EFF. DATE: 10-08-2002

ORDINANCE NO. 1961C

AN ORDINANCE AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PENALTIES FOR VIOLATIONS OF ARTICLE 2, OF CHAPTER 14 OF THE CODE OF THE CITY OF LEAWOOD, 2000, REGARDING LOCAL TRAFFIC REGULATIONS IN THE CITY OF LEAWOOD, KANSAS, AND REPEALING EXISTING SECTION 14-201.

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

SECTION ONE: Chapter 14, Article 2, Section 14-201 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-201. **PENALTIES.** Unless otherwise specified, the penalties for violation of any provision of this Article 2 will be classed in the manner set out in Section 201(d) of the Standard Traffic Ordinance for Kansas Cities, as may be amended and as incorporated by reference by Section 14-101 of this chapter.

(Code 2000)

SECTION TWO: That existing Section 14-201 Of the Code of the City of Leawood is hereby repealed.

SECTION THREE: This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1961C

Publication Fees: $17.29

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1961C--10/8/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

OCTOBER 9, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$17.29

ORDINANCE NO. 1961C

First published in The Legal Record, Tuesday, October 8, 2002.

ORDINANCE NO. 1961C

AN ORDINANCE AMENDING SECTION 14-201 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PENALTIES FOR VIOLATIONS OF ARTICLE 2, OF CHAPTER 14 OF THE CODE OF THE CITY OF LEAWOOD, 2000, REGARDING LOCAL TRAFFIC REGULATIONS IN THE CITY OF LEAWOOD, KANSAS, AND REPEALING EXISTING SECTION 14-201.

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

SECTION ONE: Chapter 14, Article 2, Section 14-201 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-201. **PENALTIES:** Unless otherwise specified, the penalties for violation of any provision of this Article 2 will be classed in the manner set out in Section 201(d) of the Standard Traffic Ordinance for Kansas Cities, as may be amended and as incorporated by reference by Section 14-101 of this chapter.

(Code 2000)

SECTION TWO: That existing Section 14-201 Of the Code of the City of Leawood is hereby repealed.

SECTION THREE: This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

SEAL

Peggy J. Dunn

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EFF. DATE: 10-08-2002

ORDINANCE NO. 1960C

AN ORDINANCE AMENDING SECTIONS 14-101 THROUGH 14-104 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,' 2002 EDITION, WITH CERTAIN AMENDMENTS, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302; REPEALING EXISTING SECTIONS 14-101 THROUGH 14-104; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 1, Section 14-101, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-101. **INCORPORATING "STANDARD TRAFFIC ORDINANCE."** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Leawood, Kansas, that certain standard traffic ordinance known as the 'Standard Traffic Ordinance for Kansas Cities,' Edition of 2002, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped 'Official Copy as incorporated by Ordinance No. 1960C,' with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 14, Article 1, Section 14-102, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-102. **SAME; AMENDMENT.** Section 33 of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this Section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum

limits:

(1) All vehicles 20 miles per hour in any park under the jurisdiction of this city.

(2) All vehicles 20 miles per hour during those hours when students are going to and from school of any day school is in session, upon streets and/or parts of streets abutting school property and adjacent to school crosswalks designated as school zones; provided that appropriate signs are erected giving notice of such speed limits and the times said limits are in force, said times to be determined by the Chief of Police with the consent of the City Council.

(3) All vehicles 25 miles per hour in any residential district and on other streets within the City except where modified by engineering and traffic investigation as provided hereafter in subsection (b) of this Section. The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

(b) The Chief of Police is hereby authorized and empowered to designate maximum speed zones when he or she shall find and determine that such regulation is necessary for safety purposes or to expedite traffic, to the extent any such regulation is not in conflict with any law of the City. The Chief of Police shall, following ratification of his or her designations under this subsection by the Governing Body, place and maintain the necessary traffic control signs and devices.

(c) Whenever the Chief of Police shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare by resolution a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to Council action and K.S.A. 8-1560 and 8-2002. It shall be unlawful for any person to drive a vehicle at a speed in excess of such declared maximum limits.

(Ord.1800C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 14, Article 1, Section 14-103, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-103. **SAME.** Section 68 of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FOUR: Chapter 14, Article 1, Section 14-104, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-104. **SAME.** Section 136 of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted.

(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.

(2) operate such a device on any public tennis court.

(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

NOTICE
Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(c) Any person found guilty of a violation of this section shall be fined $25.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FIVE: That existing Sections 14-101 through 14-104 of the Code of the City of Leawood are hereby repealed.

SECTION SIX: This ordinance shall become take effect and be in force from and after its publication in the official city newspaper.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1960C

Publication Fees: $61.76

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1960C--10/8/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

OCTOBER 9, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$61.76

ORDINANCE NO. 1960C

First published in The Legal Record, Tuesday, October 8, 2002.

ORDINANCE NO. 1960C

AN ORDINANCE AMENDING SECTIONS 14-101 THROUGH 14-104 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,' 2002 EDITION, WITH CERTAIN AMENDMENTS, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302; REPEALING EXISTING SECTIONS 14-101 THROUGH 14-104; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 1, Section 14-101, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-101. **INCORPORATING "STANDARD TRAFFIC ORDINANCE."** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Leawood, Kansas, that certain standard traffic ordinance known as the 'Standard Traffic Ordinance for Kansas Cities,' Edition of 2002, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped 'Official Copy as incorporated by Ordinance No. _____,' with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 14, Article 1, Section 14-102, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

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Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this Section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

(1) All vehicles 20 miles per hour in any park under the jurisdiction of this city.

(2) All vehicles 20 miles per hour during those hours when students are going to and from school of any day school is in session, upon streets and/or parts of streets abutting school property and adjacent to school crosswalks designated as school zones; provided that appropriate signs are erected giving notice of such speed limits and the times said limits are in force, said times to be determined by the Chief of Police with the consent of the City Council.

(3) All vehicles 25 miles per hour in any residential district and on other streets within the City except where modified by engineering and traffic investigation as provided hereafter in subsection (b) of this Section. The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

(b) The Chief of Police is hereby authorized and empowered to designate maximum speed zones when he or she shall find and determine that such regulation is necessary for safety purposes or to expedite traffic, to the extent any such regulation is not in conflict with any law of the City. The Chief of Police shall, following ratification of his or her designations under this subsection by the Governing Body, place and maintain the necessary traffic control signs and devices.

(c) Whenever the Chief of Police shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare by resolution a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to Council action and K.S.A. 8-1560 and 8-2002. It shall be unlawful for any person to drive a vehicle at a speed in excess of such declared maximum limits.

(Ord.1800C; 5-17-99)
(Code 2000)

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Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

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SECTION FOUR: Chapter 14, Article 1, Section 14-104, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-104. **SAME.** Section 136 of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

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(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.

(2) operate such a device on any public tennis court.

(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

> NOTICE
> Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(c) Any person found guilty of a violation of this section shall be fined $25.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FIVE: That existing Sections 14-101 through 14-104 of the Code of the City of Leawood are hereby repealed.

SECTION SIX: This ordinance shall become take effect and be in force from and after its publication in the official city newspaper.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

SEAL

Peggy J. Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

PUBLIC NOTICE

First published in The Legal Record, Tuesday, October 8, 2002.

PUBLIC NOTICE

A joint meeting of the City Councils for the City of Countryside and the City of Mission will be held on the 16th day of October, 2002, at 7:00 p.m., at the Mission City Hall, 6090 Woodson, Mission, Kansas. The purpose of this joint meeting is for the Countryside/Mission, Mission/Countryside Consolidation Task Force to make their Recommendation on the issue of the Countryside/Mission merger. The October meeting of the Countryside City Council will be held on Monday, the 21st day of October, 2002, at 7:00 p.m., at the Trinity Lutheran Church, 5801 West 62nd Street, Countryside, Kansas, at which time the Recommendation of the Countryside/Mission, Mission/Countryside Consolidation Task Force will be deliberated.

Beginning Sunday, October 6, 2002, 95th Street from Meadow Lane to State Line Road AND Lee Boulevard from 93rd Street to 95th Street will be CLOSED to through traffic.

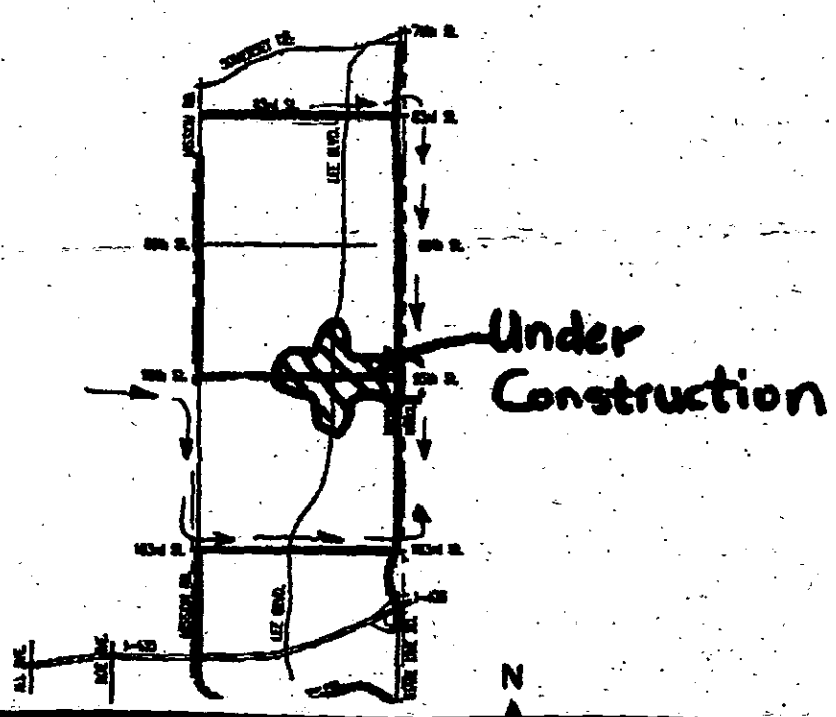
Street repair work includes removing the existing asphalt roadway on 95th Street and constructing a new concrete roadway. The work is anticipated to be completed by October 20, 2002, weather permitting.

Detour Route for 95th Street Closure
for eastbound traffic will be Mission Road to 103rd Street, 103rd Street to State Line Road and State Line Road to 95th Street.

for westbound traffic will be State Line Road to 103rd, 103rd to Mission Road and Mission road to 95th.

Detour Route for Lee Boulevard Closure
for northbound traffic will be 103rd Street to State Line Road, State Line Road to 83rd Street, 83rd to Lee Blvd.

for southbound traffic will be 83rd Street to State Line Road, State Line Road to 103rd, 103rd to Lee Blvd.



NOTICE OF PUBLIC HEARING

First published in The Legal Record, Tuesday, October 8, 2002.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Lenexa Planning Commission will hold a public hearing on the 4th day of November, 2002, at 7:00 p.m. at the City Hall, 12350 West 87th Street Parkway, Lenexa, Kansas.

At said hearing, all interested parties will be heard regarding a request for a Five-Year Special Use Permit extension request, to allow a drinking establishment and outdoor seating area to close at 1:00 AM (outside seating currently permitted until midnight) within the HBD, Planned Historic Business Zoning District, on the following described tract:

> All of Lot 6, except the West five (5) feet and the East five (5) feet, Block 4, in the Original Town of Lenexa, Johnson County, Kansas.

More specifically described as being located at 13412 Santa Fe Trail Drive, Lenexa, Kansas.

All persons interested in said premises and all persons owning property in said neighborhood who desire to be heard, either for or against the above request are invited to appear at the time and place above-mentioned.

This request was filed by John Kelly, agent for Augie Bogina, Owner of Record.

LENEXA PLANNING COMMISSION
Don Oppliger, Chairman

DO: aes
SU 02-09: JERRY'S BAIT SHOP

Publication Date: October 8, 2002
P.C. Meeting Date: November 4, 2002

NOTICE OF ABATEMENT

First Published in The Legal Record on Tuesday, October 8, 2002

CITY OF PRAIRIE VILLAGE, KANSAS

NOTICE OF ABATEMENT

This is official notice that the properties located at:

1. OP75060001 0015 – LOT 15 BLK 1 – THE PALISADES- 7900 WINDSOR
2. OP55000051 0010 – LOT 10 BLK 51- PRAIRIE VILLAGE – 7043 LINDEN
3. OP55000006 0022A – LOTS 22 & 23 BLK 6 – PRAIRIE VILLAGE - 6707 ELMONTE
4. OP55000006 0018A – LOTS 18 & 19 BLK 6 – PRAIRIE VILLAGE – 4317 W. 67TH ST
5. OP55000006 0021 – LOT 21 BLK 6 – PRAIRIE VILLAGE – 6701 ELMONTE

Prairie Village, Kansas have weeds, grasses or other vegetation growth in violation of Prairie Village Municipal Code, Chapter 7.17; WEEDS, GRASSES OR OTHER VEGETATION IN EXCESS OF EIGHT (8) INCHES.

PERSONS OWNING OR OTHERWISE IN CONTROL OF SAID PROPERTIES ARE HEREBY REQUIRED TO ABATE THE VIOLATION WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE. Failure to comply with this notice will result in the City arranging for the abatement of the violation by cutting or otherwise removing the vegetation. Any costs to the City will be assessed against the property owner or persons in control of said property. Failure to pay within 30 days after abatement by the City will result in the filing of a special assessment against the property. No additional notice will be provided before the expiration of this notice. You may request a hearing regarding this case by calling the Prairie Village Codes Department at 913-385-4605.

NOTICE: No further notice to cut the weeds or overgrown vegetation prior to its removal by the City shall be given to you for the remainder of the calendar year.
CITY OF PRAIRIE VILLAGE CODES DEPARTMENT

---

her six siblings, an Aubrianna Day for herself once every two weeks – maybe read her a story, one-on-one, take her somewhere.

Meanwhile, the house that was always spotless before the births is no longer clean all the time. Sondra lets the dishes sit sometimes. Eldon lets the grass grow a bit.

"You have to let some things go," Eldon said. "I didn't need much of an excuse with the mowing."

While there were sorrows in these six months, the couple said there were also joys. Among them: watching Ethan spit up on every volunteer, every time to the point where Sondra wants to make him a sign that says "spit happens."

Seeing six babies smile, one at a time, for the first time, roll over for the

CONTINUED ON NEXT PAGE

EFF. DATE: 10-15-2002

ORDINANCE NO. 1957C

AN ORDINANCE AMENDING SECTIONS 14-301; 14-302; AND 14-304, OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO PARKING REGULATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND REPEALING EXISTING SECTIONS 14-301; 14-302; AND 14-304, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 3, Section 14-301, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. PARKING

14-301. **DEFINITIONS.** For the purpose of this article, the following words shall have the following meaning:

1) **"Driveway".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces upon which vehicles are driven from the street to the garage.

2) **"Pad".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces used to park or store vehicles off of driveways so as not to conflict with the daily use of the driveway.

3) **"Parking".** The placement of a vehicle, trailer or boat on a lot for seven consecutive days or for any portion of each of 14 total days in any 30 day period.

3) **"Passenger Vehicle".** A self-propelled motor vehicle, designed primarily for the transportation of people as opposed to equipment, freight or other vehicles. The following are expressly excluded from the definition:

   a. Vehicles that have had external modifications to the structure or body, including aerial buckets or platforms (e.g. "cherry pickers"), welding equipment and mechanical lifts or arms designed to assist in loading and unloading freight, but not including cosmetic changes or common vehicle accessories;

   b. Pickup trucks that do not have the traditional pickup bed and side walls, and vans that have an expanded cargo area that is taller or wider than a passenger van, including step vans, box vans, flatbed trucks, buses, semi-tractors and trailers;

   c. Recreational vehicles, trailers, cement mixers, construction equipment, and any vehicle with dual rear axles.

5) **"Recreational Vehicles"**. Any unit designed for recreation, living, or sleeping purposes, *permanently equipped with wheels or placed upon a wheel device for the purpose of transporting* from place to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave runners and boats of all sizes.

6) **"Storage"**. The placement on a residential lot of any vehicle for more than seven consecutive days or for any portion of each of 15 or more days, whether or not consecutive, in a 30 day period.

7) **"Trailer"**. A vehicle without motor power designed for the carrying of property, trash or debris.

(Ord. 1802C; 5-17-99)
(Code 2000)

SECTION TWO: Chapter 14, Article 3, Section 14-302, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-302. PARKING OF TRUCKS, BUSES, AND TRAILERS; EXEMPTIONS.

(a) *Parking of Certain Vehicles Prohibited.* No person shall park or store any recreational vehicle, trailer or box van on any street of the city, or upon any lot, improved or unimproved, in a residential or commercial area of the city except for the purpose of making a delivery or pickup provided such vehicles are not left continuously parked between the hours of 11:00 p.m. and 6:00 a.m. and except for parking of recreational vehicles and trailers as provided by the Leawood Development Ordinance.

(b) Whenever the person in possession or control of any private property used by the public for *purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance* thereto a permanently lettered clearly legible sign with the following legend:

NOTICE

Pursuant to Section 14-302(b) of the Code of the City of Leawood, Kansas, no trucks carrying a manufacturer's weight rating of one ton or more may be parked on this lot except for the expressed purpose of loading or unloading goods or merchandise for tenants. Violators will be towed at the vehicle owner's expense and be subject to a fine.

Then such private property shall be deemed to be under the traffic regulation of the city as provided by law and it shall be unlawful for any person to park a truck, bus or trailer upon the property in any manner that is contrary to the laws of the City of Leawood or contrary to the posted sign.

(c) *Exempt Vehicles.* City owned and operated vehicles; service vehicles owned by utility companies while in the process of providing services or maintenance; construction vehicles while being used in connection with construction or maintenance authorized by the City and vehicles exceeding a manufacturer's weight rating of one ton when parked in designated loading and unloading areas, are hereby exempt from the provisions of this section.

(Ord. 1802C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 14, Article 3, Section 14-304, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-304. PARKING YARDS OR PARKWAYS. In areas which are primarily residential in nature or specifically zoned R-1, no parking shall be permitted in the front, rear, or side yard of the residence

except that passenger vehicles shall be permitted on the hard surfaced driveways of single family residences and except as expressly allowed in the Leawood Development Ordinance.

(Ord. 573; 01-16-78)
(Code 2000)

SECTION FOUR: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FIVE: That existing Sections 14-301; 14-302; and 14-304 is hereby repealed.

SECTION SIX: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EFF. DATE: 10-15-2002

ORDINANCE NO. 1956

AN ORDINANCE AMENDING SECTIONS 4-4, OFF-STREET PARKING, STORAGE, LOADING REGULATIONS AND PARKING LOT DESIGN STANDARDS OF THE LEAWOOD DEVELOPMENT ORDINANCE, PERTAINING TO PARKING REGULATIONS; AND REPEALING EXISTING SECTION 4-4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Section 4-4, Off-street parking, storage, loading regulations and parking lot design standards, is hereby amended to read as follows:

4-4 OFF-STREET PARKING, STORAGE, LOADING REGULATIONS AND PARKING LOT DESIGN STANDARDS

4-4.1 General Purpose

The provisions of this section shall apply to uses within all zoning districts of the City of Leawood. No such use shall be commenced, expanded, or enlarged in any manner unless the off-street parking and loading provisions are complied with as required in this section.

4-4.2 Site Development Plan Required

A site development plan shall be submitted and approved by the Plan Commission prior to the construction or creation of any parking lot or the expansion of any existing parking lot in accordance with the provisions of Section 6-3 of this ordinance.

4-4.3 Computation of Off-Street Parking and Loading Requirements

The following provisions shall govern the computation of required off-street parking and loading spaces:

1) Where computation of required off-street parking spaces results in a fractional number, the required spaces for the use shall be the next higher whole number.

2) Where more than one use is established on a single lot, the off-street parking and loading requirements for the lot shall be the sum of the separate requirements for each use established on the lot.

3) No building or structure shall be erected or structurally altered, nor shall any land be used, for any purpose, without provision for off-street parking and loading as required by this section.

4) Where a lawful use exists at the time of adoption of this ordinance that is deficient in the provision of required off-street parking, any new use hereafter established in its place shall conform to the parking requirements of this ordinance.

4-4.4 Location of Required Parking and Loading Spaces

All off-street parking and loading spaces required by this ordinance shall be located on the same lot as the use for which such spaces are required, with the following additional regulations and exceptions:

1) Required off-street parking and/or loading spaces shall not be located upon any public right-of-way unless specifically authorized and approved by the Plan Commission and Governing Body.

2) Where, within an office, commercial, or industrial district, an increase in the number of off-street parking spaces is required by an alteration, enlargement, or change of a use, the required off-street parking spaces may be located no farther than 300 feet from the use(s) they serve. Whenever off-street parking is required and cannot be provided within the principal building or upon the same lot as the principal building and is located on another parcel or property as permitted in this section, such parcel or property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the use within the principal building. If and when such use would expire, the required off-street parking for a new use within the principal building would be evaluated on its own merit.

3) Off-street loading spaces shall be located only on the side or rear of buildings, but not in required yard areas. Location of loading spaces shall be approved in accordance with the provisions of Section 6-3 of this ordinance.

4-4.5 Off-Street Loading Space Requirements

1) The required number of off-street loading spaces for truck and/or other bulk pickup or deliveries shall be determined through the plan review process.

2) Such loading and unloading space(s) shall be an area of adequate size for the type of building use as approved by the Plan Commission and must be able to accommodate vehicles entirely off street rights-of-way. Area for ample turnaround space and maneuvering must be allotted so that all vehicle/truck activity shall be accommodated entirely on-site and without interference with traffic movements either on or off-site. Vehicles shall not be allowed to back onto or off of street rights-of-way.

3) The location of off-street loading space(s) for a building must be in accordance with Section 4-4.4 above.

4) Such loading space(s) shall be permanently surfaced of either asphaltic concrete or Portland cement concrete and have direct access from a permanently surfaced drive of the same. Where turnaround for truck/vehicle traffic is required, such turnaround space must also be permanently surfaced of the same.

5) No building or structure shall be erected or structurally altered significantly, nor shall any land be used for any purpose without, provision for off-street loading as required by this section.

6) When off-street loading is required, such loading space(s) shall be provided at the time of erection, alteration, establishment, or addition of any building, structure, or use of the land. The timing of such loading requirements may be extended by the Director of Planning and Development for a period not to exceed 6 months due to weather conditions provided that adequate surety for such improvements has been made.

7) Loading space(s) shall be screened in accordance with Section 4-6 of this ordinance.

8) Required off-street loading space(s) shall not be used for storage and shall be open for its function at all times.

9) The provision of off-street loading space(s) shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street loading requirements of this section to discontinue, reduce, or dispense with (or cause same) the required off-street loading space(s) as established by this section. Should an existing building change use, the size of the loading and unloading space(s) shall be reevaluated as to adequacy in regard to the new use and thereafter altered as necessary.

10) Further, any off-street loading space(s) not required by this section, but which is voluntarily provided, shall observe all requirements of this section in the development of such loading space(s).

4-4.6 Special Provisions for Off-Street Parking and Storage of Vehicles in Residential District

A) Statement of Intent. In order to avoid the obstruction of public streets and sidewalks, improve traffic visibility, insure the provision of necessary light and air to residential dwellings, and maintain the aesthetics and visual streetscape harmony, and density and occupancy standards and character deemed appropriate in residential neighborhoods and others areas within the City, it is the intent of this ordinance that the provisions of this section should be narrowly construed so as to prohibit any parking or storage of vehicles except as clearly and specifically authorized herein. The provisions of this Section shall govern the off-street parking or storage of vehicles, trailers and boats as an accessory use to any permitted residential use.

B) The parking or storage of any type of vehicle, including passenger vehicles, recreational vehicles and trailers, is prohibited, except as clearly authorized herein.

C) Definitions. The following definitions shall govern the interpretation of this Section.

1) **"Driveway".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces upon which vehicles are driven from the street to the garage.

2) **"Pad".** A hard drivable surface constructed of concrete, asphalt, brick pavers, or other solid impervious surfaces used to park or store vehicles off of driveways so as not to conflict with the daily use of the driveway.

3) **"Parking".** The placement of a vehicle, trailer or boat on a lot for seven consecutive days or for any portion of each of 14 total days in any 30 day period.

4) **"Passenger Vehicle".** A self-propelled motor vehicle, designed primarily for the transportation of people as opposed to equipment, freight or other vehicles. The following are expressly excluded from the definition:

   a. Vehicles that have had external modifications to the structure or body, including aerial buckets or platforms (e.g. "cherry pickers"), welding equipment and mechanical lifts or arms designed to assist in loading and unloading freight, but not including cosmetic changes or common vehicle accessories;

   b. Pickup trucks that do not have the traditional pickup bed and side walls, and vans that have an expanded cargo area that is taller or wider than a passenger van, including step vans, box vans, flatbed trucks, buses, semi-tractors and trailers;

   c. Recreational vehicles, trailers, cement mixers, construction equipment, and any vehicle with dual rear axles.

5) "**Recreational Vehicles**". Any unit designed for recreation, living, or sleeping purposes, permanently equipped with wheels or placed upon a wheel device for the purpose of transporting from place to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave runners and boats of all sizes.

6) "**Storage**". The placement on a residential lot of any vehicle for more than seven consecutive days or for any portion of each of 15 or more days, whether or not consecutive, in a 30 day period.

7) "**Trailer**". A vehicle without motor power designed for ~~(1)~~ the carrying of property, trash or debris.

D) Standards Governing the Parking of Trailers and Recreational Vehicles in Residential and Agricultural Districts.

1) No person shall park any recreational vehicle or trailer on any street of the City, or upon any lot, improved or unimproved, in a residential or agricultural area of the City, except for the purpose of making a delivery or pickup, and except for parking of recreational vehicles and trailers as provided herein.

2) Parking of trailers and recreational vehicles shall be allowed in single family residential districts upon residential lots provided that such parking shall be in an enclosed garage or on a driveway or pad.

E) Storage of Trailers and Recreational Vehicles. Outside storage of trailers and / or recreational vehicles shall be allowed in agricultural and single-family residential districts upon residential lots provided that the storage meets the express terms of this Ordinance.

