-1-E therein. This franchise shall include the right, authority and power to use and occupy the roads, public ways and dedicated easements of the County in the unincorporated areas of Shawnee County, Kansas, both within and without the service area, for the purpose of providing services within the service area authorized hereby and as may be authorized hereafter.

This franchise is granted in accordance with Home Rule Resolution 1980-6 and in accordance with § III thereof, subject to Horizon Communications Corporation of Kansas d/b/a Cablevision of Topeka, the Grantee, filing with this Commission an unconditional acceptance thereof, proof of insurance in accordance with § XV of Home Rule Resolution 1980-6, and a surety bond in accordance with § XVI of Home Rule Resolution 1980-6.

Section II.

All provisions of this franchise resolution shall be binding upon the Grantee, Horizon Communications Corporation of Kansas d/b/a Cablevision of Topeka, and all successors, lessees and assigns of the Grantee, whether expressly stated herein or not and all of the rights, authorities, powers, grants and privileges secured by this franchise resolution to the Grantee shall be held to enure to the benefit of the Grantee; provided however, that this franchise may not be assigned without the consent of the County which consent shall not be unreasonably withheld and provided further that the Grantee comply with all of the provisions of Home Rule Resolution 1980-6 in accordance with its terms. (October 21, 1980)

HOME RULE RESOLUTION 1981-96. CORPORATE BOND

The corporate surety bond to be provided by Horizon Communications of Kansas d/b/a Cablevision of Topeka and Hurst Systems, Inc., pursuant to § XVI of Home Rule Resolution 1980-6, is hereby fixed in the amount of Twenty-five Thousand Dollars (\$25,000). (June 9, 1981)

HOME RULE RESOLUTION 1983-5. CMI CABLE, INC. FRANCHISE

- (A) Franchise Application. CMI Cable, Inc., has made application for the transfer of CMI Cable, Inc., of the cable television franchise previously granted on October 16, 1980 to the Hurst System, Inc., by Resolution 1980-140. Said application is hereby made a part of this franchise and is in compliance with Home Rule Resolution 1980-6. Formal adoption of this resolution was deferred by the Board at a special meeting on October 13, 1982 until such time as the assignment of the Hurst franchise to CMI Cable, Inc., was completed.
- (B) Franchise Grant. A non-exclusive franchise is granted to CMI Cable, Inc., a Kansas corporation, to construct, operate and maintain a cable television system in the unincorporated part of Shawnee County Kansas. Said franchise is granted for the remainder of the twenty (20) year period originally granted to Hurst Systems, Inc., by Resolution 1980-140 on October 16, 1980. Said franchise shall vest all rights, privileges and immunities of the aforesaid cable television system with CMI Cable, Inc. However, said franchise shall be subject to and conditional upon all terms, duties and obligations found in the laws of the state of Kansas, the rules and regulations of the Federal Communications Commission, of Home Rule Resolution 1980-6, and of this resolution. Said franchise may not be transferred or assigned without the prior written approval of the Board. Such Board approval shall not be unreasonably withheld. However, nothing contained herein shall prevent CMI Cable, Inc., from pledging or mortgaging its system or any part hereof as security for monies borrowed. The service areas authorized hereby shall include areas H-1-A, H-1-B, H-1-C and H-1-D previously authorized by Resolution 1980-140 on October 16, 1980 and areas H-2-B and H-2-

C previously authorized by the Board on April 16, 1981. Said service areas are identified for official purposes by a color-coded map on file in the office of the Shawnee County Clerk.

(C) Rights Conferred By Franchise. This resolution confers upon CMI Cable, Inc., the right, authority, power and franchise to establish, construct, acquire, own, operate and maintain a cable television system within this County, and to render, furnish and sell such service to the inhabitants of the County and to use and occupy the streets, roadways, dedicated easements and other public places within the unincorporated limits of Shawnee County as the same now exist or may hereafter exist for its cable television system, including the right to enter and construct, erect, locate, relocate, repair and rebuild, in, on, under, along, over and across the streets, roadways, alleys, to make use of all land dedicated or acquired for public use and locations approved by the County Engineer or the Board, and other public places in the County for all cable television systems equipment and facilities owned, leased, or otherwise used by CMI Cable, Inc., for the furnishing of cable television service within the County during the continuance of the franchise hereby granted.

The poles used for the cable television distribution system shall be those erected and maintained by anyone authorized to maintain poles in the streets or public ways when and where practicable. It is contemplated that reasonable standard pole attachment agreements will be entered into. CMI Cable, Inc., is specifically granted the right to set its own poles with prior written consent of the Board in the event reasonable joint use is not possible or feasible.

The County reserves the right of reasonable regulation of the erection, construction or installation of any facilities for use by the cable television system and to reasonably designate where such facilities are to be placed within the public ways and places.

(D) Installation of Cable System. CMI Cable, Inc., shall commence construction of any cable system facilities authorized by the Board in any particular service area within twelve (12) months from the date said service area is authorized by the Board and shall thereafter accomplish completion of the cable system and offer full service to all residents in said service area within twenty-four (24) months from the date said service area is authorized by the Board.

The installation of the cable system shall be in accordance with the requirements of the National Electric Safety Code of the American Insurance Association, latest edition, all applicable laws, ordinances, rules and regulations of the Federal Communications Commission, and the state of Kansas, and of Shawnee County effecting electrical installation and buildings, now or hereafter in effect.

CMI Cable, Inc., at its own expense and subject to the rights of adjoining property owners, shall have right and authority to trim trees upon and overhanging any public places of the County so as to prevent the branches of such trees from coming into contact with the wires and cables of the system.

CMI Cable, Inc., shall at its expense protect, support, temporarily disconnect, relocate or remove any property of the CMI Cable, Inc., located upon streets, rights-of-way, and easements of the County, when required by the County because of traffic conditions, public safety, street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines and tracks or any other type of structure or improvement by the County. If CMI Cable, Inc., fails to do so, the Board may cause the necessary work to be completed and CMI Cable, Inc., shall pay the County the cost thereof within ten (10) days after the receipt of an itemized account of such cost.

(E) Relocation of Property. CMI Cable, Inc., at the request of any person holding a permit issued by the County, shall temporarily remove, raise or lower its wires or cables to permit the moving of buildings or equipment. The expense of such temporary removal, raising or lowering, shall be paid by the person requesting the same, and CMI Cable, Inc., may require

such payment in advance. CMI Cable, Inc., shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire or cable change.

- (F) Rates and Charges. All rates and charges made by CMI Cable, Inc., for its services shall be fair, reasonable, just and uniform and shall be established as set out in § XVIII of Home Rule Resolution 1980-6.
- CMI Cable, Inc., shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its service under this franchise and to assure a non-interrupted service to each and all of its customers.
- (G) Payment To The County. In consideration of the rights, privileges and franchise hereby granted, and as compensation to the County for the use of its public ways and places by CMI Cable, Inc., and to properly regulate the activities of CMI Cable, Inc., CMI Cable, Inc., shall on or before the last day of January and the last day of July of each year to which this franchise is effective, pay to the County a sum equal to three percent (3%) of the gross subscriber revenues for all cable television service, excluding installation and similar charges, within the then existing boundaries of the County for the preceding six (6) month period ending on the last day of December and the last day of June, respectively. The books of CMI Cable, Inc., shall be open to inspection by the County at all reasonable times to verify the accuracy of computation and correctness of any such payment. CMI Cable, Inc., shall keep books and records pursuant to established practices using generally accepted auditing procedures.
- (H) Indemnification. CMI Cable, Inc., shall hold and save Shawnee County harmless from any and all liability that may arise out of the construction, maintenance, operation or use of CMI Cable, Inc.'s, system and the provision of such services under this franchise. CMI Cable, Inc., shall provide and keep in force, adequate comprehensive liability insurance and automobile liability insurance as required by \ XV of Home Rule Resolution 1980-6 and any amendments thereto, naming the County as an additional insured. CMI Cable, Inc., shall also provide and maintain Worker's Compensation insurance with such limits as required by § XVII of Home Rule Resolution 1980-6 and any amendments thereto. All insurance shall be issued by a company authorized to do business in the state of Kansas and shall be provided before CMI Cable, Inc., its successors or assigns thereof, shall commence any construction or other operations mentioned in this resolution. The County shall notify CMI Cable, Inc., through its representatives or employees located in the County, if any, within ten (10) days after presentation of any demand or claim thereof, whether by suit or otherwise, against the County. CMI Cable, Inc., shall maintain on file with the County at all times a current certificate of insurance. All insurance policies shall, if possible, provide for not less than thirty (30) days notice of cancellation.
- (I) Surety Bond. CMI Cable, Inc., shall maintain at its expense during the term of this franchise, a corporate surety bond in an amount of Twenty-five Thousand Dollars (\$25,000) or in an amount to be determined by the County but in no event to exceed Two Hundred Thousand Dollars (\$200,000). Said bond shall be conditioned upon the faithful performance of CMI Cable, Inc., under this franchise resolution and Home Rule Resolution 1980-6. Said bond shall provide that if CMI Cable, Inc., materially fails to comply with the provisions thereof, and does not cure within the time allotted below, the County may recover up to the full amount of the bond, jointly and severally from the principal and surety of such bond and any damage suffered by the County as a result of such failure to comply.
- (J) Amendment To Franchise. This franchise may be reasonably amended by the Board or by application from CMI Cable, Inc., upon approval of the County. However, the County may not unreasonably withhold such approval.