1) If the proposed storage shown does not meet the terms of the Ordinance, then the applicant may apply, in writing and with a site plan of the property, to the Planning and Development Department for an exception to the terms of the ordinance. The Neighborhood Services Administrator may only grant an exception to the setback or screening requirements. The Neighborhood Services Administrator may grant such an exception if it finds that the following elements are present:

a) The screening around the recreational vehicle, including existing vegetation on adjoining lots, provides a sufficient buffer from the street and from any other residences so that the storage of the recreational vehicle does not unreasonably damage the area streetscape or landscape;

b) The configuration of the lot or tract and the buildings thereon, does not allow for storage in accordance with the terms of this ordinance; and

c) The proposed storage meets the intent of the terms of this ordinance.

Provided, however, that if the Neighborhood Services Administrator grants an exception based upon the existence of screening in neighboring lots, said exception shall expire if such screening is in any way lessened.

If the Neighborhood Services Administrator denies the request for an exception, the applicant may seek appeal to the Governing Body and the matter shall be scheduled on the next available agenda for hearing.

2) Storage shall be in an enclosed garage or on a pad, or supported by appropriate at grade pavers or other surfacing placed beneath the tires and any supporting system of the vehicle touching the ground, provided that such pavers or surfacing serve to prevent such vehicle form damaging the yard surface.

3) Storage shall not be allowed in front of the building or the line of the building as it extends to each side property line.

4) Storage shall be allowed in a side yard of the residence, provided that such storage does not encroach on the required side yard setback and that the recreational vehicle/trailer is screened on the two longest sides of the recreational vehicle/trailer and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle/trailer that are not screened by the primary structure shall have reasonable screening between the vehicle and the adjoining property line. For the purpose of this section, reasonable screening shall be, at a minimum, use of evergreen and deciduous plantings to substantially shield the vehicle/trailer from the view of neighboring properties.

5) Storage shall be allowed in a side yard with adjoining street frontage provided that the recreational vehicle/trailer is screened on the two longest sides of the vehicles and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle that are not screened by the primary structure shall have reasonable screening between the vehicle and the adjoining property line.

6) Storage shall be allowed in the rear of the residence, provided that the recreational vehicle/trailer is screened on the two longest sides of the vehicle and the end not facing the ingress / egress access point to the lot. Those sides of the vehicle that are not screened by the primary structure shall have reasonable screening.

7) The combined length of recreational vehicles and trailers stored on any lot shall not exceed 48 feet.

F) Parking and Storage of Passenger Vehicles and Box Vans.

1) The storage of passenger vehicles shall be allowed in residential and agricultural districts upon residential lots provided that the passenger vehicles are stored in a garage or on a driveway or adjacent pad and the storage is not otherwise prohibited by law.

2) The parking of passenger vehicles and box vans shall be allowed in any district, upon any lot or tract, provided that the passenger vehicle or box van is parked in a garage or on a driveway or adjacent pad and the parking is not otherwise prohibited by law. Parking in and upon streets shall be governed by the Code of the City of Leawood.

G) Parking and Storage of Recreational Vehicles and Trailers in Other Districts. Storage of trailers and recreational vehicles in other districts shall be prohibited except when approved by the Planning Commission and Governing Body as part of a site development plan approval process. Parking of trailers and recreational vehicles shall be allowed a maximum of 3 hours in any seven-day period.

H) Vehicles as Living Quarters. No vehicle, recreational vehicle, pickup camper, camping trailer or similar item shall be used as living or sleeping quarters, provided, that, Leawood residents may allow visitors to utilize such vehicles for sleeping, for a period of not more than one week in any calendar year, provided that the resident notifies the Leawood Police Department in advance of the location of such vehicle, number of persons expected to sleep in said vehicle, and the applicable dates.

I) Effective Date. This ordinance shall become effective January 1, 2003. Those property owners currently storing recreational vehicles on their property shall notify the City within 6 months of the effective date of this ordinance. Those notifying the City of Leawood will be allowed to continue storing the recreational vehicle in the same manor for a maximum of three years. At the end of three years, all residents must be in full compliance of this ordinance. All property owners that have not notified the City within 6 months of the effective date of this ordinance will be required to come into compliance immediately.

4-4.7 Off-Street Parking Requirements in Office, Commercial, and Industrial Districts

A) Off-Street Parking.

1) No building or structure shall be erected or structurally altered significantly, nor shall any land be used for any purpose, without provision for off-street parking as required by this section.

2) Required off-street parking spaces shall not be used for storage and shall be open for their function at all times.

3) The provision of off-street parking shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking requirements of this section to discontinue, reduce, or dispense with (or cause same) the required off-street parking as established by this section.

4) Off-street parking space(s) shall be screened in accordance with the approved development plan.

5) The location and size of off-street parking space(s) shall be in accordance with Section 4-4.10, Parking Lot Design Standards, and shall include the requirements for handicapped parking as stated in Section 4-4.9 of this ordinance. Required yard setbacks shall be complied with for each individual district.

6) Further, any off-street parking space(s) not required by this section but which is voluntarily provided shall observe all requirements of this section in the development of such parking space(s).

B) Improvement of Parking Areas.

1) All parking areas shall be ready for use upon occupying a building and shall be surfaced with not less than 6 inches of rolled stone base and 3 inches of hot mix asphaltic wearing surface or equivalent strength full thickness hot mix asphalt or Portland cement concrete prior to the issuance of an occupancy permit, unless special permission is granted by the Director of Planning and Development due to weather conditions that are not satisfactory for placing materials.

2) Ingress and egress shall be by means of paved driveways not exceeding 35 feet in width except as otherwise approved on the development plan by the Plan Commission. Head-in parking from any public right-of-way shall not be permitted.

3) Parking lot lighting shall be so arranged as to direct light away from any adjacent premises in a residential district and shall be of a design that the source of illumination shall not be visible from off the premises.

4) All parking lots and drives leading thereto shall have curbs and drainage facilities approved by the City Engineer.

5) No signs shall be permitted except those necessary for the orderly parking thereon. Not more than 1 sign with maximum area of 6 square feet shall be permitted at each entrance to identify such parking area and present any regulations governing same. Signs identifying reserved parking shall first be approved by the Plan Commission as part of an overall sign concept and shall include complimentary materials to the building it serves. For additional information see Section 4-5 Sign Regulations.

6) The Plan Commission may require that a parking area be screened on any side where it may adversely affect adjacent property.

C) Maintenance of Parking Areas.

The maintenance of parking areas shall be a continuing obligation of the owner of the real estate on which parking areas are located. Maintenance of parking areas shall include: 1) the proper filling and sealing of pot holes and cracks; 2) the replacement of deteriorated parking sections; 3) the repainting of striping identifying the individual parking spaces; 4) the overlaying with asphalt of deteriorating sections or entire lots; 5) the reconditioning or replacement of lot signage, lighting, or screening; and 6) the removal of trash and debris from the lot including the drainage structures so as not to hinder water flow. The Director of Planning and Development, upon finding that inadequate maintenance is occurring on any parking area, shall notify the owner of such finding and shall require the deficiencies corrected to the Director's satisfaction within a reasonable time but not to exceed 60 days from written notification.

4-4.8 Required Off-Street Parking Numbers

A) Spaces Required by Zoning District.

See Table 4-4.8A, next page.

Table 4-4.8A

SPACES REQUIRED	
Zoning District	Required Off-Street Parking Numbers
Agricultural	
AG	2 totally enclosed garage spaces
Residential	
R-A	2 totally enclosed garage spaces
R-1	2 totally enclosed garage spaces
RP-1	2 totally enclosed garage spaces
RP-2	2 totally enclosed garage spaces
RP-3	2/DU
RP-4	Same as R-1
Commercial	
CP-O	5/1000 square feet-Not in required front yard
CP-1	5/1000 square feet
CP-2	5/1000 square feet
BP	3/1000 square feet for mixed office & warehouse
PI	1/5000 square feet leasable (minimum)
SD	Determined by Plan Commission & Governing Body
Recreational	
REC	Determined by Plan Commission & Governing Body

B) Additional Parking Regulations

Off-street parking shall be provided by the requirements specified under the appropriate zoning district, as listed above. For any pad site or individual land parcel containing the following uses, the corresponding number of spaces shall be required as established herein. Those uses not included in this section shall be assigned a parking ratio by the Plan Commission.

C) Land Use Number of Spaces Required[1]

1) Art Gallery. 1 per 500 square feet gross area.

[1] All land uses included herein shall provide 1 space/employee on the maximum shift plus additional spaces as provided in the list above.

2) Auditorium. 1 for every 4 permanent seats plus 1 per 100 square feet area devoted to assembly use. Without permanent seating 1 per 50 square feet floor area devoted to assembly use.

3) Automobile Service Station. 3 spaces plus 1 space for each service bay.

4) Beauty Parlor. 5 per 1000 square feet gross area.

5) Bed & Breakfast. 1 per guest room plus 2 per owners requirement.

6) Bowling Alleys. 5 spaces for each alley plus additional spaces for affiliated uses.

7) Churches & Synagogues. 1 space for each 3 permanent seats.

8) Convenience Store. 5 per 1000 square feet gross area.

9) Convalescent & Nursing Homes. 1 space for each 2 beds.

10) Day Care Center. 1.5 per employee on maximum shift.

11) Discount Store. 3.57 per 1000 square feet leasable area 3.40 per 1000 square feet leasable area

12) Elementary/Jr./High School. 1 space for each teacher and staff member.

13) Express Delivery Service. 1 per employee plus 1.5 per delivery vehicle.

14) Fast Food Restaurant. 1 space for each 4 permanent seats plus 1 space for each employee on maximum shift plus 1 per 50 square feet floor with drive devoted to customer service.

15) Funeral Home. 1 per 100 square feet of viewing area or other public area.

16) Furniture Store. 1 per 400 square feet floor area accessible to general public.

17) Golf Course. 50 spaces for each 9 holes.

18) Greenhouse (Commercial). 1 space for each 200 square feet of contributing floor area.

19) Group Home. 1 per resident.

20) Health Club. 1 per 100 square feet plus 1 per employee on maximum shift.

21) Hospitals. 0.35 spaces per bed plus 0.95 spaces per doctor and 0.35 spaces per employee.

22) Hotels & Motor Hotels. 1 space per bedroom plus 1 space per employee. Restaurants & meeting rooms included in the hotel shall provide an additional parking space for each 4 seats of seating capacity.

23) Movie Theater. 1 for each 3 permanent seats plus 1 per employee on maximum shift.

24) Private, Commercial & Trade Schools. 1 space for each 100 square feet of contributing floor area.

25) Research Center. 3 per 1000 square feet.

26) Restaurant. 1 space for each 50 square feet of seating area plus 1 space for each remaining 300 square feet of contributing floor area.

27) Retirement Community. .27 per dwelling unit (weekday) and 1 per dwelling unit (Sunday).

28) Swim Club. 10 per employee (Saturday).

29) Taverns. 1 space for each employee plus 1 for each 2 seats or building capacity calculated by Building Code Standards.

30) Veterinarian Office. 1 for each employee plus 1 per 100 square feet floor area accessible to public.

4-4.9 Handicapped Parking Space Requirements

Parking facilities shall be provided for physically handicapped persons according to the following regulations, for the exclusive use of vehicles which display a distinguishing license plate or placard issued pursuant to Kansas Statutes K.S.A., and shall be established in accordance with the following standards.

1) All off-street parking facilities shall provide parking for physically handicapped persons, except those parking facilities maintained in conjunction with single-family or two-family residential units and owner-occupied townhouse developments where parking is assigned.

2) The number of handicapped parking spaces required shall be determined in accordance with the following table:

Table 4-4.9A

SPACES REQUIRED	
Parking Capacity	Required Off-Street Parking Numbers
Up to 25	1 space
26 - 50	2 spaces
51+	2 plus 1 for each 200 over 50

3) The parking space shall be indicated by the posting of a sign upon which shall be the international symbol of accessibility in white on a blue background and which may include appropriate wording to further identify the space. Sign dimensions and height shall be in accordance with ANSI Standards and Regulations.

4) Such space shall be located as close as possible to the nearest accessible entrance and, if possible, be located so that no traffic or parking lane (or other similar obstacle) must be crossed to get from the space to the entrance.

5) Such spaces shall be a minimum of 12 feet by 19 feet in area, with an unobstructed access aisle on one or both sides, the purpose of which is to provide unimpeded ingress and egress for handicapped persons.

4-4.10 Parking Lot Design Standards

A) Parking Space Dimensions.

1) Each parking space shall contain a rectangular area at least 19 feet long and 9 feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

2) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than 22 feet by 9 feet.

B) Required Widths of Parking Area Aisles and Driveways.

1) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

Table 4-4.9B

AISLE WIDTHS	
	Parking Angle

Aisle Width	0°	30°	45°	60°	90°
One-way Traffic	13'	13'	15'	18'	25'
Two-way Traffic	20'	20'	24'	24'	25'

2) Driveways shall be not less than 12 feet in width for one-way traffic and 20 feet in width for two-way traffic.

C) General Design Requirements.

1) Vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street.

2) Vehicle accommodation areas of all developments shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

3) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

4) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

D) Joint Use of Required Parking Spaces.

1) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

2) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the

spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

E) Special Provisions For Lots With Existing Buildings.

1) Notwithstanding any other provisions of this section, whenever (1) there exists a lot with one or more structures on it constructed before the effective date of this section, and (2) a change in use that does not involve any enlargement of a structure is proposed for such lot, and (3) the parking requirements of Section 4-4.8 of this ordinance that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of Section 4-4.8 of this ordinance to the extent that parking space is practicably available on the lot where the development is located.

4-4.11 Registration of Recreational Vehicles

A) Any owner or possessor of a recreational vehicle / trailer, which recreational vehicle / trailer is parked or stored upon any lot or tract of land in the City of Leawood, must register such vehicle with the Neighborhood Services Division of the City of Leawood, within six (6) months from the effective date of this ordinance.

B) Such registrant shall provide the recreational vehicle's identification number, make, model, license number if applicable, the name and address of the owner or possessor of the recreational vehicle / trailer and a general description of the location of the parking or storage of the recreational vehicle / trailer (to include address, placement in relation to the house or building on the lot), and the amount of time during any calendar year that such recreational vehicle / trailer is parked or stored. The Neighborhood Services Administrator shall provide forms for this purpose.

C) For purposes of this section, the term "recreational vehicle" is defined as follows:

Any unit designed primarily for recreation, living, or sleeping purposes, and permanently equipped with wheels or permanently placed upon a wheel device for the purpose of transporting from place to place. This shall include but is not limited to camping trailers, campers, tent trailers, motor homes, tent campers, buses, snowmobiles, jet skis/wave

runners and boats of all sizes. This definition shall not include such vehicles or units parked or stored inside an enclosed garage.

SECTION TWO: That existing Section 4-4 Off-street parking, storage, loading regulations and parking lot design standards is hereby repealed.

SECTION THREE: This ordinance shall take effect from and after its publication as provided by law.

PASSED by the Governing Body this 7th day of October, 2002.

APPROVED by the Mayor this 7th day of October, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1955

ORDINANCE FOR A SPECIAL USE PERMIT FOR COVENANT CHAPEL, LOCATED AT 13300 KENNETH ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Special Use Permit. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby governed by a special use permit and all described stipulations.

SECTION TWO: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 16th day of September, 2002.

APPROVED by the Mayor this 16th day of September, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

City of Leawood Special Use Permit

Applicant: Covenant Chapel

Property Address: 13300 Kenneth Road, Leawood, Kansas 66209

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood, Kansas to conduct and use the above described real property for a period of 2 years, for the following described purpose:

Off-site sign

The above described authorized use of said property shall be subject to the following restrictions, and violations of any or all of said restrictions shall render the above permitted use(s) null and void, otherwise to remain in full force and effect for the above specified period:

1. The Special Use Permit is limited to two years from the date of City Council approval.
2. The sign is allowed to be double sided, 4' x 4', for a total of 16 square feet. Height of the sign shall be no greater than 6 feet.
3. The sign must be located out side the right-of-way and all sight triangles.

The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through four.

Approved by the Governing Body this 16th day of Sept., 2002.

Peggy J. Dunn

Peggy J. Dunn, Mayor

I, _____ hereby certify I have read and fully accept all conditions as set forth in this permit.

EXHIBIT 'A'

LEGAL DESCRIPTION FOR COVENANT CHAPEL

Section 26, Township 13, Range 25, southwest ¼ being government lot no. 2, except .565 acres and except 2.54 acres, 63.595 acres more or less.

ORD1955

Publication Fees: $28.45

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1955--9/24/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
SEPTEMBER 25, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$28.45

Property Address: 14200 Kenneth Road, Leawood, Kansas 66224

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood

ORDINANCE NO. 1955

First published in The Legal Record, Tuesday, September 24, 2002.

ORDINANCE NO. 1955

ORDINANCE FOR A SPECIAL USE PERMIT FOR COVENANT CHAPEL, LOCATED AT 13300 KENNETH ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Special Use Permit. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby governed by a special use permit and all described stipulations.

SECTION TWO: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 16th day of September, 2002.

APPROVED by the Mayor this 16th day of September, 2002.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Debra Harper

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

City of Leawood Special Use Permit

Applicant: Covenant Chapel

Property Address: 13300 Kenneth Road, Leawood, Kansas 66209

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood, Kansas to conduct and use the above described real property for a period of 2 years, for the following described purpose:

Off-site sign

The above described authorized use of said property shall be subject to the following restrictions, and violations of any or all of said restrictions shall render the above permitted use(s) null and void, otherwise to remain in full force and effect for the above specified period:

1. The Special Use Permit is limited to two years from the date of City Council approval.
2. The sign is allowed to be double sided, 4' x 4', for a total of 16 square feet. Height of the sign shall be no greater than 6 feet.
3. The sign must be located out side the right-of-way and all sight triangles.

The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through four.

Approved by the Governing Body this 16th day of Sept., 2002.

Peggy J. Dunn

Peggy J. Dunn, Mayor

I, _____ hereby certify I have read and fully accept all conditions as set forth in this permit.

EXHIBIT 'A'

LEGAL DESCRIPTION FOR COVENANT CHAPEL

Section 26, Township 13, Range 25, southwest ¼ being government lot no. 2, except .565 acres and except 2.54 acres, 63.595 acres more or less.

ORDINANCE NO. 1954

ORDINANCE FOR A SPECIAL USE PERMIT FOR CHRIST COMMUNITY EVANGELICAL FREE CHURCH, LOCATED AT 14200 KENNETH ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Special Use Permit. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby governed by a special use permit and the following stipulations:

1. The project is limited to 160,695 sq.ft of new construction on 14.50 acres for an overall F.A.R. of 0.31.
2. Street trees shall be planted at a rate of one tree per 40 linear feet.
3. Sign design and calculations will be required at final.
4. Trash enclosures must be screened from public view with a 6 foot solid masonry structure to match the materials used in the buildings and shall be appropriately landscaped. The gate shall be painted steel.
5. All landscaped areas shall be irrigated.
6. All downspouts are to be enclosed.
7. All roof top units must be screened from view.
8. All utility boxes on the interior of the lot or near the building are to be screened with landscaping or wall. This includes air conditioner units, etc.
9. A detailed landscape plan must be submitted with final documents.
10. The lighting plans and fixtures must be included in the final application.
11. Material boards must be submitted at the time of final site plan application.
12. The applicant shall work with City Staff concerning the elevation of the proposed sanctuary prior to final site plan.
13. The applicant must obtain all approvals and permits from the Public Works Department, per attached memorandum.
14. Preliminary plan approval shall lapse in five years after final acceptance of the plan by the Governing Body, if construction on the project has not begun on this project or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant such an extension for a definite period of time for good cause shown by the developer.
15. The applicant is responsible for a Park Impact fee in the amount of $.10/ square foot of finished floor area exclusive of the sanctuary prior to the issuance of a building permit.
16. The applicant is responsible for a public art impact fee or a piece of public art. Approval of the design and location of the art will need to go before the Arts Council and Planning commission at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.10 / square foot of finished floor area, excluding the sanctuary area. Applicant intends to construct a temporary sanctuary in each phase. At the time of building permit issuance, applicant shall pay the fee for each then existing sanctuary area.

For example, applicant shall pay such fee on the phase 1 sanctuary at the time of building permit issuance for the second phase.

17. The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through seventeen.

SECTION TWO: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 16th day of September, 2002.

APPROVED by the Mayor this 16th day of September, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

City of Leawood Special Use Permit

Applicant: Christ Community Evangelical Free Church

Property Address: 14200 Kenneth Road, Leawood, Kansas 66224

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood, Kansas to conduct and use the above described real property for so long as the subject property is occupied by the applicant, for the following described purpose:

Church facility

The above described authorized use of said property shall be subject to the following restrictions, and violations of any or all of said restrictions shall render the above permitted use(s) null and void, otherwise to remain in full force and effect for the above specified period:

1. The project is limited to 160,695 sq.ft of new construction on 14.50 acres for an overall F.A.R. of 0.31.
2. Street trees shall be planted at a rate of one tree per 40 linear feet.
3. Sign design and calculations will be required at final.
4. Trash enclosures must be screened from public view with a 6 foot solid masonry structure to match the materials used in the buildings and shall be appropriately landscaped. The gate shall be painted steel.
5. All landscaped areas shall be irrigated.
6. All downspouts are to be enclosed.
7. All roof top units must be screened from view.
8. All utility boxes on the interior of the lot or near the building are to be screened with landscaping or wall. This includes air conditioner units, etc.
9. A detailed landscape plan must be submitted with final documents.
10. The lighting plans and fixtures must be included in the final application.
11. Material boards must be submitted at the time of final site plan application.
12. The applicant shall work with City Staff concerning the elevation of the proposed sanctuary prior to final site plan.
13. The applicant must obtain all approvals and permits from the Public Works Department, per attached memorandum.
14. This preliminary plan approval shall lapse in five years after final acceptance of the plan by the Governing Body, if construction on the project has not begun on this project or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant such an extension for a definite period of time for good cause shown by the developer.
15. The applicant is responsible for a Park Impact fee in the amount of $.10/ square foot of finished floor area exclusive of the sanctuary prior to the issuance of a building permit.

16. The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through sixteen.

Approved by the Governing Body this 16th day of Sept., 2002.

Peggy J. Dunn

Peggy J. Dunn, Mayor

I, _____ hereby certify I have read and fully accept all conditions as set forth in this permit.

EXHIBIT 'A'

LEGAL DESCRIPTION FOR CHRIST COMMUNITY EVANGELICAL FREE CHURCH

A tract of land situated in the Southeast Quarter of the Southeast Quarter of Section 34, Township 13 South, Range 25 East of the Sixth Principal Meridian in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34;

Thence South 02°01'11" East 1,374.76 feet along the East line of the Southeast Quarter of said Section 34;

Thence South 88°18'52" West 20.00 feet to a point on the West right-of-way line of Kenneth Road, as now established, said point being the "true point of beginning";

Thence South 02°01'11" East 244.44 feet, along said West right-of-way line, to the beginning of a curve concave to the West having a radius of 460.00 feet;

Thence Southwesterly 92.15 feet, along said West right-of-way line and said curve to the right having a chord bearing South 03°43'09" West 92.00 feet, to a point of reverse curve concave to the East having a radius of 540.00 feet;

Thence Southwesterly 108.18 feet along said West right-of-way line and said curve to the left, having a chord bearing South 03°43'10" West 108.00 feet;

Thence South 02°01'11" East 101.45 feet along said West right-of-way line;

Thence South 88°18'52" West 233.09 feet;

Thence South 02°01'11" East 325.96 feet;

Thence South 42°59'59" West 170.07 feet;

Thence South 87°47'23" West 306.39 feet, to a point on the East line of Lot 4, "WILLOW LAKE ESTATES", a subdivision of land in the City of Leawood, Johnson County, Kansas;

Thence North 02°00'36" West 167.09 feet, along said East line, to the Northeast corner of said Lot 4;

Thence South 87°47'23" West 99.33 feet, along the North line of said Lot 4, to the Southeast corner of Tract A, "HIGHLANDS RANCH", a subdivision of land in the City of Leawood, Johnson County, Kansas;

Thence North 02°01'08" West 828.50 feet, along the East line of said Tract A and Lot 60 thru Lot 64 of said "HIGHLANDS RANCH, to the Southwest corner of Lot 69 of said "HIGHLANDS RANCH";

Thence North 88°18'52" East 779.07 feet, along the South line of said Lot 69 and Lots 70 and 71 of said "HIGHLANDS RANCH", to the "true point of beginning" of the tract herein described, containing 632,452 square feet or 14.5191 acres, more or less.

Subject to all easements and restrictions of record.

ORD1954

Publication Fees: $67.77

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1954--9/24/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

SEPTEMBER 25, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$67.77

ORDINANCE NO. 1954

First published in The Legal Record, Tuesday, September 24, 2002.

ORDINANCE NO. 1954

ORDINANCE FOR A SPECIAL USE PERMIT FOR CHRIST COMMUNITY EVANGELICAL FREE CHURCH, LOCATED AT 14200 KENNETH ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Special Use Permit. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby governed by a special use permit and the following stipulations:

1. The project is limited to 160,695 sq.ft of new construction on 14.50 acres for an overall F.A.R. of 0.31.
2. Street trees shall be planted at a rate of one tree per 40 linear feet.
3. Sign design and calculations will be required at final.
4. Trash enclosures must be screened from public view with a 6 foot solid masonry structure to match the materials used in the buildings and shall be appropriately landscaped. The gate shall be painted steel.
5. All landscaped areas shall be irrigated.
6. All downspouts are to be enclosed.
7. All roof top units must be screened from view.
8. All utility boxes on the interior of the lot or near the building are to be screened with landscaping or wall. This includes air conditioner units, etc.
9. A detailed landscape plan must be submitted with final documents.
10. The lighting plans and fixtures must be included in the final application.
11. Material boards must be submitted at the time of final site plan application.
12. The applicant shall work with City Staff concerning the elevation of the proposed sanctuary prior to final site plan.
13. The applicant must obtain all approvals and permits from the Public Works Department, per attached memorandum.
14. Preliminary plan approval shall lapse in five years after final acceptance of the plan by the Governing Body, if construction on the project has not begun on this project or if such construction is not being diligently pursued; provided, however, that the developer may request a hearing before the City Council to request an extension of this time period. The City Council may grant such an extension for a definite period of time for good cause shown by the developer.
15. The applicant is responsible for a Park Impact fee in the amount of $.10/ square foot of finished floor area exclusive of the sanctuary prior to the issuance of a building permit.
16. The applicant is responsible for a public art impact fee or a piece of public art. Approval of the design and location of the art will need to go before the Arts Council and Planning commission at a later date. In lieu of that, the applicant may pay a public art impact fee in the amount of $.10 / square foot of finished floor area, excluding the sanctuary area. Applicant intends to construct a temporary sanctuary in each phase. At the time of building permit issuance, applicant shall pay the fee for each then existing sanctuary area.