- (K) Termination of Franchise Prior To Expiration. This franchise may be terminated prior to the expiration of its term if CMI Cable, Inc., has materially failed to comply with this franchise resolution or Home Rule Resolution 80-6 except where such failure is a result of circumstances beyond the control of CMI Cable, Inc. Provided, however, that CMI Cable, Inc., shall receive thirty (30) days written notice of such claim of failure in which to take substantial curative action after which a public hearing regarding the proposed termination may be held.
- (L) Rights and Duties on Expiration or Termination of Franchise. Upon termination or expiration of this franchise, CMI Cable, Inc., shall remove all of its cable television system within a reasonable time after such expiration or termination. If CMI Cable, Inc., fails to do so, the County shall have the right to remove all of said property at CMI Cable, Inc.'s expense. Nothing contained in this resolution shall preclude CMI Cable, Inc., upon the termination of the franchise, from the disposition of its interest therein, by sale or otherwise, within ninety (90) days after termination in accordance with and subject to the provisions of § XXI of Home Rule Resolution 1980-6. This ninety (90) day provision may be extended by the Board for good cause shown.
- (M) Severability. If any section, subsection, sentence, clause or phrase of this resolution is for any reason held illegal, invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The County declares that it would have passed this resolution and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this resolution shall not abate, reduce or otherwise affect the consideration or other obligation required of CMI Cable, Inc., by the franchise granted hereunder.
- (N) Acceptance and Publication. This resolution shall take effect upon execution of CMI Cable, Inc.'s acceptance of the provisions contained herein and upon publication as required by law in the official County newspaper at CMI Cable, Inc.'s expense. (March 31, 1983)

HOME RULE RESOLUTION 1983-6. CONSTRUCTION TIME EXTENSION FOR CMI CABLE, INC.

- (A) By Home Rule Resolution 1983-5, CMI Cable, Inc., has been granted a cable television franchise to operate in six (6) service areas in Shawnee County, including two (2) areas designated as H-2-B and H-2-C.
- (B) By written request date March 23, 1983, and at a public hearing held by the Board on March 31, 1983, CMI Cable, Inc., has requested an extension of time within which to complete the construction of service areas H-2-B and H-2-C and the initiation of cable television service to Shawnee County residents in those two service areas.
- (C) CMI Cable, Inc., is hereby granted until July 1, 1983, to complete service to service area H-2-B and until September 1, 1983, to complete Service area H-2-C. (April 4, 1983)

HOME RULE RESOLUTION 1984-17 Repealed (H.R. Res. 1984-17A)