    For example, applicant shall pay such fee on the phase 1 sanctuary at the time of building permit issuance for the second phase.
17. The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through seventeen.

SECTION TWO: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 16th day of September, 2002.

APPROVED by the Mayor this 16th day of September, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

City of Leawood Special Use Permit

Applicant: Christ Community Evangelical Free Church

Property Address: 14200 Kenneth Road, Leawood, Kansas 66224

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood, Kansas to conduct and use the above described real property for so long as the subject property is occupied by the applicant, for the following described purpose:

Church facility

The above described authorized use of said property shall be subject to the following restrictions, and violations of any or all of said restrictions shall render the above permitted use(s) null and void, otherwise to remain in full force and effect for the above specified period:

1. The project is limited to 160,695 sq.ft of new construction on 14.50 acres for an overall F.A.R. of 0.31.
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Approved by the Governing Body this 16th day of Sept., 2002.

Peggy J. Dunn

Peggy J. Dunn, Mayor

I, _____ hereby certify I have read and fully accept all conditions as set forth in this permit.

EXHIBIT 'A'

LEGAL DESCRIPTION FOR CHRIST COMMUNITY EVANGELICAL FREE CHURCH

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Thence South 02°01'11" East 1,374.76 feet along the East line of the Southeast Quarter of said Section 34;

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Thence South 02°01'11" East 244.44 feet, along said West right-of-way line, to the beginning of a curve concave to the West having a radius of 460.00 feet;

Thence Southwesterly 92.15 feet, along said West right-of-way line and said curve to the right having a chord bearing South 03°43'09" West 92.00 feet, to a point of reverse curve concave to the East having a radius of 640.00 feet;

Thence Southwesterly 108.15 feet along said West right-of-way line and said curve to the left, having a chord bearing South 03°43'10" West 108.00 feet;

Thence South 02°01'11" East 101.45 feet along said West right-of-way line;

Thence South 88°18'52" West 233.09 feet;

Thence South 02°01'11" East 326.96 feet;

Thence South 42°59'59" West 170.07 feet;

Thence South 87°47'23" West 306.39 feet, to a point on the East line of Lot 4, "WILLOW LAKE ESTATES", a subdivision of land in the City of Leawood, Johnson County, Kansas;

Thence North 02°00'36" West 167.09 feet, along said East line, to the Northeast corner of said Lot 4;

Thence South 87°47'23" West 99.33 feet, along the North line of said Lot 4, to the Southeast corner of Tract A, "HIGHLANDS RANCH", a subdivision of land in the City of Leawood, Johnson County, Kansas;

Thence North 02°01'08" West 828.50 feet, along the East line of said Tract A and Lot 60 thru Lot 64 of said "HIGHLANDS RANCH, to the Southwest corner of Lot 69 of said "HIGHLANDS RANCH";

Thence North 88°18'52" East 779.07 feet, along the South line of said Lot 69 and Lots 70 and 71 of said "HIGHLANDS RANCH", to the "true point of beginning" of the tract herein described, containing 632,462 square feet or 14.5191 acres, more or less.

Subject to all easements and restrictions of record.

NOTICE TO BIDDERS

First published in The Legal Record, Tuesday, September 24, 2002.

CITY OF LENEXA, KANSAS

NOTICE TO BIDDERS

Sealed bids for "STREET TREE PLANTING" will be accepted by the City of Lenexa, Kansas at the office of City Clerk, Lenexa City Hall, 12350 West 87th Street Parkway, Lenexa, Kansas 66215, until 10:00 AM (local time) on Monday October 7, 2002, at which time bids will be publicly opened and read aloud at the Lenexa City Hall, 12350 W. 87th Street Parkway. Any bid received after the designated closing time will not be considered and will be returned unopened.

All bids shall be submitted in sealed envelopes addressed to the CITY OF LENEXA, KANSAS, ATTENTION: CITY CLERK, and marked "Bid for: Street Tree Planting." Copies of plans, specifications, bidding documents and other Contract Documents are on file at the office of:

David Howell
Grounds Technician
City of Lenexa – Lenexa Parks & Recreation
13420 Oak Street
Lenexa, KS 66215
(913) 541-8592

CONTRACTORS SHOULD READ AND BE FULLY FAMILIAR WITH ALL CONTRACT DOCUMENTS INCLUDING ADDENDA BEFORE SUBMITTING A BID. IN SUBMITTING A BID, THE BIDDER WARRANTS THAT IT HAS READ THE CONTRACT DOCUMENTS AND IS FULLY FAMILIAR THEREWITH AND THAT IT HAS VISITED THE SITE OF THE WORK TO FULLY INFORM ITSELF AS TO ALL EXISTING CONDITIONS AND LIMITATIONS AND SHALL INCLUDE IN ITS BID A SUM TO COVER THE COST OF ALL ITEMS OF THE WORK AS SPECIFIED IN THE CONTRACT DOCUMENTS.

No oral telegraphic, telephonic proposals or alterations will be considered. Facsimile transmissions will not be accepted.

The following items must be included in the sealed envelope with the Bid:

a. Bid Form;

b. 5% Bid Security--Bid Bond, Cashier's Check or Certified Check (See below).

Each bidder shall file with its bid a bid bond, a cashier's check or a certified check drawn on an acceptable bank, made payable to City of Lenexa, Kansas, in an amount equal to five per cent (5%) of the total bid, which shall be retained by City of Lenexa, Kansas until a Contract for the project has been executed. Bid Bonds will be returned to the bidders, with the exception of the best and lowest and second best and second lowest responsible bidders, within twenty-one (21) days after their bids are rejected. The bid deposit of the lowest and the second lowest responsible bidders will be returned when the Performance Bond, Maintenance Bond and Statutory Bond, each in an amount equal to 100% of the Contract amount; required insurance certificates and other required documents shall have been furnished and the Contract Documents have been executed by the successful bidder.

In the event the low bidder is unable to execute the Contract, for whatever reason, within the time provided in the Notice of Award, City may annul the Notice of Award and the bid deposit may be forfeited and City shall exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security or specific performance.

City reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of City Clerk, prior to the time and date for bid opening.

ALL BIDDERS AGREE THAT REJECTION SHALL CREATE NO LIABILITY ON THE PART OF CITY BECAUSE OF SUCH REJECTION, AND THE FILING OF ANY BID IN RESPONSE TO THIS NOTICE SHALL CONSTITUTE AN AGREEMENT OF THE BIDDER TO THESE CONDITIONS.

Mary Sue Kay
CITY CLERK, CITY OF LENEXA, KANSAS

ORDINANCE NO. 1955

First published in The Legal Record, Tuesday, September 24, 2002.

ORDINANCE NO. 1955

ORDINANCE FOR A SPECIAL USE PERMIT FOR COVENANT CHAPEL, LOCATED AT 13300 KENNETH ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Special Use Permit. That the following described real estate, hereinafter described in Exhibit "A" attached hereto and incorporated herein by reference, is hereby governed by a special use permit and all described stipulations.

SECTION TWO: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 16th day of September, 2002.

APPROVED by the Mayor this 16th day of September, 2002.

[SEAL]

Peggy Dunn
Peggy Dunn, Mayor

ATTEST:

Debra Harper
Debra Harper, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett
Patricia A. Bennett, City Attorney

City of Leawood Special Use Permit

Applicant: Covenant Chapel

Property Address: 13300 Kenneth Road, Leawood, Kansas 66209

Legal Description: See attached legal description

The above named applicant is hereby authorized by the Governing Body of the City of Leawood, Kansas to conduct and use the above described real property for a period of 2 years, for the following described purpose:

Off-site sign

The above described authorized use of said property shall be subject to the following restrictions, and violations of any or all of said restrictions shall render the above permitted use(s) null and void, otherwise to remain in full force and effect for the above specified period:

1. The Special Use Permit is limited to two years from the date of City Council approval.
2. The sign is allowed to be double sided, 4' x 4', for a total of 16 square feet. Height of the sign shall be no greater than 6 feet.
3. The sign must be located out side the right-of-way and all sight triangles.

The developer/property owner agrees to execute a statement acknowledging in writing that they agree to stipulations one through four.

Approved by the Governing Body this 16th day of Sept., 2002.

Peggy J. Dunn
Peggy J. Dunn, Mayor

I, _____ hereby certify I have read and fully accept all conditions as set forth in this permit.

EXHIBIT 'A'

LEGAL DESCRIPTION FOR COVENANT CHAPEL

Section 26, Township 13, Range 25, southwest ¼ being government lot no. 2, except 565 acres and except 2.54 acres, 63.595 acres more or less.

WELLS FARGO HOME MORTGAGE, INC. V. GAST, ET AL.

First published in The Legal Record, Tuesday, September 24, 2002.

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
WELLS FARGO HOME MORTGAGE, INC.
PLAINTIFF,
vs.
David R. Gast, et. al
DEFENDANTS
Case No. 02CV06207
Div. No. 7
K.S.A. 60
Mortgage Foreclosure

NOTICE OF SUIT

The State of Kansas to: DAVID R. GAST; JOHN DOE (REAL NAME UNKNOWN); MARY DOE (REAL NAME UNKNOWN);
and the unknown heirs, executors, administrators, devisees, trustees, creditors, and assigns of such of the defendants as may be deceased; the unknown spouses of the defendants; the unknown officers, successors, trustees, creditors and assigns of such defendants as are existing, dissolved or dormant corporations; the unknown guardians and trustees of such of the defendants as are minors or are in anywise under legal disability; and all other persons who are or may be concerned:

You are hereby notified that a petition has been filed in the District Court of Johnson County, Kansas, by WELLS FARGO HOME MORTGAGE, INC. for judgment in the sum of $75,200.75, plus interest, costs and other relief; judgment that plaintiff's lien is a first lien on the said real property and sale of said property to satisfy the indebtedness, said property described as follows, to wit:

LOT 59, HICKORY HILLS, LOTS 47 TO 60, INCL., A SUBDIVISION IN THE CITY OF MERRIAM, JOHNSON COUNTY, KANSAS. Commonly known as 8509 W. 56th Terrace, Merriam, KS 66202

and you are hereby required to plead to said petition in said Court at Olathe, Kansas on or before the 8 day of November, 2002.

Should you fail therein judgment and decree will be entered in due course upon said petition.

This is an attempt to collect a debt and any information obtained may be used for that purpose.

SHAPIRO & REID
Attorneys for Plaintiff
6310 Lamar - Ste. 240
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9/24,10/1,10/8

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ORDINANCE NO. 1953C

AN ORDINANCE AMENDING SECTIONS 1-115 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO QUORUM REQUIREMENTS; AND REPEALING EXISTING SECTION 1-115 AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 1, Section 1-115, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-115. **QUORUM.** A majority of the members-elect of the city council, being present in person or by telecommunications conference, shall constitute a quorum.

(Ord. 1056C; 06-20-88)
(Code 2000)

SECTION TWO: That existing Section 1-115 is hereby repealed.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 3rd day of September, 2002.

APPROVED by the Mayor this 3rd day of September, 2002.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1953C

Publication Fees: $18.32

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1953C--9/10/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
SEPTEMBER 11, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$18.32

ORDINANCE NO. 1953C

First published in The Legal Record, Tuesday, September 10, 2002.

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AN ORDINANCE AMENDING SECTIONS 1-115 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO QUORUM REQUIREMENTS; AND REPEALING EXISTING SECTION 1-115 AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 1, Section 1-115, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-115. **QUORUM.** A majority of the members-elect of the city council, being present in person or by telecommunications conference, shall constitute a quorum.

(Ord. 1056C; 06-20-88)
(Code 2000)

SECTION TWO: That existing Section 1-115 is hereby repealed.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 3rd day of September, 2002.

APPROVED by the Mayor this 3rd day of September, 2002.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1952

AN ORDINANCE AMENDING SECTIONS 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ROOFING SECTIONS; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 3-1 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-1 RP-A (PLANNED LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A Planned Large Lot Single Family Residential shall be to provide for single family detached dwellings on large lots and at the same time ensure proper placement on the property so as not to hinder future redevelopment including the extension of streets and utilities that would be required for rezoning to a greater density. Property zoned RP-A should be those tracts that correspond to the Rural Density Residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single family residential dwellings (detached).

2) Group Homes as defined herein.

3) Railroads and public or quasi-public utilities including substations.

4) Noncommercial nurseries and gardens.

5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 50 feet

2) Side Setback: 25 feet

3) Rear Setback: 50 feet

4) Lot Area: 1 acre per dwelling (net)

5) Lot Frontage: 150 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials, and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Article 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required for development in this district.

K) Roofing:

1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.

b. A Master Spec specification.

c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination: .
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
   a) Wood Shingles:
      1) Number 1 or 2 grade
   b) Wood Shakes:
      1) Number 1 or 2 grade
      2) Minimum ½ inch thickness measured at butt
   c) Slate
   d) Clay Tile
   e) Concrete Tile
   f) Synthetic Slate:
      1) Must be within a similar color range of slate, clay tile or concrete tile; and
      2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating
   g) Synthetic Shingles:
      1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      4) Must be installed with sheet metal valleys and flashings; and
      5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      6) Must have a minimum U.L. Class B fire rating.
   h) Stone Coated Steel Roofing:
      1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
      2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
      3) Must be installed with sheet metal valleys and flashings; and
      4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
   1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
   2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
   3) Be installed with sheet metal valleys and flashings; and
   4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
   1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be installed with preformed ridge shingles; and
   5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   6) Must use a minimum of five (5) color blend granules; and
   7) Must be a minimum 300 lbs. per square; and
   8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
   1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be installed with preformed ridge shingles; and
   5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   6) Must use a minimum of five (5) color blend granules; and
   7) Must be a minimum 300 lbs. per square; and
   8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 2. Leawood Development Ordinance Amended. That Section 3-2 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-2 R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as R-1 Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned R-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District R-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body.

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the R-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot shall be 30 feet.

2) Side Setback: 15 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.

5) Lot Area: 15,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

8) Exception to Side Yard Setback: The Board of Zoning Appeals shall have the power to grant an exception to the required 15-foot Side Setback for additions to existing structures, upon a determination that such exception shall not cause adverse impact to the surrounding properties, and upon a finding of the following conditions:

a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and

b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and

c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and

d) The proposed addition shall not cause further encroachment than that of the existing structure.

Such exception shall require a public hearing. Notice of the hearing shall be published in the official city newspaper at the applicant's expense at least 20 days prior to the date of the hearing. Additionally, at least 10 days prior to the date of the hearing, the applicant shall mail notices regarding the application to all adjacent property owners and to the applicable homes association. Such mailed notice shall be by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Failure to receive such notice shall not invalidate any subsequent action taken.

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:

1) *Intent:*
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
   a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
   b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
   c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) *Required Permits:*
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) *Submission Requirements:*

A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. *Installation specifications provided by the manufacturer of the product.*
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be *aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as* weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
   1) Number 1 or 2 grade
b) Wood Shakes:
   1) Number 1 or 2 grade
   2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) *Synthetic Slate:*
   1) Must be within a similar color range of slate, clay tile or concrete tile; and
   2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
   1) *Must have the appearance and color range of natural weathered cedar shingles or weathered* cedar shakes; and
   2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   4) Must be installed with sheet metal valleys and flashings; and
   5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:

1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 3. *Leawood Development Ordinance Amended. That Section 3-3 of the Leawood Development Ordinance, is* hereby amended to read as follows:

3-3 RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL DIST.)

A) General Purpose and Description: Property zoned and developed as RP-1 Planned Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance.

B) Principal Permitted Uses: In District RP-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot may be 30 feet.

2) Side Setback: 12 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average a distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 12 feet from any property line.

5) Lot Area: 12,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2

standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:

1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
   a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
   b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
   c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) *Required Permits:*
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and *shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed* complete without the following:
   a) An approved evaluation report in conformance with the currently approved City Building Code.
   b) A Master Spec specification.
   c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
   d) Installation specifications provided by the manufacturer of the product.
   e) List of addresses where the product (and the color applied for) has been installed within the *Kansas City Metropolitan Area for a minimum of 1 year.*
   f) A list of the manufacturers of the requested product.
   g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:

A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard

The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:

All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
   1) Number 1 or 2 grade

b) Wood Shakes:
   1) Number 1 or 2 grade
   2) Minimum ½ inch thickness measured at butt

c) Slate

d) Clay Tile

e) Concrete Tile

f) Synthetic Slate:
   1) Must be within a similar color range of slate, clay tile or concrete tile; and
   2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating

g) Synthetic Shingles:
   1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   4) Must be installed with sheet metal valleys and flashings; and
   5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:
   1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
   2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
   3) Must be installed with sheet metal valleys and flashings; and
   4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
   1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
   2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
   3) Be installed with sheet metal valleys and flashings; and
   4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
   1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) *Is required to be U.L. Class A fire rated material.*

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 4. Leawood Development Ordinance Amended. That Section 3-4 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-4 RP-2 (PLANNED TWO FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-2 Planned Two Family Residential shall be to provide for duplexes (two family attached dwelling units) and other selected uses which are compatible with medium density residential character of this district. Property zoned RP-2 should be those tracts that correspond to the Medium Density land use category identified in the Master Development Plan and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance. Two family dwellings which otherwise comply with the codes and ordinances of the City of Leawood may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners and such ownerships shall not constitute violation of the lot and yard requirements of this ordinance.

B) Principal Permitted Uses: In District RP-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered except for one or more of the following uses:

1) Two Family Dwellings

2) Group Homes as defined herein

3) Single Family dwellings when incorporated with a planned two family project

4) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-2 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) *Front Setback: 30 feet*

2) Side Setback: 10 feet

3) Rear Setback: 30 feet

4) Lot Area: 6,000 square feet/dwelling unit

5) Lot Frontage: 100 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence or two family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles per unit in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence or two family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family and two family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way)as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:

1) Intent:

The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
   1) Number 1 or 2 grade
b) Wood Shakes:
   1) Number 1 or 2 grade
   2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
   1) Must be within a similar color range of slate, clay tile or concrete tile; and
   2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:

1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:

Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 5. Leawood Development Ordinance Amended. That Section 3-13 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-13 AG (AGRICULTURAL DISTRICT)

A) General Purpose and Description: The AG District is intended to conserve farm land for agricultural purposes and to serve as a "holding" zone to prevent the premature development of large land acreages and of recently annexed land for which the most appropriate future use has not yet been determined. In order to promote these purposes, the regulations for this district allow a very limited range of uses so that the present development character of the land may be maintained and future development options preserved pending comprehensive study and analysis of the area.

B) Principal Permitted Uses: In District AG no building, structure, land or premises shall be used or hereafter erected, constructed, reconstructed, moved, or altered except for one or more of the following uses:

1) Agricultural use, including the raising of field crops and fruit orchards, grazing and stabling of livestock, horticulture, dairy farming, forestry, animal husbandry, and similar farming activities.

2) Railroads and public or quasi-public utilities including substations.

3) Noncommercial nursery.

4) Single family dwelling located on a lot of 40 acres or more.

5) Group Homes as defined herein.

6) Oil and gas wells.

7) Public or private park, golf course (except miniature golf and driving ranges), or similar natural recreation areas.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses:

F) Bulk Regulations:

1) Front Setback: 50 feet

2) Side Setback: 50 feet

3) Rear Setback: 50 feet

4) Lot Area: 40 acres per dwelling

5) Lot Frontage: 330 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for two standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: The agricultural district is exempt from landscaping and screening requirements.

J) Sewage Disposal: No permit for a dwelling or other building or land use which will produce impure wastewater shall be issued until a septic tank permit has been approved by the Governing Body after recommendation from the County Health Department or connection to sanitary sewer system.

K) Roofing:

1) *Intent:*

The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or *tile, even if all other standards are met.*

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. *The applicant shall file a completed application with the Planning and* Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.
b. *A Master Spec specification.*
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. *A list of the manufacturers of the requested product.*
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) *Appeals:*
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as *weathered cedar shakes, slate or tile.*

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
   1) Number 1 or 2 grade
b) *Wood Shakes:*
   1) Number 1 or 2 grade
   2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) *Synthetic Slate:*
   1) Must be within a similar color range of slate, clay tile or concrete tile; and
   2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the *stringers and / or 1/4s; and*
   5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:

1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

4) Must be installed with sheet metal valleys and flashings; and

5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and

6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:

1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

3) Must be installed with sheet metal valleys and flashings; and

4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and

5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:

1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and

2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and

3) Be installed with sheet metal valleys and flashings; and

4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and

5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:

1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and

3) Required to be installed with sheet metal valleys and flashings; and

4) Required to be installed with preformed ridge shingles; and

5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

7) Must use a minimum of five (5) color blend granules; and

8) Must be a minimum of 300 lbs. per square; and

9) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and

10) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:

1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and

2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and

3) Required to be installed with sheet metal valleys and flashings; and

4) Required to be installed with preformed ridge shingles; and

5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and

6) Must use a minimum of five (5) color blend granules; and

7) Must be a minimum of 300 lbs. per square; and

8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and

9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:

Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction -- Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 2/1 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, woos shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 6. Leawood Development Ordinance Amended. That Section 3-16 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-16 RP-A5 (PLANNED RURAL DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A5 Planned Rural Density Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-A5 should be those tracts that correspond to the rural density residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A5 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Residential Dwellings (detached).

2) Group Homes as defined herein.

3) Railroads and public or quasi-public utilities including substations.

4) Noncommercial nurseries and gardens.

5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A5 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

F) Bulk Regulations:

1) Front Setback: 150 feet

2) Side Setback: 35 feet

3) Rear Setback: 100 feet

4) Lot Area: 5 acres per dwelling (gross)

5) Lot Frontage: 150 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant or an acceptable septic tank system approved by Johnson county is required for development in the district.

K) Roofing:

1) Intent:

The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the *single-family residences within Leawood are known for, while also ensuring that the roofing products used* meet a high performance standard regarding safety and durability and to:

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed *complete without the following:*
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) *Aesthetic Standard*
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
   1) Number 1 or 2 grade
b) Wood Shakes:
   1) Number 1 or 2 grade
   2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
   1) Must be within a similar color range of slate, clay tile or concrete tile; and
   2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating

g) Synthetic Shingles:
   1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   4) Must be installed with sheet metal valleys and flashings; and
   5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:
   1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
   2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
   3) Must be installed with sheet metal valleys and flashings; and
   4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
   1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
   2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
   3) Be installed with sheet metal valleys and flashings; and
   4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
   1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be installed with preformed ridge shingles; and
   5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   6) Must use a minimum of five (5) color blend granules; and
   7) Must be a minimum of 300 lbs. per square; and
   8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
   1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
   2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
   3) Required to be installed with sheet metal valleys and flashings; and
   4) Required to be installed with preformed ridge shingles; and
   5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
   6) Must use a minimum of five (5) color blend granules; and
   7) Must be a minimum of 300 lbs. per square; and
   8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
   9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:

Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 7. Existing Section Repealed. The existing Section 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) of the Leawood Development Ordinance are hereby repealed.

Section 8. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 19th day of August, 2002.

Approved by the Mayor the 19th day of August, 2002.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Debra Harper

Debra Harper, City Clerk

Approved as to form:

Patricia A. Bennett

Patricia A. Bennett, City Attorney

ORD1952

Publication Fees: $464.74

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1952--10/1/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
OCTOBER 2, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$464.74

ORDINANCE NO. 1055

(First Published in The Legal Record Tuesday, October 01, 2002)

CITY OF MISSION

ORDINANCE NO. 1055

AN ORDINANCE OF THE CITY OF MISSION, KANSAS AUTHORIZING AND APPROVING THE REDEMPTION OF THE CITY OF MISSION, KANSAS SERIES 1989 ROCK CREEK NO. 1 BONDS.

WHEREAS, the City of Mission, Kansas has previously issued Series 1989 Bonds for the purpose of constructing and improving the Rock Creek channel generally east of Roeland and extending to the eastern border of the Mission City limits in the area generally described as Phase I, Rock Creek Benefit District; and

WHEREAS, Ordinance No. 769 authorizes the redemption of the Bonds prior to the stated maturity date of such Bonds; and

WHEREAS, the governing body now finds that the redemption of the Bonds will be in the best interests of the City of Mission; and

WHEREAS, funds are available in the Bond and Interest Account sufficient to provide for the payment of the principal amount of the Bonds outstanding, the interest payable on such Bonds, and any fees associated with redeeming the Bonds; and

WHEREAS, the governing body of the City of Mission now finds that all conditions precedent to the adoption of an ordinance authorizing the redemption of the Bonds have been satisfied.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MISSION, KANSAS:

Section 1. The City shall proceed with the redemption of the Bonds (the "Redemption"). The taking of such action and execution of such instruments as are necessary to effect the Redemption are hereby authorized, approved and ratified. The City has determined the principal amount of Bonds to be redeemed to be $585,000.00, which amount plus the interest payable on such Bonds, and any fees associated with redeeming the Bonds is hereby irrevocably set aside and pledged for such purposes.

Section 2. The City Clerk as required by law shall serve notice of the Redemption to the Kansas State Treasurer. The date of the Redemption shall be December 1, 2002. Interest on the Bonds called for redemption shall cease on the Redemption Date.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED BY THE GOVERNING BODY of the City of Mission, Kansas, this 25th day of September 2002.