HOME RULE RESOLUTION 1984-17A. CMI CABLE, INC. RATE INCREASE

Pursuant to the application for rate increase dated October 15, 1984, and filed with the Shawnee County Clerk, CMI Cable, Inc., is hereby authorized, effective April 15, 1985, to increase its basic cable service fee to Twelve Dollars (\$12) and to increase service charges as set out in the schedule filed with the Shawnee County Clerk on October 15, 1984 and attached to the rate increase application for each subscriber located in any service area authorized by Home Rule Resolution 1983-5 and any amendments thereto. (November 27, 1984)

HOME RULE RESOLUTION 1985-2. CMI CABLE, INC. RATE INCREASE

Pursuant to Home Rule Resolution 1984-17A, CMI Cable, Inc., is hereby authorized to increase its basic cable service fees and its service charges to all customers of its North service area and its East service area separately upon completion of the system upgrade in either area. CMI Cable, Inc., shall give the Board written notice of such rate increase at least five (5) calendar days before the effective date thereof. (February 15, 1985)

HOME RULE RESOLUTION 1985-4. CABLEVISION OF TOPEKA SERVICE AREA AMENDMENT

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise Cablevision of Topeka is hereby amended to authorize service to the following service area designated as service area C-1-I on a map filed with the Shawnee County Clerk: Menninger Foundation Subdivision, Lot 1, Block A, Lot 1, Block B, otherwise known as the Menninger Foundation West Campus located at 5800 SW 6th Street, Topeka, Shawnee County, Kansas.

(March 19, 1985)

HOME RULE RESOLUTION 1985-5. CMI CABLE, INC. SERVICE AREA AMENDMENT

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise of CMI Cable, Inc., is hereby amended to authorize service to service areas designated as Phase III, §§ I, II, III, IV and V on a map filed with the Shawnee County Clerk.

(March 19, 1985)

HOME RULE RESOLUTION 1985-8. TARACOM, INC. RATE INCREASE

Pursuant to the application for rate increase filed with the Shawnee County Clerk on March 19, 1985, Taracom, Inc., is hereby authorized, effective May 1, 1985, to increase its basic cable service fee to Twelve Dollars (\$12) and to increase service charges as set out in the schedule attached to the rate increase application and filed with the Shawnee County Clerk on March 19, 1985, for each subscriber located in any service area authorized by Resolution 1980-142 and any amendments thereto. (April 19, 1985)

HOME RULE RESOLUTION 1985-13. CMI CABLE, INC. SERVICE AREA AMENDMENT

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise of CMI Cable, Inc., is hereby amended to authorize service to a service area in the North Valley Farms Subdivision designated as Phase III, § IVA on a map filed with the Shawnee County Clerk.

(July 2, 1985)

HOME RULE RESOLUTION 1985-23. CABLEVISION OF TOPEKA SERVICE AREA CLARIFICATION

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise of Cablevision of Topeka is hereby clarified as to the boundaries of service area C-1-

A as indicated on the plat map attached hereto and is hereby deemed to include the following addresses:

Tutbury Town Road: 2501, 2509, 2521, 2533, 2541, 2506, 2518, 2528, 2538 Gainsboro Road: 2500, 2510, 2520, 2530, 2600, 2610, 2620, 2632, 2718

Gainsboro Circle: 2800, 2826

Southwest 27th Street: 6611

Southwest 25th Street: 6531, 6537, 6541, 6545

(October 4, 1985)

HOME RULE RESOLUTION 1986-7. CMI CABLE, INC. ASSIGNS FRANCHISE TO DOUGLAS CABLE COMMUNICATIONS, INC.

- (A) Consent is hereby granted and made to the assignment by CMI Cable, Inc., of its non-exclusive cable television franchise for certain unincorporated areas of Shawnee County, Kansas, as authorized by Home Rule Resolution 1983-5 dated March 31, 1983, to Douglas Cable Communications, Inc., in the manner and form of the Assignment document attached hereto.
- (B) Douglas Cable Communications, Inc. may grant a security interest or interests in said franchise to its lender or lenders.
- (C) The consent granted by this resolution is conditioned upon the closing of the sale of said cable television system, the execution of the Assignment document attached hereto and the filing of said document with the Shawnee County Clerk and formal acceptance of said franchise by Douglas Cable Communications, Inc. as required by Home Rule Resolution 1980-6.

(October 31, 1986)

HOME RULE RESOLUTION 1987-6. DOUGLAS CABLE COMMUNICATIONS ASSIGNS FRANCHISE TO DOUGLAS CABLE COMMUNICATIONS LIMITED PARTNERSHIP; TARACOM, INC. ASSIGNS FRANCHISE TO DOUGLAS CABLE COMMUNICATIONS LIMITED PARTNERSHIP

- (A) Consent is hereby granted to the assignment by Douglas Cable Communications, Inc. of its nonexclusive cable television franchise, as evidenced by Resolution 1980-140 and amendments thereto, and Home Rule Resolutions 1983-5 and 1986-7, to Douglas Cable Communications Limited Partnership.
- (B) Consent is hereby granted to the purchase by Douglas Cable Communications Limited Partnership of the Taracom, Inc. nonexclusive cable television franchise, as evidenced by Resolution 1980-142 and Home Rule Resolution 1986-6. Said franchise shall hereafter be deemed to be part of the Douglas Cable Communications Limited Partnership franchise hereinabove described. (July 9, 1987)

HOME RULE RESOLUTION 1987-7. HORIZON COMMUNICATIONS CORPORATION D/B/A CABLEVISION OF TOPEKA ASSIGNS FRANCHISE TO TCI OF KANSAS, INC.

Consent is hereby granted to the assignment of Shawnee County cable television franchise 1980-151 to TCI of Kansas, Inc. (July 30, 1987)

HOME RULE RESOLUTION 1987-11. DOUGLAS CABLE COMMUNICATIONS LIMITED PARTNERSHIP SERVICE AREA AMENDMENT

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise of Douglas Cable Communications Limited Partnership is hereby amended to authorize service to service areas designated as Phase III, §§ VI, VII and Phase IV, § I on maps filed with the Shawnee County Clerk.

(November 10, 1987)

HOME RULE RESOLUTION 1988-7. DOUGLAS CABLE COMMUNICATIONS LIMITED PARTNERSHIP SERVICE AREA AMENDMENT

Pursuant to and subject to the terms and conditions of Home Rule Resolution 1980-6, the franchise of Douglas Cable Communications Limited Partnership is hereby amended to authorize service to service areas designated as Phase V, §§ I through VII on maps filed with the Shawnee County Clerk.

(August 25, 1988)

HOME RULE RESOLUTION 1994-5. A RESOLUTION APPROVING THE CORPORATE REORGANIZATION OF TELE-COMMUNICATIONS, INC., THE PARENT COMPANY OF THE Franchise Holder, And Liberty Media Corporation

Whereas, cable television franchise 1980-151 was assigned to TCI of Kansas, Inc. on July 30, 1987; and

Whereas, TCI of Kansas Inc. ("Grantee") is the duly authorized holder of cable television franchise 1980-151 (as amended to date, the "Franchise") authorizing the operation and maintenance of a cable television system and authorizing Grantee to serve the County of Shawnee, Kansas (the "Grantor") with cable television services; and

Whereas, the ultimate parent company of Grantee is Tele-Communications, Inc. ("TCI"); and

Whereas, Grantee has advised the Grantor that TCI and Liberty Media Corporation are entering into a corporate reorganization and after such reorganization will be subsidiaries of a new parent company, TCI/Liberty Holding Company; and

Whereas, although Grantee believes the above-described transaction does not constitute a change in, transfer of, or acquisition of control of Grantee and therefore may not be a transaction requiring the consent of the Grantor, Grantee nevertheless has informed the Grantor of such pending transaction and has requested that the Grantor consent thereto;

Now, therefore, the Board of County Commissioners of Shawnee County, Kansas, meeting in regular session on this 5th day of April, 1994, and intending to exercise its powers of home rule legislation pursuant to K.S.A. 19-101a, does hereby resolve as follows:

- (A) To the extent that the consent of Grantor is required by the terms of the Franchise and applicable law, the Grantor hereby consents to the business reorganization described in the recitals hereto.
- (B) The consent herein granted does not constitute and shall not be construed to constitute a waiver of any obligations of Grantee under the Franchise.
- (C) The Grantor hereby affirms that the Franchise is validly held in the name of Grantee and is in full force and effect.
- (D) This resolution shall become effective upon publication in the official County newspaper. (April 5, 1994)