APPROVED BY THE MAYOR this 25th day of September 2002.

Laura L. McConwell
Laura L. McConwell, Mayor

ATTEST:

Nancy S. Cakins
Nancy S. Cakins, City Clerk

ORDINANCE NO. 1056

(First Published in The Legal Record Tuesday, October 01, 2002)

CITY OF MISSION

ORDINANCE NO. 1056

AN ORDINANCE OF THE CITY OF MISSION, KANSAS AUTHORIZING AND APPROVING THE REDEMPTION OF THE CITY OF MISSION, KANSAS SERIES 1989-A ROCK CREEK NO. 2 BONDS.

WHEREAS, the City of Mission, Kansas has previously issued Series 1989-A Bonds for the purpose of constructing and improving the Rock Creek channel between Roeland Drive and Outlook within the City of Mission, Kansas in the area generally described as Phase II, Rock Creek Benefit District; and

WHEREAS, Ordinance No. 775 authorizes the redemption of the Bonds prior to the stated maturity date of such Bonds; and

WHEREAS, the governing body now finds that the redemption of the Bonds will be in the best interests of the City of Mission; and

WHEREAS, funds are available in the Bond and Interest Account sufficient to provide for the payment of the principal amount of the Bonds outstanding, the interest payable on such Bonds, and any fees associated with redeeming the Bonds; and

WHEREAS, the governing body of the City of Mission now finds that all conditions precedent to the adoption of an ordinance authorizing the redemption of the Bonds have been satisfied.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MISSION, KANSAS:

Section 1. The City shall proceed with the redemption of the Bonds (the "Redemption"). The taking of such action and execution of such instruments as are necessary to effect the Redemption are hereby authorized, approved and ratified. The City has determined the principal amount of Bonds to be redeemed to be $165,000.00, which amount plus the interest payable on such Bonds, and any fees associated with redeeming the Bonds is hereby irrevocably set aside and pledged for such purposes.

Section 2. The City Clerk as required by law shall serve notice of the Redemption to the Kansas State Treasurer. The date of the Redemption shall be December 1, 2002. Interest on the Bonds called for redemption shall cease on the Redemption Date.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 4. This Ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED BY THE GOVERNING BODY of the City of Mission, Kansas, this 25th day of September 2002.

APPROVED BY THE MAYOR this 25th day of September 2002.

Laura L. McConwell
Laura L. McConwell, Mayor

ATTEST:

Nancy S. Cakins
Nancy S. Cakins, City Clerk

NOTICE OF ELECTION

First published in The Legal Record, Tuesday, October 1, 2002.

NOTICE OF ELECTION

U.S.D. 232 (De Soto)
SPECIAL QUESTION

Notice is hereby given to the qualified electors of the Unified School District No. 232 (De Soto), Kansas, that pursuant to the provisions of K.S.A. 25-105, and action duly taken by the school district, that a special question election will be held on the 5th day of November, 2002, for the purpose of submitting to the qualified electors of said school district the following question.

The voting places will be open between the hours of 7:00 a.m. and 7:00 p.m. at the following locations:

POLLING PLACES & ADDRESSES
Bonner Springs
Pct 1 - Woodsonia Elementary School, 5515 S Highway 7
De Soto
Pct 1 - De Soto Community Center, 32905 W 84
Pct 2 - De Soto Baptist Church, 8655 Church
Pct 4 - De Soto United Methodist Church, 8760 S Kill Creek Road
Lenexa
Ward 2, Pct 4 Monticello United Methodist Church, 23860 W 75
Ward 2, Pct 8 - West Lenexa SDA Church, 24450 W 83
Ward 2, Pct 9 - West Lenexa SDA Church, 24450 W 83
Lexington Township
Pct 1 - De Soto United Methodist Church, 8760 S Kill Creek Rd
Pct 2 - De Soto Baptist Church, 8655 Church St
Pct 3 - De Soto Baptist Church, 8655 Church St
Pct 4 - De Soto United Methodist Church, 8760 S Kill Creek Rd
Pct 5 - De Soto Baptist Church, 8655 Church St
Pct 6 - De Soto Baptist Church, 8655 Church St
Monticello Township
Pct 1 - Clear Creek Elementary School, 5815 Monticello Rd
Pct 2 - Clear Creek Elementary School, 5815 Monticello Rd
Olathe
Ward 2, Pct 5 Cedar Creek Swim/Racquet Club, 25775 W 103
Ward 2, Pct 17 - De Soto Baptist Church, 8655 Church
Ward 2, Pct 18 - West Lenexa SDA Church, 24450 W 83
Olathe Township
Pct 1 - Cedar Creek Elementary School, 11150 S Clare Rd
Pct 3 - Oregon Trail Jr High School, 1800 W Dennis Ave
Shawnee
Ward 3, Pct 1 - Woodsonia School, 5515 S Highway 7
Ward 3, Pct 2 Westside Family Church, 6601 Monticello Rd
Ward 3, Pct 3 - Full Faith Church of Love, 6824 Lackman Rd
Ward 3, Pct 4 - Clear Creek Elementary School, 5815 Monticello Rd
Ward 3, Pct 5 - Mize Elementary School, 7301 Mize Rd
Ward 3, Pct 6 Tomahawk Recreation Complex, 17501 Midland Dr
Ward 3, Pct 7 - Westside Family Church, 6601 Monticello Rd
Ward 3, Pct 9 - Full Faith Church of Love, 6824 Lackman Rd
Shawnee Township
Pct 1 - Clear Creek Elementary School, 5815 Monticello Rd

U.S.D. No. 232 (De Soto)
Special Question

Shall the following be adopted?

Shall Unified School District No. 232 (De Soto), Johnson County, Kansas, issue general obligation bonds in an amount not to exceed $76,750,000 for the purpose of purchasing and improving sites and acquiring, constructing, equipping, furnishing, repairing, remodeling or making additions to buildings used for school district purposes including without limitation (a) constructing, furnishing and equipping new elementary schools, a new middle school, athletic fields and other school facilities, (b) constructing, furnishing and equipping additions to Monticello Trails Middle School, Mill Valley High School and other school facilities, (c) furnishing, equipping and improving existing school facilities, (d) providing new and upgraded computer and communication technology, (e) acquiring sites for school facilities, (f) providing all necessary and related improvements and (g) paying fees and expenses incidental thereto including interest during construction, all pursuant to the provisions of

K.S.A. 10-101 *et seq.*, K.S.A. 25-2018(f), K.S.A. 75-2315 *et seq.* and K.S.A. 72-6761?

( ) Yes ( ) No

All qualified electors residing within the area of the Unified School District No. 232 (De Soto), Kansas, are entitled to vote at said election.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office this 24th day of September, 2002.

Connie Schmidt
Election Commissioner
Johnson County Kansas

nsas House

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could pull an upset.
extend. Democrats are
to vote, the more it will
et," Sawyer said.
s economy.
v. Bill Graves cut $41
n state budget because
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s and social services.
e Legislature, led by
s, passed a $252 million
pending plan to finance

who are good but are in
time," Parkinson said.
ol, as is likely, the next
derate or conservative

Republican delegation
ink the election won't
rkinson said.
rate-conservative split
two years ago, when
f Manhattan defeated
peka by just two votes.

CONTINUED FROM PRECEDING PAGE

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ¼ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating

g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 7. Existing Section Repealed. The existing Section 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) of the Leawood Development Ordinance are hereby repealed.

Section 8. Take effect. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 19th day of August, 2002.

Approved by the Mayor the 19th day of August, 2002.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Debra Harper, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

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b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ¼ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.
k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.
1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.
2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.
3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.
4) The home shall have an attached two car garage.
5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 5. Leawood Development Ordinance Amended. That Section 3-13 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-13 AG (AGRICULTURAL DISTRICT)

A) General Purpose and Description: The AG District is intended to conserve farm land for agricultural purposes and to serve as a "holding" zone to prevent the premature development of large land acreages and of recently annexed land for which the most appropriate future use has not yet been determined. In order to promote these purposes, the regulations for this district allow a very limited range of uses so that the present development character of the land may be maintained and future development options preserved pending comprehensive study and analysis of the area.

B) Principal Permitted Uses: In District AG no building, structure, land or premises shall be used or hereafter erected, constructed, reconstructed, moved, or altered except for one or more of the following uses:
1) Agricultural use, including the raising of field crops and fruit orchards, grazing and stabling of livestock, horticulture, dairy farming, forestry, animal husbandry, and similar farming activities.
2) Railroads and public or quasi-public utilities including substations.
3) Noncommercial nursery.
4) Single family dwelling located on a lot of 40 acres or more.
5) Group Homes as defined herein.
6) Oil and gas wells.
7) Public or private park, golf course (except miniature golf and driving ranges), or similar natural recreation areas.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses:

F) Bulk Regulations:
1) Front Setback: 50 feet
2) Side Setback: 50 feet
3) Rear Setback: 50 feet
4) Lot Area: 40 acres per dwelling
5) Lot Frontage: 330 feet
6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for two standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: The agricultural district is exempt from landscaping and screening requirements.

J) Sewage Disposal: No permit for a dwelling or other building or land use which will produce impure wastewater shall be issued until a septic tank permit has been approved by the Governing Body after recommendation from the County Health Department or connection to sanitary sewer system.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

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b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
1) Number 1 or 2 grade

b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt

c) Slate

d) Clay Tile

e) Concrete Tile

f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating

g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
7) Must use a minimum of five (5) color blend granules; and
8) Must be a minimum of 300 lbs. per square; and
9) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
10) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction -- Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 2/1 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, woos shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 6. Leawood Development Ordinance Amended. That Section 3-16 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-16 RP-A5 (PLANNED RURAL DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A5 Planned Rural Density Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-A5 should be those tracts that correspond to the rural density residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A5 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Residential Dwellings (detached).

2) Group Homes as defined herein.

3) Railroads and public or quasi-public utilities including substations.

4) Noncommercial nurseries and gardens.

5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A5 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

F) Bulk Regulations:

1) Front Setback: 150 feet

2) Side Setback: 35 feet

3) Rear Setback: 100 feet

4) Lot Area: 5 acres per dwelling (gross)

5) Lot Frontage: 150 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant or an acceptable septic tank system approved by Johnson county is required for development in the district.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

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b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
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4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
7) Must use a minimum of five (5) color blend granules; and
8) Must be a minimum of 300 lbs. per square; and
9) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
10) Is required to be U.L. Class A fire rated material.
k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction -- Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 2/1 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, woos shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K:

Section 6. Leawood Development Ordinance Amended. That Section 3-16 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-16 RP-A5 (PLANNED RURAL DENSITY SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A5 Planned Rural Density Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-A5 should be those tracts that correspond to the rural density residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A5 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Residential Dwellings (detached).
2) Group Homes as defined herein.
3) Railroads and public or quasi-public utilities including substations.
4) Noncommercial nurseries and gardens.
5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A5 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

F) Bulk Regulations:

1) Front Setback: 150 feet
2) Side Setback: 35 feet
3) Rear Setback: 100 feet
4) Lot Area: 5 acres per dwelling (gross)
5) Lot Frontage: 150 feet
6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant or an acceptable septic tank system approved by Johnson county is required for development in the district.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

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b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.
k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 5. Leawood Development Ordinance Amended. That Section 3-13 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-13 AG (AGRICULTURAL DISTRICT)

A) General Purpose and Description: The AG District is intended to conserve farm land for agricultural purposes and to serve as a "holding" zone to prevent the premature development of large land acreages and of recently annexed land for which the most appropriate future use has not yet been determined. In order to promote these purposes, the regulations for this district allow a very limited range of uses so that the present development character of the land may be maintained and future development options preserved pending comprehensive study and analysis of the area.

B) Principal Permitted Uses: In District AG no building, structure, land or premises shall be used or hereafter erected, constructed, reconstructed, moved, or altered except for one or more of the following uses:

1) Agricultural use, including the raising of field crops and fruit orchards, grazing and stabling of livestock, horticulture, dairy farming, forestry, animal husbandry, and similar farming activities.

2) Railroads and public or quasi-public utilities including substations.

3) Noncommercial nursery.

4) Single family dwelling located on a lot of 40 acres or more.

5) Group Homes as defined herein.

6) Oil and gas wells.

7) Public or private park, golf course (except miniature golf and driving ranges), or similar natural recreation areas.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses:

F) Bulk Regulations:

1) Front Setback: 50 feet

2) Side Setback: 50 feet

3) Rear Setback: 50 feet

4) Lot Area: 40 acres per dwelling

5) Lot Frontage: 330 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for two standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: The agricultural district is exempt from landscaping and screening requirements.

J) Sewage Disposal: No permit for a dwelling or other building or land use which will produce impure wastewater shall be issued until a septic tank permit has been approved by the Governing Body after recommendation from the County Health Department or connection to sanitary sewer system.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

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1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 3. Leawood Development Ordinance Amended. That Section 3-3 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-3 RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL DIST.)

A) General Purpose and Description: Property zoned and developed as RP-1 Planned Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance.

B) Principal Permitted Uses: In District RP-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot may be 30 feet.

2) Side Setback: 12 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average a distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 12 feet from any property line.

5) Lot Area: 12,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:

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A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
   a) Wood Shingles:
      1) Number 1 or 2 grade
   b) Wood Shakes:
      1) Number 1 or 2 grade
      2) Minimum ½ inch thickness measured at butt
   c) Slate
   d) Clay Tile
   e) Concrete Tile
   f) Synthetic Slate:
      1) Must be within a similar color range of slate, clay tile or concrete tile; and
      2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating
   g) Synthetic Shingles:
      1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      4) Must be installed with sheet metal valleys and flashings; and
      5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      6) Must have a minimum U.L. Class B fire rating.
   h) Stone Coated Steel Roofing:
      1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
      2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
      3) Must be installed with sheet metal valleys and flashings; and
      4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating.
   i) Metal Roofing:
      1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
      2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
      3) Be installed with sheet metal valleys and flashings; and
      4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating.
   j) Laminated Composition Shingles meeting the following standards:
      1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be installed with preformed ridge shingles; and
      5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      6) Must use a minimum of five (5) color blend granules; and
      7) Must be a minimum 300 lbs. per square; and
      8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      9) Is required to be U.L. Class A fire rated material.
   k) SBS Modified Shingles:
      1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be installed with preformed ridge shingles; and
      5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      6) Must use a minimum of five (5) color blend granules; and
      7) Must be a minimum of 300 lbs. per square; and
      8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 4. Leawood Development Ordinance Amended. That Section 3-4 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-4 RP-2 (PLANNED TWO FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-2 Planned Two Family Residential shall be to provide for duplexes (two family attached dwelling units) and other selected uses which are compatible with medium density residential character of this district. Property zoned RP-2 should be those tracts that correspond to the Medium Density land use category identified in the Master Development Plan and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance. Two family dwellings which otherwise comply with the codes and ordinances of the City of Leawood may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners and such ownerships shall not constitute violation of the lot and yard requirements of this ordinance.

B) Principal Permitted Uses: In District RP-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered except for one or more of the following uses:

1) Two Family Dwellings

2) Group Homes as defined herein

3) Single Family dwellings when incorporated with a planned two family project

4) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

   a) Athletic Fields

   b) Cemeteries

   c) Community center buildings

   d) Convents, when a part of a school or church complex

   e) Fire station

   f) Libraries

   g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

   h) Parks, playgrounds and other recreational areas of municipal ownership

   i) Police stations

   j) Swimming pools (municipal)

   k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-2 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 30 feet

2) Side Setback: 10 feet

3) Rear Setback: 30 feet

4) Lot Area: 6,000 square feet/dwelling unit

5) Lot Frontage: 100 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence or two family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles per unit in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence or two family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family and two family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way)as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
   a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

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A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.
k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than 2 1/2 times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 4. Leawood Development Ordinance Amended. That Section 3-4 of the Leawood Development Ordinance, hereby amended to read as follows:

3-4 RP-2 (PLANNED TWO FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-2 Planned Two Family Resident shall be to provide for duplexes (two family attached dwelling units) and other selected uses which a compatible with medium density residential character of this district. Property zoned RP-2 should be thos tracts that correspond to the Medium Density land use category identified in the Master Development Pla and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance Two family dwellings which otherwise comply with the codes and ordinances of the City of Leawood may b divided at the party wall as to ownership and owned as separate dwelling units by separate owners and suc ownerships shall not constitute violation of the lot and yard requirements of this ordinance.

B) Principal Permitted Uses: In District RP-2 no building, structure, land or premises shall be used, and n building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered except for on or more of the following uses:

1) Two Family Dwellings

2) Group Homes as defined herein

3) Single Family dwellings when incorporated with a planned two family project

4) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-2 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 30 feet

2) Side Setback: 10 feet

3) Rear Setback: 30 feet

4) Lot Area: 6,000 square feet/dwelling unit

5) Lot Frontage: 100 feet

6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence or two family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles per unit in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence or two family residence be altered in such a way as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family and two family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way)as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:
1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

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1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.

j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum of 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 3. Leawood Development Ordinance Amended. That Section 3-3 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-3 RP-1 (PLANNED SINGLE FAMILY RESIDENTIAL DIST.)

A) General Purpose and Description: Property zoned and developed as RP-1 Planned Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned RP-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan and that meet the intent and objectives of Planned District Requirements in Section 6-3.1 of this ordinance.

B) Principal Permitted Uses: In District RP-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body:

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot may be 30 feet.

2) Side Setback: 12 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average a distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 12 feet from any property line.

5) Lot Area: 12,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:
1) Intent
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.
2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.
3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a) An approved evaluation report in conformance with the currently approved City Building Code.
b) A Master Spec specification.
c) A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d) Installation specifications provided by the manufacturer of the product.
e) List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f) A list of the manufacturers of the requested product.
g) The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.
4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.
5) Appeals:

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ORDINANCE NO. 1952

First published in The Legal Record, Tuesday, October 1, 2002.

ORDINANCE NO. 1952

AN ORDINANCE AMENDING SECTIONS 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ROOFING SECTIONS; AND REPEALING EXISTING SECTION.

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

Section 1. *Leawood Development Ordinance Amended. That Section 3-1 of the Leawood Development Ordinance, is* hereby amended to read as follows:

3-1 RP-A (PLANNED LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A Planned Large Lot Single Family Residential shall be to provide for single family detached dwellings on large lots and at the same time ensure proper placement on the property so as not to hinder future redevelopment including the extension of streets and utilities that would be required for rezoning to a greater density. Property zoned RP-A should be those tracts that correspond to the Rural Density Residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A no building, structure, land or premises shall be used, and no building or structure shall be hereafter *erected, constructed, reconstructed, moved, or altered, except for one* or more of the following uses:

1) Single family residential dwellings (detached).
2) Group Homes as defined herein.
3) Railroads and public or quasi-public utilities including substations.
4) *Noncommercial nurseries and gardens.*
5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A District in accordance *with Section 2-4.4 of this ordinance.*

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.
2) Sales office
3) *Model homes*

F) Bulk Regulations:

1) Front Setback: 50 feet
2) Side Setback: 25 feet
3) Rear Setback: 50 feet
4) Lot Area: 1 acre per dwelling (net)
5) *Lot Frontage: 150 feet*
6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family *residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2* standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials, and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in *construction, materials and color.*

H) Signs: (See Article 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living *material.* All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded *except those areas receiving other landscaping materials.* (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required for development in this district.

K) Roofing:

1) *Intent:*
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
   a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
   b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare *of the citizens of Leawood.*
   c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.
2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.
3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed *complete without the following:*
   a. An approved evaluation report in conformance with the currently approved City Building Code.
   b. A Master Spec specification.
   c. *A sample of the roofing material in each requested color. The size of the sample shall be a minimum of* 2 sqft and have a minimum of two courses.
   d. Installation specifications provided by the manufacturer of the product.
   e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
   f. A list of the manufacturers of the requested product.
   g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.
4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.
5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.
6) *Aesthetic Standard*
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.
7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
   a) Wood Shingles:
      1) *Number 1 or 2 grade*
   b) Wood Shakes:
      1) Number 1 or 2 grade
      2) Minimum ½ inch thickness measured at butt
   c) Slate
   d) Clay Tile
   e) Concrete Tile
   f) Synthetic Slate:
      1) Must be within a similar color range of slate, clay tile or concrete tile; and
      2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the *stringers and / or 1/4s; and*
      5) Must have a minimum U.L. Class B fire rating
   g) Synthetic Shingles:
      1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the *shadow line or individual thickness of the ply of roof material; and*
      4) Must be installed with sheet metal valleys and flashings; and
      5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
      6) Must have a minimum U.L. Class B fire rating.
   h) Stone Coated Steel Roofing:
      1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
      2) *Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a* shadow line imitating these natural products; and
      3) Must be installed with sheet metal valleys and flashings; and
      4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
      5) *Must have a minimum U.L. Class B fire rating.*
   i) Metal Roofing:
      1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
      2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
      3) Be installed with sheet metal valleys and flashings; and
      4) *Be placed on solid decking. All existing roofing materials shall be removed down to the stringers* and / or 1/4s; and
      5) Must have a minimum U.L. Class B fire rating.
   j) Laminated Composition Shingles meeting the following standards:
      1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      2) *Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating* the shadow line or individual thickness of the ply of roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be installed with preformed ridge shingles; and
      5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      6) Must use a minimum of five (5) color blend granules; and
      7) Must be a minimum 300 lbs. per square; and
      8) *Is required to be placed on solid decking. All existing roofing materials shall be removed down to* the stringers and / or 1/4s; and
      9) Is required to be U.L. Class A fire rated material.
   k) SBS Modified Shingles:
      1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
      2) *Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap* creating the shadow line or individual thickness of the play or roof material; and
      3) Required to be installed with sheet metal valleys and flashings; and
      4) Required to be installed with preformed ridge shingles; and
      5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
      6) Must use a minimum of five (5) color blend granules; and
      7) Must be a minimum 300 lbs. per square; and
      8) *Is required to be placed on solid decking. All existing roofing materials shall be removed down to* the stringers and / or 1/4s; and
      9) Is required to be U.L. Class A fire rated material.
8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for *other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.*

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential *design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes,* wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall *be not more than two and one-half (2 1/2) times the shortest exterior dimension.*

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

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3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

Section 2. Leawood Development Ordinance Amended. That Section 3-2 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-2 R-1 (SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as R-1 Single Family Residential shall be to provide for single family detached dwellings and other selected uses which are compatible with low density residential character of this district. Property zoned R-1 should be those tracts that correspond to the low density land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District R-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body.

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the R-1 District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot shall be 30 feet.

2) Side Setback: 15 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.

5) Lot Area: 15,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

8) Exception to Side Yard Setback: The Board of Zoning Appeals shall have the power to grant an exception to the required 15-foot Side Setback for additions to existing structures, upon a determination that such exception shall not cause adverse impact to the surrounding properties, and upon a finding of the following conditions:

a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and

b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and

c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and

d) The proposed addition shall not cause further encroachment than that of the existing structure.

Such exception shall require a public hearing. Notice of the hearing shall be published in the official city newspaper at the applicant's expense at least 20 days prior to the date of the hearing. Additionally, at least 10 days prior to the date of the hearing, the applicant shall mail notices regarding the application to all adjacent property owners and to the applicable homes association. Such mailed notice shall be by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Failure to receive such notice shall not invalidate any subsequent action taken.

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:

1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:

a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.

b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.

c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:

A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:

a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:

a) Wood Shingles:
1) Number 1 or 2 grade

b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt

c) Slate

d) Clay Tile

e) Concrete Tile

f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating

g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
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5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.

h) Stone Coated Steel Roofing:

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3) All residential design manufactured homes shall be installed in accordance with the recommended installation procedures of the manufacturer and city building codes. The running gear, tongue, axles, and wheels shall be removed from the unit at the time of installation. A continuous, permanent masonry or concrete foundation, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

4) The home shall have an attached two car garage.

5) Roofing shall be the same as for single family dwellings as stated in subsection K.

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B) Principal Permitted Uses: In District R-1 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single Family Dwellings

2) Group Homes as defined herein.

3) The following public and semipublic uses may be permitted after hearing and review of preliminary plans and recommendation by the City Plan Commission and approval of the Governing Body.

a) Athletic Fields

b) Cemeteries

c) Community center buildings

d) Convents, when a part of a school or church complex

e) Fire station

f) Libraries

g) Nurseries and truck gardens limited to the propagation and cultivation of plants provided no retail or wholesale business shall be conducted on the premises and no obnoxious fertilizer renovation may be conducted thereon

h) Parks, playgrounds and other recreational areas of municipal ownership

i) Police stations

j) Swimming pools, (municipal)

k) Other municipal facilities

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the R-1 District in accordance with Section 2-4.4 of this orginance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.

2) Sales office

3) Model homes

F) Bulk Regulations:

1) Front Setback: 35 feet except that the side yard on street side of corner lot shall be 30 feet.

2) Side Setback: 15 feet

3) Rear Setback: 30 feet except that when structure is placed at approximately a 45 degree angle toward street then irregular lot setbacks shall apply.

4) Irregular Lot Setbacks: On lots bounded by two intersecting streets, irregular rear property line or of other than generally rectangular shape the rear yard setback shall average distance of 30 feet. This setback shall be determined by extending the sidewalls of the structure to the rear property line and calculating the square footage within the area between the rear walls, the side extensions and the rear property line(s). This figure will then be divided by the distance between the extended sidewall lines. This will give the average depth of the area enclosed and this must be equal to or greater than 30 feet. In no case shall the structure be located less than 15 feet from any property line.

5) Lot Area: 15,000 square feet per dwelling

6) Lot Frontage: 100 feet

7) Height Limit: 2 1/2 stories

8) Exception to Side Yard Setback: The Board of Zoning Appeals shall have the power to grant an exception to the required 15-foot Side Setback for additions to existing structures, upon a determination that such exception shall not cause adverse impact to the surrounding properties, and upon a finding of the following conditions:

a) The existing structure was legally constructed with a Side Setback of less than 15 feet; and

b) In no case shall the existing structure and any proposed addition be any closer than 10 feet to the property line; and

c) The proposed addition will be continuous and consistent with the existing side build line of the existing structure; and

d) The proposed addition shall not cause further encroachment than that of the existing structure.

Such exception shall require a public hearing. Notice of the hearing shall be published in the official city newspaper at the applicant's expense at least 20 days prior to the date of the hearing. Additionally, at least 10 days prior to the date of the hearing, the applicant shall mail notices regarding the application to all adjacent property owners and to the applicable homes association. Such mailed notice shall be by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. Failure to receive such notice shall not invalidate any subsequent action taken.

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Section 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required.

K) Roofing:

1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:

A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:

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ORDINANCE NO. 1952

First published in The Legal Record, Tuesday, October 1, 2002.

ORDINANCE NO. 1952

AN ORDINANCE AMENDING SECTIONS 3-1 (RP-A), 3-2 (R-1), 3-3 (RP-1), 3-4 (RP-2), 3-13 (AG) and 3-16 (RP-A5) OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ROOFING SECTIONS; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 3-1 of the Leawood Development Ordinance, is hereby amended to read as follows:

3-1 RP-A (PLANNED LARGE LOT SINGLE FAMILY RESIDENTIAL DISTRICT)

A) General Purpose and Description: Property zoned and developed as RP-A Planned Large Lot Single Family Residential shall be to provide for single family detached dwellings on large lots and at the same time ensure proper placement on the property so as not to hinder future redevelopment including the extension of streets and utilities that would be required for rezoning to a greater density. Property zoned RP-A should be those tracts that correspond to the Rural Density Residential land use category identified in the Master Development Plan.

B) Principal Permitted Uses: In District RP-A no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

1) Single family residential dwellings (detached).
2) Group Homes as defined herein.
3) Railroads and public or quasi-public utilities including substations.
4) Noncommercial nurseries and gardens.
5) Oil and gas wells.

C) Accessory Uses: (See Section 4-1 of this ordinance.)

D) Special Uses: (See Section 4-3 of this ordinance.)

E) Temporary Uses: The following use shall be permitted as a temporary use in the RP-A District in accordance with Section 2-4.4 of this ordinance.

1) Building or trailer for storage of materials and/or equipment necessary for construction authorized by a valid building permit, provided the location of the building or trailer has been approved by the Director of Planning and Development.
2) Sales office
3) Model homes

F) Bulk Regulations:

1) Front Setback: 50 feet
2) Side Setback: 25 feet
3) Rear Setback: 50 feet
4) Lot Area: 1 acre per dwelling (net)
5) Lot Frontage: 150 feet
6) Height Limit: 2 1/2 stories

G) Parking Requirements: Refer to individual parking group in Section 4-4 of this ordinance. No single family residence shall be constructed that does not provide space for fully covered and fully enclosed parking for 2 standard passenger vehicles in an area designated as a garage, attached or integral to the residence and compatible with said residence in construction, materials, and color; nor shall any existing single family residence be altered in such away as to incorporate existing garage space into living area unless said alteration shall provide an equivalent area of fully covered, fully enclosed parking in the form of a garage attached to or integral with said residence and compatible in construction, materials and color.

H) Signs: (See Article 4-5 of this ordinance.)

I) Landscaping and Screening Requirements: Single family dwellings shall maintain a minimum of 25% of lot area (exclusive of right-of-way) as a permeable and uncovered surface that contains living material. All land areas which are to remain unpaved and not covered by buildings shall be brought to finish grade and sodded except those areas receiving other landscaping materials. (For additional requirements see Section 4-6 of this ordinance.)

J) Sewage Disposal: Connection to a sanitary sewer system with treatment plant is required for development in this district.

K) Roofing:

1) Intent:
The intent of the City of Leawood is to create and maintain the distinctive, traditional character that the single-family residences within Leawood are known for, while also ensuring that the roofing products used meet a high performance standard regarding safety and durability and to:
a) Provide the citizens of Leawood with a choice of roofing materials while ensuring that only quality products are used.
b) Ensure that all roofing materials permitted within the City of Leawood meet minimum performance standards regarding fire, wind resistance and impact resistance to protect the health, safety and welfare of the citizens of Leawood.
c) Ensure that roofing materials within the City of Leawood are aesthetically compatible with the existing roofs within the City and have the look of natural materials such as weathered cedar shakes, slate or tile, even if all other standards are met.

2) Required Permits:
All roofing materials shall be permitted, installed, and inspected in accordance with the City of Leawood Development Ordinance and the current adopted building code.

3) Submission Requirements:
A list of approved roofing materials and associated permitted colors shall be available from the Planning and Development Department. The applicant shall file a completed application with the Planning and Development Department for administrative review, for any roofing material or color that is not included on the City's approved list. All new roofing materials shall meet the standards stated within this ordinance and shall only be installed by a licensed roofing contractor. In addition, an application shall not be deemed complete without the following:
a. An approved evaluation report in conformance with the currently approved City Building Code.
b. A Master Spec specification.
c. A sample of the roofing material in each requested color. The size of the sample shall be a minimum of 2 sqft and have a minimum of two courses.
d. Installation specifications provided by the manufacturer of the product.
e. List of addresses where the product (and the color applied for) has been installed within the Kansas City Metropolitan Area for a minimum of 1 year.
f. A list of the manufacturers of the requested product.
g. The current administrative fee for roofing applications as stated in the City of Leawood Fee Schedule.

4) Final Determination:
The Director of Planning or designee shall determine whether a new roofing product meets both the City's aesthetic, safety and performance standards set forth in this ordinance.

5) Appeals:
A decision made by the Director of Planning may be appealed to the City of Leawood Board of Zoning Appeals.

6) Aesthetic Standard
The aesthetic standard required under this ordinance shall be that all roofing materials and colors be aesthetically compatible with existing roofs in the City and shall have the look of natural materials such as weathered cedar shakes, slate or tile.

7) Roofing Safety and Performance Standards:
All roofing materials shall have approval from the City of Leawood and must meet the following standards for each type of material:
a) Wood Shingles:
1) Number 1 or 2 grade
b) Wood Shakes:
1) Number 1 or 2 grade
2) Minimum ½ inch thickness measured at butt.
c) Slate
d) Clay Tile
e) Concrete Tile
f) Synthetic Slate:
1) Must be within a similar color range of slate, clay tile or concrete tile; and
2) Must have a thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating
g) Synthetic Shingles:
1) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
2) Must have an architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
3) Must have a thickness of 1/2 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
4) Must be installed with sheet metal valleys and flashings; and
5) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
6) Must have a minimum U.L. Class B fire rating.
h) Stone Coated Steel Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Must be installed with sheet metal valleys and flashings; and
4) Must be placed on solid decking. All existing roofing materials shall be removed down to the stringers and/or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
i) Metal Roofing:
1) Must have the appearance and color range of natural weathered cedar shingles, weathered cedar shakes, clay tile or concrete tile; and
2) Must have a similar thickness to wood shingles, wood shakes or tile such that it produces a shadow line imitating these natural products; and
3) Be installed with sheet metal valleys and flashings; and
4) Be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
5) Must have a minimum U.L. Class B fire rating.
j) Laminated Composition Shingles meeting the following standards:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of overlap creating the shadow line or individual thickness of the ply of roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.
k) SBS Modified Shingles:
1) Architectural shingle with shadow lines and or relief imitating a wood shingle or wood shake; and
2) Must have a minimum thickness of 3/16 inch measured at the exposed butt end of the overlap creating the shadow line or individual thickness of the play or roof material; and
3) Required to be installed with sheet metal valleys and flashings; and
4) Required to be installed with preformed ridge shingles; and
5) Must have the appearance and color range of natural weathered cedar shingles or weathered cedar shakes; and
6) Must use a minimum of five (5) color blend granules; and
7) Must be a minimum 300 lbs. per square; and
8) Is required to be placed on solid decking. All existing roofing materials shall be removed down to the stringers and / or 1/4s; and
9) Is required to be U.L. Class A fire rated material.

8) Flat Roofs:
Flat roofs or roofs with a pitch of less than 3 inches per foot, in addition to the materials permitted herein, for other roofs, may also be covered with metal, built-up asphalt, or single ply elastomeric membrane.

L) Type of Construction - Residential Design Manufactured Homes: Exterior walls of all residential design manufactured homes shall be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Windows, doors and louvers shall be of wood or metal or glass.

1) All residential design manufactured homes shall have a minimum of 1200 square feet of main floor area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2 1/2) times the shortest exterior dimension.

2) The exterior siding must be of brick, stone, wood, stucco, wood shingles, wood shakes, wood siding, wood paneling, wood fiber product paneling, tile or any combination thereof. Non-masonry siding material shall extend below the top of the exterior foundation or curtain wall and the joint shall be flashed in accordance with the city building codes.

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1951

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $6,400,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement of State Line Road between 103rd Street and Carondelet within the City pursuant to K.S.A. 12-685, *et seq.* and Ordinance No. 1372;

(b) Improvement of Nall Avenue between 135th Street and 143rd Street within the City pursuant to K.S.A. 12-685, *et seq.* and Resolution No. 1682;

(c) Repair, reconstruction and remodeling of and additions to the City's Fire Station No. 2 within the City pursuant to K.S.A. 12-1736 *et seq.* and Resolution No. 1766;

(d) Acquisition, construction and installation of a new public works facility within the City pursuant to 12-1736 *et seq.* and Resolution No. 1532;

(e) Improvement and reimprovement of 119th Street and Mission Road in the area of the intersection thereof pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(f) Improvement of Lee Boulevard between 103rd Street and 105th Street within the City pursuant to K.S.A. 12-685 *et seq.* and Ordinance No. 1886;

(g) Construction of 133rd Street from the intersection of said street and State Line Road to the intersection of said street with Mission Road within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended by Resolution No. 1638; and

(h) Construction of 133rd Street from the intersection of said street with Mission Road to the intersection of said street with Roe Avenue within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended by Resolution No. 1639;

(collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated December 1, 2001, in the principal amount of $6,100,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $1,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

SECTION ONE: Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Six Million Four Hundred Thousand Dollars ($6,400,000.00) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

SECTION TWO: Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

SECTION THREE: Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

SECTION FIVE: Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $1,100,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the

Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;
2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.
3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.
4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2002.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

SECTION ELEVEN: Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 5th day of August, 2002.

APPROVED by the Mayor this 5th day of August, 2002.

[SEAL]

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

4082002

ORD1951

Publication Fees: $99.68

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1951--8/6/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
AUGUST 7, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$99.68

ORDINANCE NO. 1951

First published in The Legal Record, Tuesday, August 6, 2002.

ORDINANCE NO. 1951

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $6,400,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement of State Line Road between 103rd Street and Carondelet within the City pursuant to K.S.A. 12-685, *et seq.* and Ordinance No. 1372;

(b) Improvement of Nall Avenue between 135th Street and 143rd Street within the City pursuant to K.S.A. 12-685, *et seq.* and Resolution No. 1682;

(c) Repair, reconstruction and remodeling of and additions to the City's Fire Station No. 2 within the City pursuant to K.S.A. 12-1736 *et seq.* and Resolution No. 1766;

(d) Acquisition, construction and installation of a new public works facility within the City pursuant to 12-1736 *et seq.* and Resolution No. 1532;

(e) Improvement and reimprovement of 119th Street and Mission Road in the area of the intersection thereof pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(f) Improvement of Lee Boulevard between 103rd Street and 105th Street within the City pursuant to K.S.A. 12-685 *et seq.* and Ordinance No. 1886;

(g) Construction of 133rd Street from the intersection of said street and State Line Road to the intersection of said street with Mission Road within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended by Resolution No. 1638; and

SECTION THREE: Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

SECTION FIVE: Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $1,100,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be

(a) Construction of 133rd Street from the intersection of said street with Mission Road to the intersection of said street with Roe Avenue within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended by Resolution No. 1639;

(collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated December 1, 2001, in the principal amount of $6,100,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $1,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

SECTION ONE: Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Six Million Four Hundred Thousand Dollars ($6,400,000.00) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

SECTION TWO: Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

Notes will remain excluded from federal gross income, to the extent any such actions will be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;
2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.
3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.
4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2002.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1950

AN ORDINANCE ADOPTING THE 2002 COMPREHENSIVE PLAN.

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

Section1. That the City of Leawood, in accordance with K.S.A. 12-747, hereby adopts the 2002 Comprehensive Plan as approved by the Governing Body May 20, 2002.

Section 2. That the City of Leawood Planning Commission, in accordance with K.S.A. 12-747, held a public hearing and passed a motion to recommend adoption of the 2002 Comprehensive Plan on April 23, 2002.

Section 3. That the official copy of said plan and map is on file in the City Clerk's office.

Section 4. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of May, 2002.

Approved by the Mayor the 20th day of May, 2002.

(SEAL)

Peggy J. Dunn Mayor

Attest:

Martha Heizer City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1950

Publication Fees: $18.44

The Legal Record
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(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1950--5/28/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

MAY 29, 2002

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$18.44

ORDINANCE NO. 1950

First published in The Legal Record, Tuesday, May 28, 2002.

ORDINANCE NO. 1950

AN ORDINANCE ADOPTING THE 2002 COMPREHENSIVE PLAN.

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

Section1. That the City of Leawood, in accordance with K.S.A. 12-747, hereby adopts the 2002 Comprehensive Plan as approved by the Governing Body May 20, 2002.

Section 2. That the City of Leawood Planning Commission, in accordance with K.S.A. 12-747, held a public hearing and passed a motion to recommend adoption of the 2002 Comprehensive Plan on April 23, 2002.

Section 3. That the official copy of said plan and map is on file in the City Clerk's office.

Section 4. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed by the Council the 20th day of May, 2002.

Approved by the Mayor the 20th day of May, 2002.

(SEAL)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1950

Publication Fees: $18.44

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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Maureen Gillespie

Legal Notices Billing Clerk

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MAY 29, 2002

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$18.44

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Section 3. That the official copy of said plan and map is on file in the City Clerk's office.

Section 4. That this ordinance shall take effect and be in force from and after its publication in the official City newspaper

Passed by the Council the 20th day of May, 2002.

Approved by the Mayor the 20th day of May, 2002.

(SEAL)

Peggy J. Dunn — Mayor

Attest:

Martha Heizer — City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1949

ORDINANCE REZONING FROM AG, AGRICULTURE, TO REC, PLANNED RECREATION, FOR 133rd AND MISSION PARK, LOCATED NORTH OF 133rd STREET AND EAST OF MISSION ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

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

SECTION ONE: Rezoning. That the following described real estate is hereby rezoned from AG, Agriculture, to REC, Planned Recreation:

Tract A, of Waterford Plat No.4, a replat of part of Tract "A," Market Square Center City of Leawood, Johnson County, Kansas

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

I:\4133MSNPK.doc

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1949

First published in The Legal Record, Tuesday, April 23, 2002.

ORDINANCE NO. 1949

ORDINANCE REZONING FROM AG, AGRICULTURE, TO REC, PLANNED RECREATION, FOR 133rd AND MISSION PARK, LOCATED NORTH OF 133rd STREET AND EAST OF MISSION ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS

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

SECTION ONE: Rezoning. That the following described real estate is hereby rezoned from AG, Agriculture, to REC, Planned Recreation:

Tract A, of Waterford Plat No.4, a replat of part of Tract "A," Market Square Center City of Leawood, Johnson County, Kansas

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

SEAL

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1949

Publication Fees: $25.36

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1949--4/23/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

APRIL 24, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$25.36

ORDINANCE NO. 1948

ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $7,600,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement and reimprovement of Roe Avenue between 124th Street and 135th Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1681;

(b) Improvement and reimprovement of Nall Avenue between 135th Street and 143rd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1682

(c) Acquisition, construction and installation of a new Public Works Maintenance Facility pursuant to K.S.A. 12-1736 *et seq.* and Resolution No. 1532;

(d) Improvement and reimprovement of State Line Road at the intersection of 92nd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1683;

(e) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(f) Improvement and reimprovement of 151st Street between Nall avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(g) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant K.S.A. 12-6a01 *et. seq.* and Resolution No. 1553, as amended by Resolution No. 1614;

(h) Construction of 133rd Street from State Line Road to Mission Road pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended and restated by Resolution No. 1638; and

(i) Construction of 133rd Street from Mission Road to Roe Avenue pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended and restated by Resolution No. 1639; (collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated August 15, 2001, in the principal amount of $3,700,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $4,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

SECTION ONE: Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Seven Million Six Hundred Thousand Dollars ($7,600,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

SECTION TWO: Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

SECTION THREE: Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

SECTION FIVE: Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $3,600,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;

2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other

tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.

3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.

4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2000.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

SECTION ELEVEN: Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

[SEAL]

Peggy J. Dunn

Peggy J. Dunn, Mayor

K:\Clerks\Temp Notes\405012002.doc

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1948

Publication Fees: $89.50

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213 E. Santa Fe, Suite 2
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LEAWOOD, KS 66211

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for 1 consecutive week(s), as follows:

ORIDINANCE NO. 1948--4/16/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
APRIL 17, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$89.50

ORDINANCE NO. 1948

First published in The Legal Record, Tuesday, April 16, 2002.

ORDINANCE NO. 1948

ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $7,600,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement and reimprovement of Roe Avenue between 124th Street and 135th Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1681;

(b) Improvement and reimprovement of Nall Avenue between 135th Street and 143rd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1682

(c) Acquisition, construction and installation of a new Public Works Maintenance Facility pursuant to K.S.A. 12-1736 *et seq.* and Resolution No. 1532;

(d) Improvement and reimprovement of State Line Road at the intersection of 92nd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1683;

(e) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(f) Improvement and reimprovement of 151st Street between Nall avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(g) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant K.S.A. 12-6a01 *et. seq.* and Resolution No. 1553, as amended by Resolution No. 1614;

(h) Construction of 133rd Street from State Line Road to Mission Road pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended and restated by Resolution No. 1638; and

(i) Construction of 133rd Street from Mission Road to Roe Avenue pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended and restated by Resolution No. 1639; (collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated August 15, 2001, in the principal amount of $3,700,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $4,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

SECTION ONE: Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Seven Million Six Hundred Thousand Dollars ($7,600,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

SECTION TWO: Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

SECTION THREE: Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

SECTION FIVE: Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $3,600,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;
2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.
3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.
4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2000.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

SECTION ELEVEN: Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

[SEAL]

Peggy J. Dunn

Peggy J. Dunn, Mayor

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ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1948

Publication Fees: $89.50

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORIDINANCE NO. 1948--4/16/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

APRIL 17, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$89.50

ORDINANCE NO. 1948

First published in The Legal Record, Tuesday, April 16, 2002.

ORDINANCE NO. 1948

ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $7,600,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD, KANSAS

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement and reimprovement of Roe Avenue between 124th Street and 135th Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1681;

(b) Improvement and reimprovement of Nall Avenue between 135th Street and 143rd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1682

(c) Acquisition, construction and installation of a new Public Works Maintenance Facility pursuant to K.S.A. 12-1736 *et seq.* and Resolution No. 1532;

(d) Improvement and reimprovement of State Line Road at the intersection of 92nd Street pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1683;

(e) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(f) Improvement and reimprovement of 151st Street between Nall avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(g) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant K.S.A. 12-6a01 *et. seq.* and Resolution No. 1553, as amended by Resolution No. 1614;

(h) Construction of 133rd Street from State Line Road to Mission Road pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended and restated by Resolution No. 1638; and

(i) Construction of 133rd Street from Mission Road to Roe Avenue pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended and restated by Resolution No. 1639; (collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated August 15, 2001, in the principal amount of $3,700,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $4,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable..

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

SECTION ONE: Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Seven Million Six Hundred Thousand Dollars ($7,600,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

SECTION TWO: Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

SECTION THREE: Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

SECTION FIVE: Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $3,600,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City not take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;
2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.
3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.
4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2000.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

SECTION ELEVEN: Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

[SEAL]

Peggy J. Dunn

Peggy J. Dunn, Mayor

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ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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ORIDINANCE NO. 1948--4/16/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
APRIL 17, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$89.50

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WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

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SECTION FOUR: Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

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SECTION SIX: Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

SECTION SEVEN: Designation of Notes as Qualified Tax-Exempt Obligations. The Governing Body hereby finds, determines, represents and warrants, as follows:

1. The City is a duly created, organized and validly existing municipal corporation of the State of Kansas in existence since 1948;
2. Since January 1, 2002, neither the City, any related issuer on behalf of the City nor any subordinate issuing entity to the City have issued bonds or notes or other tax-exempt obligations taken into account under Section 265(b)(3)(D) of an aggregate amount in excess of $10,000,000.
3. The City does not reasonably anticipate issuing tax-exempt obligations taken into account under Section 265(b)(3)(D) during calendar year 2002 in an aggregate amount in excess of $10,000,000.
4. No portion of the proceeds of the sale of the Notes will be loaned to or will such proceeds or any of the City Improvement Projects be in any manner used on a basis different from the general public in the trade or business of any person, firm or corporation other than a governmental entity.

The Governing Body of the City hereby designates the Notes to be "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265 of the Code, for calendar year 2000.

SECTION EIGHT: Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

SECTION NINE: Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

SECTION TEN: Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

SECTION ELEVEN: Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

[SEAL]

Peggy J. Dunn

Peggy J. Dunn, Mayor

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ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1947

AN ORDINANCE GRANTING KANSAS CITY POWER & LIGHT COMPANY, ITS GRANTEES, SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT AND MAINTAIN ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS WITH ELECTRICITY, GRANTING TO SAID COMPANY THE RIGHT TO USE THE STREETS, ALLEYS AND OTHER PUBLIC RIGHTS-OF-WAY, PROVIDING FOR COMPENSATION FROM SUCH COMPANY FOR SAID RIGHT AND FRANCHISE, PRESCRIBING THE TERMS OF AND RELATING TO SUCH FRANCHISE AND REPEALING ORDINANCE NO. 1215

WHEREAS, Kansas City Power & Light Company (herein called the Company) is a corporation duly organized and existing under and by virtue of the laws of the State of Missouri, and admitted to do business under the laws of the State of Kansas as a foreign corporation for the purpose of generating and distributing electric energy; and

WHEREAS, the Company is operating a system for the production, transmission and distribution of electricity in the State of Kansas and has heretofore built, or proposes to build, its electric facilities within and through the City of Leawood, Kansas; and

WHEREAS, the parties hereto desire that the Company furnish electricity to consumers in said City located in the areas of the City in which the Company shall hold a Certificate of Convenience and Authority from the State Corporation Commission of the State of Kansas;

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

SECTION ONE: In consideration of the benefits to be derived by the City and the inhabitants thereof from the construction, operation and maintenance of an electric light and power system and the sale and distribution of electric energy to the public, there is hereby granted to the Company and to its successors and assigns a franchise and authority to construct, operate and maintain within the existing and any future extended corporate limits of the City for which the Company now or shall hereafter hold a Certificate of Convenience and Authority from the Kansas Corporation Commission all appropriate facilities for carrying on a power and light business and all other operations connected therewith or incident thereto for the purpose of selling and distributing within the City and outlying areas, electric energy in such forms as may be reasonably required for domestic, residential, commercial, industrial, municipal and other purposes, to the extent allowed by City ordinances, and to produce and supply such electric energy by manufacture, purchase or otherwise, and to transmit and distribute same by means of underground or overhead facilities or otherwise. This Franchise only grants the Company the right to provide electric light and power service, and the Company shall not provide any other services, including, but not limited to, internet, telecommunications, cable, or open video systems, without permission and a franchise from the City. For any or all of said purposes Company is authorized to (i) construct, install, replace and remove conduits, poles, lamp posts, guys, anchors, wires, cables, street lights and all other related facilities in, on, under, along,

across and over all streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way, subject to Section IV, and (ii) construct, erect, maintain and remove all buildings, machinery and attachments of any and every kind for any and all said purposes in, on, under, along, across and over all streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way, and (iii) enter upon any and all of said public streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way within the corporate limits of the City as they now exist or may hereafter be opened, widened, extended, laid out and established, including any other territory hereafter added thereto or coming under the City's jurisdiction, and to trim trees upon and overhanging such places and make such excavations thereon as may be appropriate for the construction, operation, maintenance, repair, renewal and removal of the Company's overhead and underground facilities and plants, provided, that all such use of the streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way are used in such a way as to give the least inconvenience to the inhabitants of the City and the public generally and such uses are subject to all right-of-way management and other rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in its reasonable exercise of its police power. Notwithstanding the above grant authority, the company shall not locate, construct or erect (a) any facilities used in the production, manufacture or generation of electricity, or (b) any storage buildings, sheds or other storage facilities that are inconsistent with or otherwise not permitted by City ordinance.

SECTION TWO: This Franchise is for a term of fifteen (15) years from the effective date hereof. At any time after three years from the effective date, either party may terminate this Franchise by providing written notice, one year prior to any such termination date, to the other party that it is terminating the Franchise.

SECTION THREE: The Company shall be subject to all right-of-way management and other rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in its reasonable exercise of its police power. Any pavements, sidewalks or curbing taken up or any and all excavations and construction made shall be done under the supervision and direction of the Governing Body of said City under all necessary permits issued for the work, and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the City and the public generally, and pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good condition as before with all convenient speed, by and at the expense of the Company. The Company shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the Company at the Company's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The Company shall proceed with relocations at due diligence upon notice by the City to begin relocation.

SECTION FOUR: The Company shall at all times during the term of this Franchise supply to consumers of electric energy, residing in those portions of the City duly certificated to the Company by the Kansas Corporation Commission, such electric energy as they may require, and shall extend and construct its lines and services in accordance with legal requirements, and

rules and regulations as filed from time to time with the Kansas Corporation Commission and the terms of this Franchise. Nothing contained herein shall be construed as a guarantee upon the part of the Company to furnish uninterrupted service, and interruptions due to Acts of God, fire, strikes, civil or military authority, orders of court and other causes reasonably beyond the control of the Company are specifically exempted from the terms of this Section.