HOME RULE RESOLUTION 1995-8. DOUGLAS CABLE COMMUNICATIONS LIMITED PARTNERSHIP ASSIGNS FRANCHISE TO GALAXY TELECOM LIMITED PARTNERSHIP

Consent is hereby granted to the assignment by Douglas Cable Communications Limited Partnership of its nonexclusive cable television franchise obtained pursuant to Resolution 80-140 and amendments thereto, and Home Rule Resolutions 1983-5, 1986-7, and 1987-6, to Galaxy Telecom, Limited Partnership. (August 31, 1995)

RESOLUTION 1995-127. TCI OF KANSAS FRANCHISE EXTENSION

- (A) The term of TCI of Kansas, Inc.'s ("TCIK") franchise in Shawnee County shall be extended for an additional ten (10) years, up to and including October 20, 2010.
- (B) TCIK is authorized but not required to provide cable television service in any unincorporated area in the County, and TCIK will notify the County in writing of any new building projects and will provide maps to identify any and all areas affected by such projects.
- (C) TCIK will increase the franchise fee it pays the County from three percent (3%) to five percent (5%) of TCIK's gross annual subscriber revenues. TCIK shall continue to pay such franchise fee to the County on or before January 31st and July 31st of each year. The County agrees that all amounts paid by TCIK as a franchise fee may be added to the price of cable services and collected from TCIK's subscribers as "external costs," as such term is used in 47 C.F.R. § 76.922. In addition, all amounts paid as franchise fees may be stated separately on subscribers' bills as permitted in 47 C.F.R. § 76.085. The increased franchise fee will be payable by TCIK to the County after:
 - (1) The approval of the County, if required, to the inclusion of the increase on subscribers' bills, including any approval required pursuant to 47 C.F.R. § 76.933; and
 - (2) Notice to TCIK's subscribers of the increase; and
 - (3) The collection of the increase in franchise fees by TCIK from its subscribers.
- (D) The County may establish and regulate technical standards for TCIK's cable television system to the fullest extent permitted by federal law and regulations, and the County may seek such waiver or authorizations as may be required to assert that authority.
- (E) TCIK's cable television system shall, at a minimum, meet the technical standards set forth in 47 C.F.R. § 76.601 *et seq.* ("FCC Rules"), and it shall be operated, maintained and upgraded to satisfy those standards, as they may be amended.
- (F) The County shall have the authority to enforce the FCC Rules related to technical standards, and if the FCC Rules are eliminated and not replaced, the County may continue to enforce the FCC Rules that existed prior to the date of elimination.
- (G) TCIK shall adhere to the consumer protection policies and standards contained in Attachment "A" to this resolution, but not in lieu of any such policies or standards to which TCIK may be subject under applicable law.
- (H) Home Rule Resolution 1980-6 and Resolution 1980-151, and all subsequent resolutions amending either or both of those resolutions, shall remain in full force and effect to the extent they are not in conflict with the provisions of this resolution. (July 13, 1995)

HOME RULE RESOLUTION 1996-3A. GALAXY TELECOM, L.P. ASSIGNS FRANCHISE TO MISSISSIPPI CABLEVISION, INC.

Consent is hereby granted for the assignment by Galaxy Telecom, L.P., to Mississippi Cablevision, Inc., of Galaxy's nonexclusive cable television franchise obtained pursuant to Resolution 1980-140 and amendments thereto, and Home Rule Resolutions 1983-5, 1986-7, 1987-6, and 1995-8.

(June 3, 1996)

HOME RULE RESOLUTION 1998-6. MISSISSIPPI CABLEVISION, INC. ASSIGNS FRANCHISE TO MULTIMEDIA CABLEVISION, INC.; TCI OF KANSAS, INC. ASSIGNS FRANCHISE TO MULTIMEDIA CABLEVISION, INC.