SECTION FIVE: All poles and wires shall be erected in accordance with the rules and regulations of the Kansas Corporation Commission and any amendments thereto and any applicable local, state or federal laws. All poles carrying said wires shall be placed in such manner as to interfere with and obstruct as little as reasonably possible, the ordinary use of the streets, alleys, lanes and highways of said City, and shall not interfere with any gas main, water main sewer or other lawful user of the right-of-way laid out or constructed in or under said streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way. In all residential locations within the City, the Company shall, wherever feasible, continue the placement of its electric service facilities in backyards only. Any pole replacement shall be made in accordance with all City ordinances and regulations.

SECTION SIX: The Company shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the Company in the performance of its work within the City. The City agrees to timely notify the Company of any such claim, demand, suit, proceeding, and/or action by providing written notice to the Company and the registered agent of the Company. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the Company from its duty to defend against liability or its duty to pay any judgment entered against the City or its agents.

SECTION SEVEN: The Company shall maintain liability insurance and performance and maintenance bonds as required by any rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City.

SECTION EIGHT: As a further consideration for the rights, privileges and franchise hereby granted, and in lieu of all rental for the use of the streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way involved herein, the Company shall monthly pay to the City in cash five percent (5%) of its gross receipts charged and collected from the sale of electric energy and all distribution products and services purchased and used within the present or future boundaries of said City for domestic, residential, commercial and industrial consumption. Such payment shall be made on or before the last day of each month, and shall be based upon said gross receipts charged and collected for the preceding month. The term "gross receipts" as applied to the sales of electricity for domestic, residential, commercial or industrial purposes, as used in this section shall not include (1) the electric energy sold to the United States and the State of Kansas or any agency or political subdivision thereof; (2) the electric energy sold to public utilities performing activities which are presently franchised by the

City and regulated by the Kansas Corporation Commission; (3) the electric energy sold for other use which cannot be classified as domestic, residential, commercial or industrial, limited to electric energy used by educational institutions not operating for profit, churches and charitable institutions; (4) the electric energy sold for resale; and (5) the franchise consideration paid to the City pursuant to this section.

SECTION NINE: This Franchise shall not convey title, equitable or legal, in the rights-of-way, and gives only the right to occupy rights-of-way for the purposes and for the period stated in this Franchise and subject to the requirements herein. This Franchise shall not grant the right to use property, other than right-of-way property, or physical facilities owned or controlled by the City or a third-party, without the separate consent of such party, nor shall this Franchise excuse Company from obtaining separate appropriate access or attachment agreements before locating its facilities on property other than right-of-way property or facilities owned or controlled by the City or a third party.

SECTION TEN: The Company shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or voluntary sale, or by ordinary sale, consolidation, or otherwise, this Franchise or any of the rights or privileges granted by this Franchise, without the prior written consent of the City. Such consent shall not be unreasonably withheld. Except as otherwise may be provided by law, the Company shall not lease, sell or otherwise transfer possession or control of the Facilities, or any portion thereof, for any purpose to any person or entity that has not obtained a duly issued Franchise, or other grant by the City to use the rights-of-way and which includes the authority to use or maintain such lease or transferred facilities.

SECTION ELEVEN: If during the term of this Franchise, federal or state law is changed to permit competition between Company and others in the sale or distribution of electricity within the City, to permit retail wheeling of electricity in any form, to include the sale of unbundled services within the City or to eliminate or substantially modify the authority of the Kansas Corporation Commission has over the sale and distribution of electricity within the State then the City and the Company agree to enter into good faith negotiations for the purpose of revising and amending this Franchise to address said change(s). Should the City and the Company fail after good faith negotiations to agree upon revised or amended Franchise terms, then the City and the Company shall each have the right to terminate this Franchise upon 120 days written notice.

SECTION TWELVE: All provisions of this Ordinance shall be binding upon the Company and shall inure to the benefit of the Company, its grantees and its successors and assigns from and after the date of written acceptance hereof by the Company which shall be filed with the City Clerk within sixty (60) days after the final passage and approval of this Ordinance.

SECTION THIRTEEN: Ordinance No. 1215 is hereby repealed as of the effective date of this Ordinance.

SECTION FOURTEEN: This Franchise is granted pursuant to the provisions of

K.S.A. 12-2001 and shall take effect and be in force as therein provided.

First Reading:	March 18, 2002	**Second Reading**:	April 1, 2002
Third Reading:	April 15, 2002	**Effective Date**:	June 15, 2002

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

Peggy Dunn

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler

Lisa R. Wetzler, Assistant City Attorney

I:\227KCPL.doc
CT9-00-006

Kansas City Power & Light®

WRITER'S DIRECT DIAL:

☎ **(816) 556-2263**
FAX: (816) 556-2787

May 22, 2002

Ms. Debra Harper
Deputy City Clerk
City of Leawood
4800 Town Center Drive
Leawood, Kansas 66211

Re: Leawood Franchise Ordinance

Dear Ms. Harper:

Attached are three counterpart originals of the Acceptance of the Leawood franchise. Please have the Acceptances executed by the City Clerk **on or before June 15, 2002**, and return two originals to my attention.

I have also attached three copies of the Certification of the City Clerk that no petition for popular vote has been submitted. This document should be signed **no earlier than June 16, 2002**. After the City Clerk has signed the Certifications, please return two originals for our files. This is the final procedure to be completed on the ordinance.

Thank you.

Sincerely,

Carol Sivils

CAROL SIVILS
Legal Assistant

Attachments
cc: Michael Rump

City of Leawood

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700
(913) 339- 6781 Fax
(913) 339-6225 TDD

June 17, 2002

Carol Sivils, Legal Assistant
Kansas City Power & Light
P.O. Box 418679
Kansas City, Missouri 64141-9679

Dear Ms. Sivils:

Enclosed for your files are two originals of my certification that no petition was presented to the Governing Body asking that Franchise Ordinance No. 1947 be submitted for adoption by popular vote.

Sincerely,

Martha Heizer

Martha Heizer
City Clerk

TO: Kansas City Power & Light Company

FROM: Office of City Clerk, City of Leawood, Kansas

RE: Petition for Popular Vote on
Franchise Ordinance No. 1947

The undersigned, City Clerk of the City of Leawood, Kansas, hereby certifies that as of this date, being at least sixty-one days after passage and approval on April 15, 2002, of Franchise Ordinance No. 1947, no petition has been presented to the Governing Body, pursuant to K.S.A. 12-2001 (b)(6), asking that Franchise Ordinance No. 1947 be submitted for adoption by popular vote.

Given under my hand and the Seal of the City of Leawood, Kansas, this 17th day of June, 2002.

City Clerk
Martha Heizer

City of Leawood

4800 Town Center Drive • Leawood, Kansas 66211 • (913) 339-6700
(913) 339- 6781 Fax
(913) 339-6225 TDD

June 7, 2002

Carol Sivils, Legal Assistant
Kansas City Power & Light
P.O. Box 418679
Kansas City, Missouri 64141-9679

Dear Ms. Sivils:

Enclosed for your files are two originals of KCP&L's Acceptance of Leawood Franchise Ordinance No. 1947.

Sincerely,

Martha Heizer

Martha Heizer
City Clerk

Martha Heizer, City Clerk
4800 Town Center Drive
Leawood, Kansas 66211

RE: Acceptance of Franchise Ordinance

Dear Ms. Heizer:

Under the provisions of Ordinance No. 1947 of the City of Leawood, Kansas, the City granted to Kansas City Power & Light Company a franchise to construct, operate and maintain an electric light and power transmission and distribution system within the City. Section Twelve of the Ordinance requires Kansas City Power & Light Company to file its written acceptance of the provisions of the Ordinance within 60 days from and after the Ordinance's passage.

You are hereby notified that Kansas City Power & Light Company does now accept the provisions of said Ordinance and agrees to comply with the same.

Dated this 22nd day of May, 2002.

Kansas City Power & Light Company

By Nancy J. Moore
Nancy J. Moore
Vice President, Customer Services

Attest:
Secretary

CERTIFICATE

I, City Clerk of the City of Leawood, Kansas do hereby certify that the above and foregoing is a true and correct copy of the acceptance by Kansas City Power & Light Company of the above-mentioned Ordinance, said Acceptance having been filed in my office on this 24th day of May, 2002.

Given over my hand and the seal of the City of Leawood, Kansas this 7th day of June, 2002.

Martha Heizer
City Clerk
Martha Heizer

ORD1947

Publication Fees: $164.04

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 2 consecutive week(s), as follows:

ORDINANCE NO. 1947--4/23/02 & 4/30/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
MAY 1, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$164.04

ORDINANCE NO. 1947

First published in The Legal Record, Tuesday, April 23, 2002.

ORDINANCE NO. 1947

AN ORDINANCE GRANTING KANSAS CITY POWER & LIGHT COMPANY, ITS GRANTEES, SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO CONSTRUCT AND MAINTAIN ALL WORKS AND PLANTS NECESSARY OR PROPER FOR SUPPLYING CONSUMERS WITH ELECTRICITY, GRANTING TO SAID COMPANY THE RIGHT TO USE THE STREETS, ALLEYS AND OTHER PUBLIC RIGHTS-OF-WAY, PROVIDING FOR COMPENSATION FROM SUCH COMPANY FOR SAID RIGHT AND FRANCHISE, PRESCRIBING THE TERMS OF AND RELATING TO SUCH FRANCHISE AND REPEALING ORDINANCE NO. 1215

WHEREAS, Kansas City Power & Light Company (herein called the Company) is a corporation duly organized and existing under and by virtue of the laws of the State of Missouri, and admitted to do business under the laws of the State of Kansas as a foreign corporation for the purpose of generating and distributing electric energy; and

WHEREAS, the Company is operating a system for the production, transmission and distribution of electricity in the State of Kansas and has heretofore built, or proposes to build, its electric facilities within and through the City of Leawood, Kansas; and

WHEREAS, the parties hereto desire that the Company furnish electricity to consumers in said City located in the areas of the City in which the Company shall hold a Certificate of Convenience and Authority from the State Corporation Commission of the State of Kansas;

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

SECTION ONE: In consideration of the benefits to be derived by the City and the inhabitants thereof from the construction, operation and maintenance of an electric light and power system and the sale and distribution of electric energy to the public, there is hereby granted to the Company and to its successors and assigns a franchise and authority to construct, operate and maintain within the existing and any future extended corporate limits of the City for which the Company now or shall hereafter hold a Certificate of Convenience and Authority from the Kansas Corporation Commission all appropriate facilities for carrying on a power and light business and all other operations connected therewith or incident thereto for the purpose of selling and distributing within the City and outlying areas, electric energy in such forms as may be reasonably required for domestic, residential, commercial, industrial, municipal and other purposes, to the extent allowed by City ordinances, and to produce and supply such electric energy by manufacture, purchase or otherwise, and to transmit and distribute same by means of underground or overhead facilities or otherwise. This Franchise only grants the Company the right to provide electric light and power service, and the Company shall not provide any other services, including, but not limited to, internet, telecommunications, cable, or open video systems, without permission and a franchise from the City. For any or all of said purposes Company is authorized to (i) construct, install, replace and remove conduits, poles, lamp posts, guys, anchors, wires, cables, street lights and all other related facilities in, on, under, along, across and over all streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way, subject to Section IV, and (ii) construct, erect, maintain and remove all buildings, machinery and attachments of any and every kind for any and all said purposes in, on, under, along, across and over all streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way, and (iii) enter upon any and all of said public streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way within the corporate limits of the City as they now exist or may hereafter be opened, widened, extended, laid out and established, including any other territory hereafter added thereto or coming under the City's jurisdiction, and to trim trees upon and overhanging such places and make such excavations thereon as may be appropriate for the construction, operation, maintenance, repair, renewal and removal of the Company's overhead and underground facilities and plants, provided, that all such use of the streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way are used in such a way as to give the least inconvenience to the inhabitants of the City and the public generally and such uses are subject to all right-of-way management and other rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in its reasonable exercise of its police power. Notwithstanding the above grant authority, the company shall not locate, construct or erect (a) any facilities used in the production, manufacture or generation of electricity, or (b) any storage buildings, sheds or other storage facilities that are inconsistent with or otherwise not permitted by City ordinance.

SECTION TWO: This Franchise is for a term of fifteen (15) years from the effective date hereof. At any time after three years from the effective date, either party may terminate this Franchise by providing written notice, one year prior to any such termination date, to the other party that it is terminating the Franchise.

SECTION THREE: The Company shall be subject to all right-of-way management and other rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in its reasonable exercise of its police power. Any pavements, sidewalks or curbing taken up or any and all excavations and construction made shall be done under the supervision and direction of the Governing Body of said City under all necessary permits issued for the work, and shall be made and done in such manner as to give the least inconvenience to the inhabitants of the City and the public generally, and pavements, sidewalks, curbing and excavations shall be replaced and repaired in as good condition as before with all convenient speed, by and at the expense of the Company. The Company shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public safety. Such removal, relocation, or adjustment shall be performed by the Company at the Company's expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The Company shall proceed with relocations at due diligence upon notice by the City to begin relocation.

SECTION FOUR: The Company shall at all times during the term of this Franchise supply to consumers of electric energy, residing in those portions of the City duly certificated to the Company by the Kansas Corporation Commission, such electric energy as they may require, and shall extend and construct its lines and services in accordance with legal requirements, and rules and regulations as filed from time to time with the Kansas Corporation Commission and the terms of this Franchise. Nothing contained herein shall be construed as a guarantee upon the part of the Company to furnish uninterrupted service, and interruptions due to Acts of God, fire, strikes, civil or military authority, orders of court and other causes reasonably beyond the control of the Company are specifically exempted from the terms of this Section.

SECTION FIVE: All poles and wires shall be erected in accordance with the rules and regulations of the Kansas Corporation Commission and any amendments thereto and any applicable local, state or federal laws. All poles carrying said wires shall be placed in such manner as to interfere with and obstruct as little as reasonably possible, the ordinary use of the streets, alleys, lanes and highways of said City, and shall not interfere with any gas main, water main sewer or other lawful user of the right-of-way laid out or constructed in or under said streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way. In all residential locations within the City, the Company shall, wherever feasible, continue the placement of its electric service facilities in backyards only. Any pole replacement shall be made in accordance with all City ordinances and regulations.

SECTION SIX: The Company shall fully indemnify, release, defend and hold harmless the City and agents of the City when acting in their capacity as municipal officials, employees and agents, from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, to the extent caused by negligent acts or omissions of the Company in the performance of its work within the City. The City agrees to timely notify the Company of any such claim, demand, suit, proceeding, and/or action by providing written notice to the Company and the registered agent of the Company. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the Company from its duty to defend against liability or its duty to pay any judgment entered against the City or its agents.

SECTION SEVEN: The Company shall maintain liability insurance and performance and maintenance bonds as required by any rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City.

SECTION EIGHT: As a further consideration for the rights, privileges and franchise hereby granted, and in lieu of all rental for the use of the streets, alleys, avenues, bridges, utility easements dedicated to the City and other public rights-of-way involved herein, the Company shall monthly pay to the City in cash five percent (5%) of its gross receipts charged and collected from the sale of electric energy and all distribution products and services purchased and used within the present or future boundaries of said City for domestic, residential, commercial and industrial consumption. Such payment shall be made on or before the last day of each month, and shall be based upon said gross receipts charged and collected for the preceding month. The term "gross receipts" as applied to the sales of electricity for domestic, residential, commercial or industrial purposes, as used in this section shall not include (1) the electric energy sold to the United States and the State of Kansas or any agency or political subdivision thereof; (2) the electric energy sold to public utilities performing activities which are presently franchised by the City and regulated by the Kansas Corporation Commission; (3) the electric energy sold for other use which cannot be classified as domestic, residential, commercial or industrial, limited to electric energy used by educational institutions not operating for profit, churches and charitable institutions; (4) the electric energy sold for resale; and (5) the franchise consideration paid to the City pursuant to this section.

SECTION NINE: This Franchise shall not convey title, equitable or legal, in the rights-of-way, and gives only the right to occupy rights-of-way for the purposes and for the period stated in this Franchise and subject to the requirements herein. This Franchise shall not grant the right to use property, other than right-of-way property, or physical facilities owned or controlled by the City or a third-party, without the separate consent of such party, nor shall this Franchise excuse Company from obtaining separate appropriate access or attachment agreements before locating its facilities on property other than right-of-way property or facilities owned or controlled by the City or a third party.

SECTION TEN: The Company shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or voluntary sale, or by ordinary sale, consolidation, or otherwise, this Franchise or any of the rights or privileges granted by this Franchise, without the prior written consent of the City. Such consent shall not be unreasonably withheld. Except as otherwise may be provided by law, the Company shall not lease, sell or otherwise transfer possession or control of the Facilities, or any portion thereof, for any purpose to any person or entity that has not obtained a duly issued Franchise, or other grant by the City to use the rights-of-way and which includes the authority to use or maintain such lease or transferred facilities.

SECTION ELEVEN: If during the term of this Franchise, federal or state law is changed to permit competition between Company and others in the sale or distribution of electricity within the City, to permit retail wheeling of electricity in any form, to include the sale of unbundled services within the City or to eliminate or substantially modify the authority of the Kansas Corporation Commission has over the sale and distribution of electricity within the State then the City and the Company agree to enter into good faith negotiations for the purpose of revising and amending this Franchise to address said change(s). Should the City and the Company fail after good faith negotiations to agree upon revised or amended Franchise terms, then the City and the Company shall each have the right to terminate this Franchise upon 120 days written notice.

SECTION TWELVE: All provisions of this Ordinance shall be binding upon the Company and shall inure to the benefit of the Company, its grantees and its successors and assigns from and after the date of written acceptance hereof by the Company which shall be filed with the City Clerk within sixty (60) days after the final passage and approval of this Ordinance.

SECTION THIRTEEN: Ordinance No. 1215 is hereby repealed as of the effective date of this Ordinance.

SECTION FOURTEEN: This Franchise is granted pursuant to the provisions of

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

K.S.A. 12-2001 and shall take effect and be in force as therein provided.

First Reading:	March 18, 2002	**Second Reading:**	April 1, 2002
Third Reading:	April 15, 2002	**Effective Date:**	June 15, 2002

PASSED by the Governing Body this 15th day of April, 2002.

APPROVED by the Mayor this 15th day of April, 2002.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler, Assistant City Attorney

ORDINANCE NO. 1946 C

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 4 OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO PROCLAMATION OF EMERGENCY, AND REPEALING ALL OTHER ARTICLES IN CONFLICT HEREWITH

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

SECTION ONE: Chapter 11, Article 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 4. PROCLAMATION OF EMERGENCY

11-401. PROCLAMATION OF EMERGENCY.

(a) *Authorization of Mayor or Councilmember to Act.* Whenever the Mayor or, in the event of his or her inability to act, a Councilmember of the City Council acting under the authority of this section and determined as provided in 11-401(b), determines that an emergency exists as a result of mob action, civil disobedience, or natural or man-made disaster within the Kansas City Standard Metropolitan Statistical Area causing danger or injury to or damage to persons or property, he or she shall have power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the city:

1. To impose a curfew upon all or any portion of the city thereby requiring all persons in such designated curfew areas to forthwith remove themselves and/or their motor vehicles from the public streets, alleys, public parking lots, parks or other public places: Provided, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters and city authorized or requested law enforcement officers and personnel may be exempted from such curfew.
2. To order the closing of any business establishment anywhere within the city for the period of the emergency, such businesses to include, but not limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms.
3. To designate any public street, thoroughfare or vehicle parking area closed to motor vehicles and pedestrian traffic.
4. To call upon regular and auxiliary law enforcement agencies and organizations within or outsidethe city, including the sheriff's department under provisions of mutual emergency police protection compact, to assist in preserving and keeping the peace within the City.

5. That any and all of the regular and auxiliary law enforcement agencies, organizations and their individual officers shall have the full power and authority to make arrests and to act on behalf of the City in order to enforce the provisions provided for herein and any and all other city ordinances that might be violated as a result of any mob action, civil disobedience, or natural or manmade disaster.
6. To enter into a mutual emergency police protection compact with any and all governing bodies of Johnson County, Kansas, and any other duly authorized governing body within the Kansas City Standard Metropolitan Statistical Area.

(b) *Determination of Councilmember Authorized to Act in the Event of Inability of the Mayor.* In the event the Mayor is unable to act, the Presiding Officer shall have the foregoing power as they are able to act and in a line of succession, in accordance with the Mayor's appointments made under Section 1-209 of this Code. In the event a proclaimed emergency extends beyond the period stated in the Mayor's appointment, the the Presiding Officer at the commencement of the emergency shall continue to act as Presiding Officer until the termination of the emergency.

(Ord. 1268C; 01-20-92)
(Code 2000)

11-402. **EFFECTIVE PERIOD.** The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media.

(Ord. 436; 06-27-73)
(Code 1973, 10-502)
(Code 2000)

11-403. **EXPIRATION OR EXTENSION OF EMERGENCY.** Any emergency proclaimed in accordance with the provisions of this Article shall terminate in accordance with the terms as set forth in the Proclamation of Emergency, or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first. Such an emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body.

(Ord. 436; 06-27-73)
(Code 1973, 10-503)
(Code 2000)

11-404. **PENALTY.** Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a public offense and upon conviction therefore, shall be punished by a fine of not more than $500, and/or by imprisonment in the city or county jail for a period not to exceed three months.

(Ord. 436; 06-27-73)
(Code 1973, 10-504)
(Code 2000)

11-405. **NO RELEASE OF CIVIL DAMAGES.** Nothing contained in this article shall be in lieu of any civil damages.

(Ord. 436; 06-27-73)
(Code 1973, 10-505)
(Code 2000)

SECTION TWO: Repeal of Existing Sections. The existing Article 4 of Chapter 11 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall become effective following publication in the official city newspaper.

PASSED by the Governing Body this 18th day of March, 2002.

APPROVED by the Mayor this 18th day of March, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1946C

Publication Fees: $54.72

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1946C--3/26/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
MARCH 27, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$54.72

ORDINANCE NO. 2031

First published in The Legal Record, Tuesday, March 26, 2002.

Ordinance No. 2031

AN ORDINANCE AMENDING CHAPTER 13 OF the PRAIRIE VILLAGE MUNICIPAL CODE, ENTITLED "STREETS AND SIDEWALKS" BY AMENDING SECTION 13.12 ENTITLED "SNOW AND ICE REMOVAL."

BE IT ORDAINED BY the GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

Section I.
Chapter 13 of the Prairie Village Municipal Code, entitled "Streets and Sidewalks" is hereby amended by deleting the existing Section 13.12 entitled "Snow and Ice Removal" and adopting a new Section 13.12 to read as follows:

13.12.010 Purpose

The City of Prairie Village believes that it is in the best interests of the residents for the City to assume basic responsibility for removal of snow and ice from public streets. Reasonable ice and snow removal from public streets is necessary for routine travel and emergency services. The City will provide such removal in a safe and cost effective manner, keeping in mind safety, budget, personnel and environmental concerns. The City will use City employees, equipment, materials and/or private contractors to provide this service.

13.12.020 Authority

The City's Director of Public Works or his/her designee shall be responsible for the removal of snow and ice from public streets.

13.12.030 Removal of Illegally Parked Vehicles

Any motor vehicle parked in violation of this Code is deemed to be a nuisance that interferes with snow removal from the public streets. Any law enforcement officer may remove any such vehicle by means of towing or other means in order to facilitate proper snow removal. The removal of illegally parked vehicles shall not preclude prosecutions for violations of any provision of this Section.

13.12.040 Sidewalk - Removal of Ice and Snow.

It shall be unlawful for the owner and/or occupant of any property abutting one or more public sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 24 hours from the time that the snow or ice storm ends. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of it must be within 24 hours after sunrise.

Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of sand or non-corrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed sufficient compliance with provisions of this article until the ice or snow can be removed.

13.12.050 Removal of Overhanging Snow.

It is made the duty of the owner and of the occupant of any building or structure located near or adjacent to any public street, or public sidewalk to remove at his/her own expense any accumulation of snow or ice upon the roof or sides thereof which overhangs or is likely to fall on such public street, or public sidewalk.

Section II.
This ordinance shall take effect and be in force from and after its passage, approval and publication as provided by law.

PASSED AND APPROVED THIS 18th day of March, 2002.

Ronald L. Shaffer, Mayor

ATTEST:

Joyce Hagen Mundy
City Clerk

APPROVED AS TO FORM:

Charles E. Wetzler
City Attorney

NOTICE OF HEARING

First published in The Legal Record, Tuesday, March 26, 2002.

NOTICE OF HEARING

The City of Leawood Planning Commission will hold a public hearing on Tuesday, April 9th and April 23rd, 2002 at 6:00 p.m. at the Leawood City Hall, Council Chambers, 4800 Town Center Drive, Leawood, Kansas, to consider approval of the Leawood Capital Improvement Program.

If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at (913) 339-9112 no later than 48 hours prior to the scheduled commencement of the meeting.

Donald C. Bruin, Jr. Chairperson
Leawood Planning Commission

ORDINANCE NO. 1945

First published in The Legal Record, Tuesday, March 26, 2002.

ORDINANCE NO. 1945

AN ORDINANCE AMENDING ARTICLE 8 OF THE LEAWOOD DEVELOPMENT ORDINANCE ADDING A NEW SECTION 8-82a, SPECIFICALLY PROVIDING FOR THE ADDITION OF A DEFINITION OF INTERIOR DECORATING SERVICE.

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

Section One. Leawood Development Ordinance Amended. That Article 8 Section 8-82a of the Leawood Development Ordinance, is hereby added to read as follows:

8-82a Interior Decorating Service

A Business or Establishment that provides design or decorating services for interior building space including furnishings and accessory items either by "off site" purchasing or by "on site" retail sales all of which is considered normal or acceptable services necessary to complete such contract service to its clientele. Such business or establishment may include secondary on-site independent retail sales to those associated with interior decorating.

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

Passed by the Council the 18th day of March 2002.

Approved by the Mayor the 18th day of March 2002.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1945

Publication Fees: $18.32

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1945--3/26/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
MARCH 27, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$18.32

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First published in The Legal Record, Tuesday, March 26, 2002.

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Approved by the Mayor the 18th day of March 2002.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1944

AN ORDINANCE GRANTING TO XO KANSAS, INC., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, XO Kansas, Inc., ['XO'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means XO Kansas, Inc., or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

   This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of–way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

   Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only

in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

XO Kansas, Inc.
Director, Regulatory and External Affairs
2700 Summit Ave., Suite 172
Plano, TX 75074

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period

set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise

ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	January 22, 2002	**Second Reading**:	February 4, 2002
Third Reading:	February 18, 2002	**Effective Date**:	April 20, 2002

Passed by the Governing Body this 18th day of February, 2002.

Approved by the Mayor this 18th day of February, 2002.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler

Lisa R. Wetzler, Assistant City Attorney

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CT9-02-002

ORD1944

Publication Fees: $373.86

The Legal Record
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Olathe, KS 66061
(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 2 consecutive week(s), as follows:

ORDINANCE NO. 1944--2/26/02 & 3/5/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

MARCH 6, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$373.86

ORDINANCE NO. 1944

First published in The Legal Record, Tuesday, February 26, 2002.

ORDINANCE NO. 1944

AN ORDINANCE GRANTING TO XO KANSAS, INC., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, XO Kansas, Inc., ['XO'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means XO Kansas, Inc., or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

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8. ***Description of Service.*** *Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period.* In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such *services on a semi-annual basis.*

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A *summary of the previous year's development of franchise facilities, including* but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not *include giving the identification of the subscribers.*

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and *the rights and privileges herein granted, to any person, firm or corporation, and any such* assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance *with this franchise ordinance or any other appropriate governmental* requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the *requirements of this section shall be null and void.*

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate *its facilities underground, all other service providers using the same poles, including* franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

    XO Kansas, Inc.
    Director, Regulatory and External Affairs
    2700 Summit Ave., Suite 172
    Plano, TX 75074

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including *attorney fees or otherwise, to the extent caused* by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any *litigation by their own counsel at their own expense.* Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. ***Liability Insurance Requirement.*** *Franchisee shall file with the City evidence of* liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or *property damage occasioned by the service provider,* or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by *this franchise* and all rights *hereunder shall cease, terminate* and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

   a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of *this franchise ordinance* and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have *fourteen* [14] days *subsequent to receipt of such notice to inform the City* in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

   b. For all other violations of the franchise *ordinance, the following procedure shall* apply. *The City shall provide written notice by certified mail to franchisee of any* such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

   c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise *ordinance and/or* to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any *of the following* events or reasons:

   a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

   b. *Franchisee commits* an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

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ORDINANCE NO. 1944

First published in The Legal Record, Tuesday, February 26, 2002.

ORDINANCE NO. 1944

AN ORDINANCE GRANTING TO XO KANSAS, INC., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, XO Kansas, Inc., ['XO'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

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'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

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'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for services for which a franchise fee is appropriate.

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8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

    XO Kansas, Inc.
    Director, Regulatory and External Affairs
    2700 Summit Ave., Suite 172
    Plano, TX 75074

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

6. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

   a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

   b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

   c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

   a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

   b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

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To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	January 22, 2002	**Second Reading**:	February 4, 2002
Third Reading:	February 18, 2002	**Effective Date**:	April 20, 2002

Passed by the Governing Body this 18th day of February, 2002.

Approved by the Mayor this 18th day of February, 2002.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler

Lisa R. Wetzler, Assistant City Attorney

ORDINANCE NO. 1943C

ORDINANCE AMENDING CHAPTER 7, ARTICLE 2, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL FIRE CODE, 2000, SAVE AND EXCEPT CERTAIN PORTIONS AS ARE DELETED OR AMENDED AND ADDING CERTAIN SECTIONS THERETO REGARDING FIRE PROTECTION AND REPEALING EXISTING ARTICLE 2 OF CHAPTER 7, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 7, Article 2, Section 7-201, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. FIRE PREVENTION

7-201. **ADOPTION OF THE INTERNATIONAL FIRE CODE.** In addition to other standards set forth in this chapter, there is hereby incorporated by reference that certain Fire Code known as the "International Fire Code", edition of 2000, prepared and published by the International Code Council, Inc., including appendix chapters E, F, and G save and except such portions as are hereinafter deleted, modified or amended. Not less than three copies of the Fire Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1943C." A copy of the ordinance shall be attached to each Code copy and shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. The police department, municipal judges, concerned public officials and all administrative departments of the City charged with the enforcement of such codes shall be supplied, at the cost of the City, with such numbers of official copies similarly marked as deemed expedient.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 7, Article 2, Section 7-202, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-202. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 101.1, "TITLE."** Section 101.1 of the International Fire Code, is amended to read as follows: **TITLE.** These regulations shall be known as the Fire Code of the City of Leawood, Kansas, hereinafter referred to as "this code."

SECTION THREE: Chapter 7, Article 2, Section 7-203, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-203. **INTERNATIONAL FIRE CODE, SECTION ADDED; SECTION 101.6, "CODE OFFICIAL DESIGNATED."** A new section 101.6 is hereby added to the International Fire Code, to read as follows: **"CODE OFFICIAL DESIGNATED."** The Fire Marshal, under the direction of the Fire Chief, is hereby designated as the authority charged with the duties of administration and enforcement of the Fire Code of the City of Leawood and all references to the "code official" in the International Fire Code and in this Chapter, shall mean the Fire Marshal, under the direction of the Fire Chief.

SECTION FOUR: Chapter 7, Article 2, Section 7-204, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-204. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 103.1, "ESTABLISHMENT OF THE BUREAU OF FIRE PREVENTION."** Section 103.1 of the International Fire Code, is hereby amended to read as follows: The Fire Code of the City of Leawood shall be enforced by the Bureau of Fire Prevention under the direction of the Fire Marshal. The function of the Bureau shall be the implementation, administration and enforcement of the provisions of the International Fire Code as hereby amended.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 7, Article 2, Section 7-205, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-205. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 105.1.2, "TYPES OF PERMITS."** Section 105.1.2 of the International Fire Code, entitled "Types of Permits" is hereby amended to read as follows: Type of Permit. There shall be one type of permit known as an operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by this Article for either a prescribed period or until renewed or revoked.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 7, Article 2, Section 7-206, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-206. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 105.6, "REQUIRED OPERATIONAL PERMITS."** Section 105.6 of the International Fire Code, entitled "Required Operational Permits," and its subsections are hereby amended to read as follows: Required Operational Permit. The Code official is authorized to issue operational permits for the following operations:

A. Carnivals and Fairs. An operational permit is required to conduct a carnival or fair.

B. Compressed gases. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts shown in Table 105.6.9 of the International Fire Code, 2000, provided, however, such permit is not required for vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

C. Covered Mall Buildings. An operational permit is required for:

1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.

2. The display of liquid- or gas-fired equipment in the mall.

3. The use of open-flame or flame-producing equipment in the mall.

D. Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.

E. Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m^3) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.

F. Temporary membrane structures, tents and canopies. An operational permit is required to operate an air-supported temporary membrane structure or a tent having an area in excess of 800 square feet, or a canopy in excess of 1600 square feet. Tents used exclusively for recreational camping purposes do not require a permit.

SECTION SEVEN: Chapter 7, Article 2, Section 7-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-207. INTERNATIONAL FIRE CODE, SECTION DELETED AND OMITTED; SECTION 105.7, "REQUIRED CONSTRUCTION PERMITS." Section 105.7 of the International Fire Code, entitled, "Required construction permits," and all of its subsections, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 7, Article 2, Section 7-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-208. INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 109.3, "VIOLATION PENALTIES." All provisions of Section 109.3 of the International Fire Code, entitled "Violation penalties," including subsection 109.3.1, are hereby deleted and omitted.

SECTION NINE: Chapter 7, Article 2, Section 7-209, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-209. INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 111.4, "FAILURE TO COMPLY." All provisions of Section 111.4 of the International Fire Code, entitled "Failure to comply," are hereby deleted and omitted.

SECTION TEN: Chapter 7, Article 2, Section 7-210, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-210. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 307, "OPEN BURNING."** All provisions of Section 307 of the International Fire Code, entitled "Open Burning," including all subsections thereof, are amended to read as follows: **Open Burning.** No open burning shall be allowed within the boundaries of the City of Leawood.

Exceptions:

1. Open burning of vegetation for land clearing operations is allowed when all of the following conditions are met:

   (a) There is 1000 feet clearance from occupied dwellings and public roadways.

   (b) Approved smoke abatement methods are used.

      1. A burn pit and blower is used to increase efficiency of combustion

      2. Alternative methods are specified.

   (c) Daily weather conditions are as follows:

      1. Wind speed greater than 5 mph and less than 15 mph

      2. Cloud ceiling above 1000 feet

      3. Atmospheric conditions are not conducive to thermal inversion. Such conditions typically are low temperature, high humidity, fog, calm winds.

   (d) Burning is accomplished between sunrise and 30 minutes prior to sundown each approved burning day.

   (e) The maximum fuel at any given time does not exceed 3000 cu. ft.

   (f) The burn site is constantly attended while burning operations are occurring.

2. Open burning on a construction site is allowed where the materials burned are contained in a non-combustible container not exceeding 55 gallons water capacity and where separated by 20 feet from combustibles.

3. In R-3 occupancies, the burning of solid fuel or LPG for cooking purposes in a non-combustible container is allowed where the solid fuel load does not exceed 4 pieces of wood 18 inches in length or an equivalent amount of other wood material.

4. In R-1, R-2 and R-4 occupancies, the burning of LPG in a listed appliance for outdoor cooking purposes is allowed where the LPG supply does not exceed 5 gallons water capacity.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION ELEVEN: Chapter 7, Article 2, Section 7-211, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-211. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 405, "EMERGENCY EVACUATION DRILLS."** All provisions of Section 405 of the International Fire Code, entitled "Emergency Evacuation Drills," including all subsections thereof, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWELVE: Chapter 7, Article 2, Section 7-212, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-212. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 503 "FIRE APPARATUS ACCESS ROADS."** Section 503 of the International Fire Code is hereby amended to read as follows:

Sec. 503.1 Fire Apparatus Access Roads.

All occupancies within this jurisdiction shall be required to have a fire apparatus access road.

Sec. 503.2 Fire Apparatus Access Road defined: A street, road, lane or drive including any bridge or culvert providing access to a building for emergency vehicles; does not include driveways less than 150 feet serving less than three single family dwellings. This definition shall supersede the definition in Section 502 of the International Fire Code.

Sec. 503.3 Fire Apparatus Access Road Requirements: Fire Apparatus Access Roads shall meet the following minimum provisions:

1. Extend to within 50 feet of a usable entrance to the structure.
2. Extend to within 200 feet exterior travel distance of all exterior portions of the structure at grade level.
3. Have a minimum clear width of 20 feet.
4. Have a minimum clear height of 13 feet 6 inches.
5. Provide an all-weather surface.
6. Be designed for minimum H-2 loading or to support 20,000 pounds weight per axle.
7. Have approved turn-around provisions for fire apparatus where its length exceeds 150 feet.
8. Have no change in grade exceeding 10%.
9. Have a minimum turning radius of at least 37.5 feet.
10. Have no barriers to unobstructed conveyance except as approved by the Fire Marshal.

EXCEPTION:

1. Driveways of any length serving not more than two R-3 occupancies may have reduced requirements as approved by the Fire Marshal.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION THIRTEEN: Chapter 7, Article 2, Section 7-213, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-213. INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 508.5.1, "WHERE REQUIRED." Section 508.5.1 of the International Fire Code, entitled "Where required," is hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FOURTEEN: Chapter 7, Article 2, Section 7-214, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-214. INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 903, "AUTOMATIC SPRINKLER SYSTEMS." All of section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," including all portions and subsections, are hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FIFTEEN: Chapter 7, Article 2, Section 7-215, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-215. INTERNATIONAL FIRE CODE, NEW SUBSECTION ADDED, SECTION 3307.16, "CONSTRUCTION BLASTING." A new section 3307.16, with associated subsections are hereby added to the International Fire Code to read as follows:

Sec. 3307.16 CONSTRUCTION BLASTING. Blasting done in conjunction with construction shall meet all of the following requirements.

Sec. 3307.16.1 BLASTING PERMIT, DEFINED - "Permit" whenever used hereafter in this section shall refer to the written authorization of the Director of Public Works and the Fire Chief or their designees authorizing any person, firm, corporation, partnership, governmental agency or association to store, possess, and use explosive materials and blasting agents for construction blasting operations only. Possession or use of explosives not authorized under this section is prohibited.

Exception: A permit as required by this Article will not be required to transport explosives or blasting agents where the explosives or blasting agents are not being shipped from, or delivered to a location within the corporate boundaries of the City of Leawood, provided that said explosives or blasting agents are being transported in accordance with applicable regulations of other governmental agencies having jurisdiction, including the Federal Department of Transportation.

Sec. 3307.16.2 RESPONSIBILITY FOR ENFORCEMENT. The Director of Public Works, referred to in this Section as the "Director", shall be responsible for the administration and enforcement of this Section as provided herein. In addition, the Fire and Police Departments shall have authority to enforce regulatory provisions set forth herein, provided further that the Director shall be notified of any enforcement action taken by Fire or Police Departments.

Sec. 3307.16.3 APPLICATION PROCESS - The following shall be the process for applying for a permit to store or use explosives in the City of Leawood for the purpose of blasting as part of construction operations. Permits for other types of operations involving explosives shall be according to the applicable sections of the Fire Code of the City of Leawood as amended by the Governing Body.

Sec. 3307.16.4 PRE-APPLICATION CONFERENCE. At the time an application is obtained a pre-application conference will be scheduled with the Director of Public Works and the Fire Chief, or their designees, to discuss the requirements of the ordinance and the expectations of the Public Works Director and the Fire Chief. The pre-application conference shall be scheduled a minimum of three (3) working days prior to submission of the application.

Sec. 3307.16.5 SCALE DRAWING. Before a permit shall be issued, the applicant shall furnish to the Director of Public Works a scale drawing accurately showing the surrounding land and all improvements thereon, all dimensions and all distances relative thereto. The scale drawing shall show distances to all houses, buildings, or other facilities within 500 feet of the blasting or demolition work. The scale drawing accompanying an application for a permit to store explosives or blasting agents must show distances to buildings and other features in accordance with the American Table of Distances for Storage of Explosives (IFC Table 3304.5.2). All permit applications which are not accompanied by a scale drawing shall be refused and will not be considered until such scale drawing accompanies the application for permit. In addition, the Director of Public Works shall have authority to establish additional written standards for the submission of scaled drawings or other application submittals.

Sec. 3307.16.6 INSURANCE REQUIRED. The applicant shall provide proof of insurance coverage meeting the following minimum requirements:

1. **Workers Compensation, Statutory Coverage**

2. **Employers Liability**

Bodily Injury by Accident	$1,000,000 each accident
Bodily Injury by Disease	$1,000,000 policy limit
Bodily Injury by Disease	$1,000,000 each employee

3. **Commercial General Liability**
   Bodily Injury and Property Damage
   $2,000,000 Combined Single Limit
   $4,000,000 Aggregate

4. **Business Automobile Policy**
   Bodily Injury and Property Damage
   $1,000,000 Combined Single Limit

Bodily Injury	$1,000,000 per Person
Bodily Injury	$1,000,000 per Accident
Property Damage	$1,000,000 per Accident

5. **Rating Required**
   The insurer shall have an A.M. Best's rating of AIX or better or be otherwise approved, in writing, by the City's Finance Director.

Section 3307.16.7 BLASTING PLAN. The application for the permit must be accompanied by a Blasting Plan for the blasting operation. This Blasting Plan shall include specific information on the operation as follows:

1. Charge weights;
2. Delays;
3. Depths;
4. Patterns;
5. Protective mats or coverings required;
6. Seismographic monitoring shall be provided by an independent firm, approved by the Director of Public Works, reporting directly to the City at the applicant's expense;
7. The names of all responsible on-site personnel and copies of their blaster's licenses.

Regardless of distance to nearby facilities, the blasting operations shall be carried out in such a manner that they will not cause fly rock or damage from air blast overpressure or ground vibration. Seismic recordings may be required by the Director. The maximum peak particle velocity at any such recording site must not exceed one inch per second in any one of three mutually perpendicular directions. Proposed specific location(s) of the seismic recording(s) shall be included in the Blasting Plan.

Sec. 3307.16.8 NOTIFICATION OF ADJACENT PROPERTY OWNERS. The applicant shall provide written notification of property or utility owners within 500 feet of a blast site. Evidence of delivery of such notification shall be retained by the applicant. Failure to provide such evidence of such notification to the Director of Public Works on demand shall be construed to mean that such notification has not occurred. Notice shall be approved by the Director and shall include the following:

1. Notice of intent to blast;
2. Name of blasting contractor;
3. Agency making the pre-blast inspection;
4. Insurance company providing the coverage and claims process including the telephone number of the claims agent;

5. Notice to property owner to contact the Director of Public Works within three (3) days of notification to request a copy of the pre-blast inspection of structures on their property;
6. Notification shall include a complete copy of Section 705 Construction Blasting;
7. Contractor shall meet with affected property owners in advance of commencement of blast operations to explain blasting operations when requested within five (5) working days of notification.

Sec. 3307.16.9 PRE-BLAST INSPECTIONS shall be performed by the applicant on all structures within 500 feet of a blast site unless permission for the inspection is denied by the occupant or owner. Applicant shall provide a copy of the pre-blast inspection to all property owners requesting same at applicant's expense.

Sec. 3307.16.10 FEE. Prior to providing an intent to issue a permit letter, the applicant shall pay to the City, a non-refundable application fee as determined by the fee resolution adopted annually by the Governing Body.

Sec. 3307.16.11 NOTICE OF INTENT TO ISSUE PERMIT. The applicant, if he or she has fulfilled all application requirements and has not given cause for denial by previous permit violations, will be notified of the City's intent to issue the permit. The applicant shall then provide copies of such notification to all property owners within 500 feet of a proposed blast site. The notice required by this section shall be mailed by certified mail not less than ten days prior to issuance of a blasting permit. The applicant shall retain evidence that such notification has occurred. Failure to provide such evidence to the Director shall be construed to mean that such notification has not occurred.

Sec. 3307.16.12 GRACE PERIOD FOR REQUESTING APPEAL. A grace period of ten working days from the date that the written notice of intent to blast is mailed (as provided by Section 3307.16.11) will allow owners of adjacent property an opportunity to file an appeal of the decision to issue a permit.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SIXTEEN: Chapter 7, Article 2, Section 7-216, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-216. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3308, "FIREWORKS DISPLAY."** Section 3308 of the International Fire Code, entitled "Fireworks Display" is hereby amended to read: No fireworks may be sold, used or possessed in this jurisdiction.

Exception:

1. Permitted fireworks displays meeting the following criteria:
   a) Where the display operator is a Kansas licensed pyrotechnician.
   b) Where a display plan is submitted specifying compliance with NFPA 1123 and 1126, including a site plan and list of fireworks devices to be used.

c) Where the operator has demonstrated proof of $2 million general commercial liability coverage for the display with a company rated AIX or better by A.M. Best's rating service, unless alternative insurance coverage is approved, in writing, by the Finance Director.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SEVENTEEN: Chapter 7, Article 2, Section 7-217, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-217. INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3406.2.4.4 "LOCATIONS WHERE ABOVE-GROUND TANKS ARE PROHIBITED." Section 3406.2.4.4 of the International Fire Code, entitled "Locations where above-ground tanks are prohibited," is hereby amended to read as follows: Class I and II liquids in above-ground tanks may not be permanently stored in Leawood.

Exceptions: Approved tanks not exceeding 500 gallons may be stored in areas zoned for agricultural and industrial purposes. Additionally, approved portable tanks for the fueling of vehicles are allowed temporarily for the duration of construction projects.

(Code 2000)

SECTION EIGHTTEEN: Chapter 7, Article 2, Section 7-218, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-218. INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3804.2, "MAXIMUM CAPACITY WITHIN ESTABLISHED LIMITS." Section 3804.2 of the International Fire Code, entitled "Maximum capacity within established limits," is hereby amended to read as follows: The storage of liquefied petroleum gas is hereby limited to areas zoned AG, PI, RPA *and RPA5.* The amount of such storage is limited to a maximum water capacity of 2,000 gallons. In particular installations, this capacity limit shall be determined by the code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided, and capabilities of the local fire department. In addition, LPG tanks for heating purposes may be temporarily located on construction sites for the duration of the project.

SECTION NINETEEN: Chapter 7, Article 2, Section 7-219, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-219. APPEALS.

Whenever the Fire Marshal disapproves any type of application or refuses to grant any type of permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Marshal to the Board of Fire and Building Code Appeals within 30 days.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWENTY: Chapter 7, Article 2, Section 7-220, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-220. PENALTIES.

(a) Any person who shall violate any of the provisions of this Code or Standards hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications, or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with an order as affirmed or modified by the appeals board or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than one (1) dollar nor more than five hundred (500) dollars per occurrence or by imprisonment for not less than one (1) day nor more than thirty (30) days or by both fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or otherwise remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1973)
(Code 1984)
(Ord. No. 1486C; 5-15-95)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWENTY-ONE: Repeal of Existing Article. The existing Chapter 4, Article 2, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION TWENTY-TWO: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-FOUR: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 4th day of Feburary, 2002.

APPROVED by the Mayor this 4th day of Feburary, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1943C

Publication Fees: $201.18

The Legal Record
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CITY OF LEAWOOD
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LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1943C--2/12/02

Maureen Gillespie

Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

FEBRUARY 13, 2002

Penny Knight

Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$201.18

ORDINANCE NO. 1943C

First published in The Legal Record, Tuesday, February 12, 2002.

ORDINANCE NO. 1943C

ORDINANCE AMENDING CHAPTER 7, ARTICLE 2, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL FIRE CODE, 2000, SAVE AND EXCEPT CERTAIN PORTIONS AS ARE DELETED OR AMENDED AND ADDING CERTAIN SECTIONS THERETO REGARDING FIRE PROTECTION AND REPEALING EXISTING ARTICLE 2 OF CHAPTER 7, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 7, Article 2, Section 7-201, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. FIRE PREVENTION

7-201. **ADOPTION OF THE INTERNATIONAL FIRE CODE.** In addition to other standards set forth in this chapter, there is hereby incorporated by reference that certain Fire Code known as the "International Fire Code", edition of 2000, prepared and published by the International Code Council, Inc., including appendix chapters E, F, and G save and except such portions as are hereinafter deleted, modified or amended. Not less than three copies of the Fire Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1943C." A copy of the ordinance shall be attached to each Code copy and shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. The police department, municipal judges, concerned public officials and all administrative departments of the City charged with the enforcement of such codes shall be supplied, at the cost of the City, with such numbers of official copies similarly marked as deemed expedient.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 7, Article 2, Section 7-202, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-202. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 101.1, "TITLE."** Section 101.1 of the International Fire Code, is amended to read as follows: TITLE. These regulations shall be known as the Fire Code of the City of Leawood, Kansas, hereinafter referred to as "this code."

SECTION THREE: Chapter 7, Article 2, Section 7-203, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-203. **INTERNATIONAL FIRE CODE, SECTION ADDED; SECTION 101.6, "CODE OFFICIAL DESIGNATED."** A new section 101.6 is hereby added to the International Fire Code, to read as follows: "CODE OFFICIAL DESIGNATED." The Fire Marshal, under the direction of the Fire Chief, is hereby designated as the authority charged with the duties of administration and enforcement of the Fire Code of the City of Leawood and all references to the "code official" in the International Fire Code and in this Chapter, shall mean the Fire Marshal, under the direction of the Fire Chief.

SECTION FOUR: Chapter 7, Article 2, Section 7-204, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-204. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 103.1, "ESTABLISHMENT OF THE BUREAU OF FIRE PREVENTION."** Section 103.1 of the International Fire Code, is hereby amended to read as follows: The Fire Code of the City of Leawood shall be enforced by the Bureau of Fire Prevention under the direction of the Fire Marshal. The function of the Bureau shall be the implementation, administration and enforcement of the provisions of the International Fire Code as hereby amended.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 7, Article 2, Section 7-205, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-205. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 105.1.2, "TYPES OF PERMITS."** Section 105.1.2 of the International Fire Code, entitled "Types of Permits" is hereby amended to read as follows: Type of Permit. There shall be one type of permit known as an operational permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by this Article for either a prescribed period or until renewed or revoked.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 7, Article 2, Section 7-206, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-206. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 105.6, "REQUIRED OPERATIONAL PERMITS."** Section 105.6 of the International Fire Code, entitled "Required Operational Permits," and its subsections are hereby amended to read as follows: Required Operational Permit. The Code official is authorized to issue operational permits for the following operations:

A. Carnivals and Fairs. An operational permit is required to conduct a carnival or fair.

B. Compressed gases. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts shown in Table 105.6.9 of the International Fire Code, 2000, provided, however, such permit is not required for vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

C. Covered Mall Buildings. An operational permit is required for:

1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
2. The display of liquid- or gas-fired equipment in the mall.
3. The use of open-flame or flame-producing equipment in the mall.

D. Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.

E. Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m^3) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.

F. Temporary membrane structures, tents and canopies. An operational permit is required to operate an air-supported temporary membrane structure or a tent having an area in excess of 800 square feet, or a canopy in excess of 1600 square feet. Tents used exclusively for recreational camping purposes do not require a permit.

SECTION SEVEN: Chapter 7, Article 2, Section 7-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-207. **INTERNATIONAL FIRE CODE, SECTION DELETED AND OMITTED; SECTION 105.7, "REQUIRED CONSTRUCTION PERMITS."** Section 105.7 of the International Fire Code, entitled, "Required construction permits," and all of its subsections, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 7, Article 2, Section 7-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-208. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 109.3, "VIOLATION PENALTIES."** All provisions of Section 109.3 of the International Fire Code, entitled "Violation penalties," including subsection 109.3.1, are hereby deleted and omitted.

SECTION NINE: Chapter 7, Article 2, Section 7-209, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-209. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 111.4, "FAILURE TO COMPLY."** All provisions of Section 111.4 of the International Fire Code, entitled "Failure to comply," are hereby deleted and omitted.