- (A) Consent is hereby granted for the assignment by Mississippi Cablevision, Inc. to Multimedia Cablevision, Inc., of its rights and obligations under the nonexclusive CATV franchise originally granted by Resolution 1980-140 and amended or assigned thereafter pursuant to Home Rule Resolutions 1983-5, 1983-6, 1985-5, 1985-13, 1986-7, 1987-11, 1988-7, 1995-8, and 1996-3A.
- (B) Consent is hereby granted for the assignment by TCI of Kansas, Inc., to Multimedia Cablevision, Inc., of its rights and obligations under the nonexclusive CATV franchise originally granted by Resolution 1980-151 and amended or assigned thereafter pursuant to Home Rule Resolutions 1985-4, 1987-7, 1994-5, and Resolution 1995-127.
- (C) Consent is hereby granted for Multimedia Cablevision, Inc., to assume the rights and obligations of Mississippi Cablevision, Inc., and TCI of Kansas, Inc., under their respective nonexclusive CATV franchises.
- (D) Consent is hereby granted for Multimedia Cablevision, Inc. to transfer the franchises assigned herein or control thereof to any entity controlling, controlled by, or under common control with Multimedia Cablevision, Inc., upon prior written notice to the Board of any such intended transfer to an affiliated entity.
 - (E) This resolution shall take effect upon the following:
 - (1) The closing date contemplated in the April 3, 1998, Asset Exchange Agreement executed by the parties; and
- (2) Upon publication in the official County newspaper. (June 15, 1998)

HOME RULE RESOLUTION 1999-6. MULTIMEDIA CABLEVISION, INC. ASSIGNS FRANCHISE (HORIZON COMMUNICATIONS, INC.) TO COX COMMUNICATIONS, INC.

- (A) Consent is hereby granted for the assignment by Multimedia to Cox, and immediately thereafter from Cox to CoxCom, Inc., of its rights and obligations under the nonexclusive CATV franchises originally granted by Resolution 1980-151 as amended or assigned thereafter.
- (B) Consent is hereby granted for Cox to assume the rights and obligations of Multimedia under the nonexclusive CATV franchises.
- (C) Consent is hereby granted for Cox to transfer the franchises assigned herein or control thereof to any entity controlling, controlled by, or under common control with Cox upon prior written notice to the Board of any such intended transfer to an affiliated entity.
 - (D) This resolution shall take effect upon the following:
 - (1) The closing date contemplated in the July 22, 1999, Asset Exchange Agreement executed by the parties; and

(2) Upon publication in the official County newspaper. (September 9, 1999)

HOME RULE RESOLUTION 1999-10. MULTIMEDIA CABLEVISION, INC. ASSIGNS FRANCHISE (HURST SYSTEMS, INC.) TO COX COMMUNICATIONS, INC.

- (A) Consent is hereby granted for the assignment by Multimedia to Cox, and immediately thereafter from Cox to CoxCom, Inc., of its rights and obligations under the nonexclusive CATV franchises originally granted by Resolution 1980-140 as amended or assigned thereafter.
- (B) Consent is hereby granted for Cox to assume the rights and obligations of Multimedia under the nonexclusive CATV franchises.
- (C) Consent is hereby granted for Cox to transfer the franchises assigned herein or control thereof to any entity controlling, controlled by, or under common control with Cox upon prior written notice to the Board of any such intended transfer to an affiliated entity.
 - (D) This resolution shall take effect upon the following:
 - (1) The closing date contemplated in the July 22, 1999, Asset Exchange Agreement executed by the parties; and
- (2) Upon publication in the official County newspaper. (December 13, 1999; Editor's Note: At the October 16, 2000 meeting of the Board of County Counsissioners, it acknowledged a letter of communication from the Shawnee County Counselor to Cox Communications District Manager. The letter stated that Resolution 1995-127 and amendments thereto are the all-encompassing franchise agreement between Cox Communications and Shawnee County. The Galaxy franchise expires on October 16, 2000 and was acquired by Cox Communications before the said expiration date. Cox Communications' entire franchise is now adequately covered by Resolution 1995-127. The expiration of Galaxy's franchise does not require action by either party. Resolution 1995-127 stands as the only existing franchise agreement and obviates the need for any other resolution.)