SECTION TEN: Chapter 7, Article 2, Section 7-210, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-210. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 307, "OPEN BURNING."** All provisions of Section 307 of the International Fire Code, entitled "Open Burning," including all subsections thereof, are amended to read as follows: Open Burning. No open burning shall be allowed within the boundaries of the City of Leawood.

Exceptions:

1. Open burning of vegetation for land clearing operations is allowed when all of the following conditions are met:
   (a) There is 1000 feet clearance from occupied dwellings and public roadways.
   (b) Approved smoke abatement methods are used.
      1. A burn pit and blower is used to increase efficiency of combustion
      2. Alternative methods are specified.
   (c) Daily weather conditions are as follows:
      1. Wind speed greater than 5 mph and less than 15 mph
      2. Cloud ceiling above 1000 feet
      3. Atmospheric conditions are not conducive to thermal inversion. Such conditions typically are low temperature, high humidity, fog, calm winds.
   (d) Burning is accomplished between sunrise and 30 minutes prior to sundown each approved burning day.
   (e) The maximum fuel at any given time does not exceed 3000 cu. ft.
   (f) The burn site is constantly attended while burning operations are occurring.
2. Open burning on a construction site is allowed where the materials burned are contained in a non-combustible container not exceeding 55 gallons water capacity and where separated by 20 feet from combustibles.
3. In R-3 occupancies, the burning of solid fuel or LPG for cooking purposes in a non-combustible container is allowed where the solid fuel load does not exceed 4 pieces of wood 18 inches in length or an equivalent amount of other wood material.
4. In R-1, R-2 and R-4 occupancies, the burning of LPG in a listed appliance for outdoor cooking purposes is allowed where the LPG supply does not exceed 5 gallons water capacity.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

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c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate, non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside, provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, the ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading: January 7, 2002 **Second Reading:** January 22, 2002

Third Reading: February 4, 2002 **Effective Date:** April 5, 2002

Passed by the Governing Body this 4th day of February, 2002.

Approved by the Mayor this 4th day of February, 2002.

Peggy Dunn
Peggy Dunn, Mayor

ATTEST:

Martha Heizer
Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler
Lisa R. Wetzler, Assistant City Attorney

WASHINGTON MUTUAL BANK V. SMITH, ET AL.
First published in The Legal Record, Tuesday, February 12, 2002.

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS. CIVIL DEPARTMENT

Washington Mutual Bank
Plaintiff,
vs.
Jay G. Smith; Lisa L. Smith; John Doe (Tenant/Occupant); Mary Doe (Tenant/Occupant),
Defendants.

Case No. 02CV613
Court Number:
Pursuant to K.S.A. Chapter 60

NOTICE OF SUIT

THE STATE OF KANSAS, to the above-named defendants and the unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of any deceased defendants; the unknown spouses of any defendants; the unknown officers, successors, trustees, creditors and assigns of any defendants that are existing, dissolved or dormant corporations; the unknown executors, administrators, devisees, trustees, creditors, successors and assigns of any defendants that are or were partners or in partnership; the unknown guardians, conservators and trustees of any defendants that are minors or are under any legal disability; and the unknown heirs, executors, administrators, devisees, trustees, creditors and assigns of any person alleged to be deceased, and all other persons who are or may be concerned.

You are notified that a Petition has been filed in the District Court of Johnson County, Kansas, praying to foreclose a real estate mortgage on the following described real estate:

Lot 2, LOUISBURG SQUARE SOUTH, a subdivision in the City of Overland Park, Johnson County, Kansas, commonly known as 9024 Carter Circle, Overland Park, KS 66212 (the "Property")

and you are required to plead to the Petition on or before the 25th day of March, 2002, in the District Court of Johnson County, Kansas. If you fail to plead, judgment and decree will be entered in due course upon the Petition.

NOTICE

Pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692c(b), no information concerning the collection of this debt may be given without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction. The debt collector is attempting to collect a debt and any information obtained will be used for that purpose.

Michael L. Zevitz, (KS Bar No. 14850, MO #40960)
SOUTH & ASSOCIATES, P.C.
4600 Madison, Suite 801
Kansas City, Missouri 64112
(816) 300-7800
ATTORNEYS FOR PLAINTIFF
(26372)
2/12 2/19 2/26

CONTINUED FROM PRECEDING PAGE

SECTION ELEVEN: Chapter 7, Article 2, Section 7-211, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-211. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 405, "EMERGENCY EVACUATION DRILLS."** All provisions of Section 405 of the International Fire Code, entitled "Emergency Evacuation Drills," including all subsections thereof, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWELVE: Chapter 7, Article 2, Section 7-212, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-212. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 503 "FIRE APPARATUS ACCESS ROADS."** Section 503 of the International Fire Code is hereby amended to read as follows:

Sec. 503.1 Fire Apparatus Access Roads.

All occupancies within this jurisdiction shall be required to have a fire apparatus access road.

Sec. 503.2 Fire Apparatus Access Road defined: A street, road, lane or drive including any bridge or culvert providing access to a building for emergency vehicles; does not include driveways less than 150 feet serving less than three single family dwellings. This definition shall supersede the definition in Section 502 of the International Fire Code.

Sec. 503.3 Fire Apparatus Access Road Requirements: Fire Apparatus Access Roads shall meet the following minimum provisions:

1. Extend to within 50 feet of a usable entrance to the structure.
2. Extend to within 200 feet exterior travel distance of all exterior portions of the structure at grade level.
3. Have a minimum clear width of 20 feet.
4. Have a minimum clear height of 13 feet 6 inches.
5. Provide an all-weather surface.
6. Be designed for minimum H-2 loading or to support 20,000 pounds weight per axle.
7. Have approved turn-around provisions for fire apparatus where its length exceeds 150 feet.
8. Have no change in grade exceeding 10%.
9. Have a minimum turning radius of at least 37.5 feet.
10. Have no barriers to unobstructed conveyance except as approved by the Fire Marshal.

EXCEPTION:

1. Driveways of any length serving not more than two R-3 occupancies may have reduced requirements as approved by the Fire Marshal.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION THIRTEEN: Chapter 7, Article 2, Section 7-213, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-213. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 508.5.1, "WHERE REQUIRED."** Section 508.5.1 of the International Fire Code, entitled "Where required," is hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FOURTEEN: Chapter 7, Article 2, Section 7-214, of the Code of the City Leawood, Kansas, 2000, is hereby amended to read as follows:

214. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 903, "AUTOMATIC SPRINKLER SYSTEMS."** All of section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," including all portions and subsections, are hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FIFTEEN: Chapter 7, Article 2, Section 7-215, of the Code of the City of ood, Kansas, 2000, is hereby amended to read as follows:

INTERNATIONAL FIRE CODE, NEW SUBSECTION ADDED, SECTION 3307.16, "CONSTRUCTION BLASTING." A new section 3307.16, with associated subsections are hereby added to the International Fire Code to read as follows:

Sec. 3307.16 CONSTRUCTION BLASTING. Blasting done in conjunction with construction shall meet all of the following requirements.

Sec. 3307.16.1 BLASTING PERMIT, DEFINED. - "Permit" whenever used hereafter in this section shall refer to the written authorization of the Director of Public Works and the Fire Chief or their designees authorizing any person, firm, corporation, partnership, governmental agency or association to store, possess, and use explosive materials and blasting agents for construction blasting operations only. Possession or use of explosives not authorized under this section is prohibited.

Exception: A permit as required by this Article will not be required to transport explosives or blasting agents where the explosives or blasting agents are not being shipped from, or delivered to a location within the corporate boundaries of the City of Leawood, provided that said explosives or blasting agents are being transported in accordance with applicable regulations of other governmental agencies having jurisdiction, including the Federal Department of Transportation.

Sec. 3307.16.2 RESPONSIBILITY FOR ENFORCEMENT. The Director of Public Works, referred to in this Section as the "Director", shall be responsible for the administration and enforcement of this Section as provided herein. In addition, the Fire and Police Departments shall have authority to enforce regulatory provisions set forth herein, provided further that the Director shall be notified of any enforcement action taken by Fire or Police Departments.

Sec. 3307.16.3 APPLICATION PROCESS - The following shall be the process for applying for a permit to store or use explosives in the City of Leawood for the purpose of blasting as part of construction operations. Permits for other types of operations involving explosives shall be according to the applicable sections of the Fire Code of the City of Leawood as amended by the Governing Body.

Sec. 3307.16.4 PRE-APPLICATION CONFERENCE. At the time an application is obtained a pre-application conference will be scheduled with the Director of Public Works and the Fire Chief, or their designees, to discuss the requirements of the ordinance and the expectations of the Public Works Director and the Fire Chief. The pre-application conference shall be scheduled a minimum of three (3) working days prior to submission of the application.

Sec. 3307.16.5 SCALE DRAWING. Before a permit shall be issued, the applicant shall furnish to the Director of Public Works a scale drawing accurately showing the surrounding land and all improvements thereon, all dimensions and all distances relative thereto. The scale drawing shall show distances to all houses, buildings, or other facilities within 500 feet of the blasting or demolition work. The scale drawing accompanying an application for a permit to store explosives or blasting agents must show distances to buildings and other features in accordance with the American Table of Distances for Storage of Explosives (IFC Table 3304.5.2). All permit applications which are not accompanied by a scale drawing shall be refused and will not be considered until such scale drawing accompanies the application for permit. In addition, the Director of Public Works shall have authority to establish additional written standards for the submission of scaled drawings or other application submittals.

Sec. 3307.16.6 INSURANCE REQUIRED. The applicant shall provide proof of insurance coverage meeting the following minimum requirements:

1. **Workers Compensation, Statutory Coverage**
2. **Employers Liability**

Bodily Injury by Accident	$1,000,000 each accident
Bodily Injury by Disease	$1,000,000 policy limit
Bodily Injury by Disease	$1,000,000 each employee

3. **Commercial General Liability**
Bodily Injury and Property Damage
$2,000,000 Combined Single Limit
$4,000,000 Aggregate

4. **Business Automobile Policy**
Bodily Injury and Property Damage
$1,000,000 Combined Single Limit

Bodily Injury	$1,000,000 per Person
Bodily Injury	$1,000,000 per Accident
Property Damage	$1,000,000 per Accident

5. **Rating Required**
The insurer shall have an A.M. Best's rating of AIX or better or be otherwise approved, in writing, by the City's Finance Director.

Section 3307.16.7 BLASTING PLAN. The application for the permit must be accompanied by a Blasting Plan for the blasting operation. This Blasting Plan shall include specific information on the operation as follows:

1. Charge weights;
2. Delays;
3. Depths;
4. Patterns;
5. Protective mats or coverings required;
6. Seismographic monitoring shall be provided by an independent firm, approved by the Director of Public Works, reporting directly to the City at the applicant's expense;
7. The names of all responsible on-site personnel and copies of their blaster's licenses.

Regardless of distance to nearby facilities, the blasting operations shall be carried out in such a manner that they will not cause fly rock or damage from air blast overpressure or ground vibration. Seismic recordings may be required by the Director. The maximum peak particle velocity at any such recording site must not exceed one inch per second in any one of three mutually perpendicular directions. Proposed specific location(s) of the seismic recording(s) shall be included in the Blasting Plan.

Sec. 3307.16.8 NOTIFICATION OF ADJACENT PROPERTY OWNERS. The applicant shall provide written notification of property or utility owners within 500 feet of a blast site. Evidence of delivery of such notification shall be retained by the applicant. Failure to provide such evidence of such notification to the Director of Public Works on demand shall be construed to mean that such notification has not occurred. Notice shall be approved by the Director and shall include the following:

1. Notice of intent to blast;
2. Name of blasting contractor;
3. Agency making the pre-blast inspection;
4. Insurance company providing the coverage and claims process including the telephone number of the claims agent;

CONTINUED ON NEXT PAGE

5. Notice to property owner to contact the Director of Public Works within three (3) days of notification to request a copy of the pre-blast inspection of structures on their property;
6. Notification shall include a complete copy of Section 705 Construction Blasting;
7. Contractor shall meet with affected property owners in advance of commencement of blast operations to explain blasting operations when requested within five (5) working days of notification.

Sec. 3307.16.9 PRE-BLAST INSPECTIONS shall be performed by the applicant on all structures within 500 feet of a blast site unless permission for the inspection is denied by the occupant or owner. Applicant shall provide a copy of the pre-blast inspection to all property owners requesting same at applicant's expense.

Sec. 3307.16.10 FEE. Prior to providing an intent to issue a permit letter, the applicant shall pay to the City, a non-refundable application fee as determined by the fee resolution adopted annually by the Governing Body.

Sec. 3307.16.11 NOTICE OF INTENT TO ISSUE PERMIT. The applicant, if he or she has fulfilled all application requirements and has not given cause for denial by previous permit violations, will be notified of the City's intent to issue the permit. The applicant shall then provide copies of such notification to all property owners within 500 feet of a proposed blast site. The notice required by this section shall be mailed by certified mail not less than ten days prior to issuance of a blasting permit. The applicant shall retain evidence that such notification has occurred. Failure to provide such evidence to the Director shall be construed to mean that such notification has not occurred.

Sec. 3307.16.12 GRACE PERIOD FOR REQUESTING APPEAL. A grace period of ten working days from the date that the written notice of intent to blast is mailed (as provided by Section 3307.16.11) will allow owners of adjacent property an opportunity to file an appeal of the decision to issue a permit.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SIXTEEN: Chapter 7, Article 2, Section 7-216, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-216. INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3308, "FIREWORKS DISPLAY." Section 3308 of the International Fire Code, entitled "Fireworks Display" is hereby amended to read: No fireworks may be sold, used or possessed in this jurisdiction.

Exception:

1. Permitted fireworks displays meeting the following criteria:
   a) Where the display operator is a Kansas licensed pyrotechnician.
   b) Where a display plan is submitted specifying compliance with NFPA 1123 and 1126, including a site plan and list of fireworks devices to be used.
   c) Where the operator has demonstrated proof of $2 million general commercial liability coverage for the display with a company rated AIX or better by A.M. Best's rating service, unless alternative insurance coverage is approved, in writing, by the Finance Director.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION SEVENTEEN: Chapter 7, Article 2, Section 7-217, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-217. INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3406.2.4.4 "LOCATIONS WHERE ABOVE-GROUND TANKS ARE PROHIBITED." Section 3406.2.4.4 of the International Fire Code, entitled "Locations where above-ground tanks are prohibited," is hereby amended to read as follows: Class I and II liquids in above-ground tanks may not be permanently stored in Leawood.

Exceptions: Approved tanks not exceeding 500 gallons may be stored in areas zoned for agricultural and industrial purposes. Additionally, approved portable tanks for the fueling of vehicles are allowed temporarily for the duration of construction projects.

(Code 2000)

SECTION EIGHTTEEN: Chapter 7, Article 2, Section 7-218, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-218. INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 3804.2, "MAXIMUM CAPACITY WITHIN ESTABLISHED LIMITS." Section 3804.2 of the International Fire Code, entitled "Maximum capacity within established limits," is hereby amended to read as follows: The storage of liquefied petroleum gas is hereby limited to areas zoned AG, PI, RPA *and RPA5*. The amount of such storage is limited to a maximum water capacity of 2,000 gallons. In particular installations, this capacity limit shall be determined by the code official, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed containers, degree of fire protection to be provided, and capabilities of the local fire department. In addition, LPG tanks for heating purposes may be temporarily located on construction sites for the duration of the project.

SECTION NINETEEN: Chapter 7, Article 2, Section 7-219, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-219. APPEALS.
Whenever the Fire Marshal disapproves any type of application or refuses to grant any type of permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Marshal to the Board of Fire and Building Code Appeals within 30 days.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWENTY: Chapter 7, Article 2, Section 7-220, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-220. PENALTIES.

(a) Any person who shall violate any of the provisions of this Code or Standards hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications, or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with an order as affirmed or modified by the appeals board or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by a fine of not less than one (1) dollar nor more than five hundred (500) dollars per occurrence or by imprisonment for not less than one (1) day nor more than thirty (30) days or by both fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or otherwise remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1973)
(Code 1984)
(Ord. No. 1488C; 5-15-96)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWENTY-ONE: Repeal of Existing Article. The existing Chapter 4, Article 2, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION TWENTY-TWO: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-FOUR: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 4th day of Feburary, 2002.

APPROVED by the Mayor this 4th day of Feburary, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Hebner, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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5. Notice to property owner to contact the Director of Public Works within three (3) days of notification to request a copy of the pre-blast inspection of structures on their property;
6. Notification shall include a complete copy of Section 705 Construction Blasting;
7. Contractor shall meet with affected property owners in advance of commencement of blast operations to explain blasting operations when requested within five (5) working days of notification.

Sec. 3307.16.9 PRE-BLAST INSPECTIONS shall be performed by the applicant on all structures within 500 feet of a blast site unless permission for the inspection is denied by the occupant or owner. Applicant shall provide a copy of the pre-blast inspection to all property owners requesting same at applicant's expense.

Sec. 3307.16.10 FEE. Prior to providing an intent to issue a permit letter, the applicant shall pay to the City, a non-refundable application fee as determined by the fee resolution adopted annually by the Governing Body.

Sec. 3307.16.11 NOTICE OF INTENT TO ISSUE PERMIT. The applicant, if he or she has fulfilled all application requirements and has not given cause for denial by previous permit violations, will be notified of the City's intent to issue the permit. The applicant shall then provide copies of such notification to all property owners within 500 feet of a proposed blast site. The notice required by this section shall be mailed by certified mail not less than ten days prior to issuance of a blasting permit. The applicant shall retain evidence that such notification has occurred. Failure to provide such evidence to the Director shall be construed to mean that such notification has not occurred.

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(Code 1973)
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1. Permitted fireworks displays meeting the following criteria:
   a) Where the display operator is a Kansas licensed pyrotechnician.
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   c) Where the operator has demonstrated proof of $2 million general commercial liability coverage for the display with a company rated AIX or better by A.M. Best's rating service; unless alternative insurance coverage is approved, in writing, by the Finance Director.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
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(Code 2000)

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7-219. APPEALS.
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(Code 1973)
(Code 1984)
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(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

(Code 1973)
(Code 1984)
(Ord. No. 1486C; 5-15-95)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWENTY-ONE: Repeal of Existing Article. The existing Chapter 4, Article 2, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION TWENTY-TWO: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-FOUR: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 4th day of Feburary, 2002.

APPROVED by the Mayor this 4th day of Feburary, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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SECTION ELEVEN: Chapter 7, Article 2, Section 7-211, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-211. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 405, "EMERGENCY EVACUATION DRILLS."** All provisions of Section 405 of the International Fire Code, entitled "Emergency Evacuation Drills," including all subsections thereof, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWELVE: Chapter 7, Article 2, Section 7-212, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-212. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 503 "FIRE APPARATUS ACCESS ROADS."** Section 503 of the International Fire Code is hereby amended to read as follows:

Sec. 503.1 Fire Apparatus Access Roads.

All occupancies within this jurisdiction shall be required to have a fire apparatus access road.

Sec. 503.2 Fire Apparatus Access Road defined: A street, road, lane or drive including any bridge or culvert providing access to a building for emergency vehicles; does not include driveways less than 150 feet serving less than three single family dwellings. This definition shall supersede the definition in Section 502 of the International Fire Code.

Sec. 503.3 Fire Apparatus Access Road Requirements: Fire Apparatus Access Roads shall meet the following minimum provisions:

1. Extend to within 50 feet of a usable entrance to the structure.
2. Extend to within 200 feet exterior travel distance of all exterior portions of the structure at grade level.
3. Have a minimum clear width of 20 feet.
4. Have a minimum clear height of 13 feet 6 inches.
5. Provide an all-weather surface.
6. Be designed for minimum H-2 loading or to support 20,000 pounds weight per axle.
7. Have approved turn-around provisions for fire apparatus where its length exceeds 150 feet.
8. Have no change in grade exceeding 10%.
9. Have a minimum turning radius of at least 37.5 feet.
10. Have no barriers to unobstructed conveyance except as approved by the Fire Marshal.

EXCEPTION:

1. Driveways of any length serving not more than two R-3 occupancies may have reduced requirements as approved by the Fire Marshal.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION THIRTEEN: Chapter 7, Article 2, Section 7-213, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-213. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 506.5.1, "WHERE REQUIRED."** Section 506.5.1 of the International Fire Code, entitled "Where required," is hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FOURTEEN: Chapter 7, Article 2, Section 7-214, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-214. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED, SECTION 903, "AUTOMATIC SPRINKLER SYSTEMS."** All of section 903 of the International Fire Code, entitled "Automatic Sprinkler Systems," including all portions and subsections, are hereby omitted and deleted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION FIFTEEN: Chapter 7, Article 2, Section 7-215, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-215. **INTERNATIONAL FIRE CODE, NEW SUBSECTION ADDED, SECTION 3307.16, "CONSTRUCTION BLASTING."** A new section 3307.16, with associated subsections are hereby added to the International Fire Code to read as follows:

Sec. 3307.16 CONSTRUCTION BLASTING. Blasting done in conjunction with construction shall meet all of the following requirements.

Sec. 3307.16.1 BLASTING PERMIT, DEFINED - "Permit" whenever used hereafter in this section shall refer to the written authorization of the Director of Public Works and the Fire Chief or their designees authorizing any person, firm, corporation, partnership, governmental agency or association to store, possess, and use explosive materials and blasting agents for construction blasting operations only. Possession or use of explosives not authorized under this section is prohibited.

Exception: A permit as required by this Article will not be required to transport explosives or blasting agents where the explosives or blasting agents are not being shipped from, or delivered to a location within the corporate boundaries of the City of Leawood, provided that said explosives or blasting agents are being transported in accordance with applicable regulations of other governmental agencies having jurisdiction, including the Federal Department of Transportation.

Sec. 3307.16.2 RESPONSIBILITY FOR ENFORCEMENT. The Director of Public Works, referred to in this Section as the "Director", shall be responsible for the administration and enforcement of this Section as provided herein. In addition, the Fire and Police Departments shall have authority to enforce regulatory provisions set forth herein, provided further that the Director shall be notified of any enforcement action taken by Fire or Police Departments.

Sec. 3307.16.3 APPLICATION PROCESS - The following shall be the process for applying for a permit to store or use explosives in the City of Leawood for the purpose of blasting as part of construction operations. Permits for other types of operations involving explosives shall be according to the applicable sections of the Fire Code of the City of Leawood as amended by the Governing Body.

Sec. 3307.16.4 PRE-APPLICATION CONFERENCE. At the time an application is obtained a pre-application conference will be scheduled with the Director of Public Works and the Fire Chief, or their designees, to discuss the requirements of the ordinance and the expectations of the Public Works Director and the Fire Chief. The pre-application conference shall be scheduled a minimum of three (3) working days prior to submission of the application.

Sec. 3307.16.5 SCALE DRAWING. Before a permit shall be issued, the applicant shall furnish to the Director of Public Works a scale drawing accurately showing the surrounding land and all improvements thereon, all dimensions and all distances relative thereto. The scale drawing shall show distances to all houses, buildings, or other facilities within 500 feet of the blasting or demolition work. The scale drawing accompanying an application for a permit to store explosives or blasting agents must show distances to buildings and other features in accordance with the American Table of Distances for Storage of Explosives (IFC Table 3304.5.2). All permit applications which are not accompanied by a scale drawing shall be refused and will not be considered until such scale drawing accompanies the application for permit. In addition, the Director of Public Works shall have authority to establish additional written standards for the submission of scaled drawings or other application submittals.

Sec. 3307.16.6 INSURANCE REQUIRED. The applicant shall provide proof of insurance coverage meeting the following minimum requirements:

1. **Workers Compensation, Statutory Coverage**
2. **Employers Liability**
   Bodily Injury by Accident — $1,000,000 each accident
   Bodily Injury by Disease — $1,000,000 policy limit
   Bodily Injury by Disease — $1,000,000 each employee
3. **Commercial General Liability**
   Bodily Injury and Property Damage
   $2,000,000 Combined Single Limit
   $4,000,000 Aggregate
4. **Business Automobile Policy**
   Bodily Injury and Property Damage
   $1,000,000 Combined Single Limit
   Bodily Injury — $1,000,000 per Person
   Bodily Injury — $1,000,000 per Accident
   Property Damage — $1,000,000 per Accident
5. **Rating Required**
   The insurer shall have an A.M. Best's rating of AIX or better or be otherwise approved, in writing, by the City's Finance Director.

Section 3307.16.7 BLASTING PLAN. The application for the permit must be accompanied by a Blasting Plan for the blasting operation. This Blasting Plan shall include specific information on the operation as follows:

1. Charge weights;
2. Delays;
3. Depths;
4. Patterns;
5. Protective mats or coverings required;
6. Seismographic monitoring shall be provided by an independent firm, approved by the Director of Public Works, reporting directly to the City at the applicant's expense;
7. The names of all responsible on-site personnel and copies of their blaster's licenses.

Regardless of distance to nearby facilities, the blasting operations shall be carried out in such a manner that they will not cause fly rock or damage from air blast overpressure or ground vibration. Seismic recordings may be required by the Director. The maximum peak particle velocity at any such recording site must not exceed one inch per second in any one of three mutually perpendicular directions. Proposed specific location(s) of the seismic recording(s) shall be included in the Blasting Plan.

Sec. 3307.16.8 NOTIFICATION OF ADJACENT PROPERTY OWNERS. The applicant shall provide written notification of property or utility owners within 500 feet of a blast site. Evidence of delivery of such notification shall be retained by the applicant. Failure to provide such evidence of such notification to the Director of Public Works on demand shall be construed to mean that such notification has not occurred. Notice shall be approved by the Director and shall include the following:

1. Notice of intent to blast;
2. Name of blasting contractor;
3. Agency making the pre-blast inspection;
4. Insurance company providing the coverage and claims process including the telephone number of the claims agent;

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ORDINANCE NO. 1942

AN ORDINANCE GRANTING TO SPRINT COMMUNICATIONS COMPANY, L.P., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Sprint Communications Company, L.P., ['SPRINT'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Sprint Communications Company, L.P., or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

   This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of–way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues

shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

   Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental

requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

Sprint Communications Company, L.P.
Network Real Estate
6391 Sprint Parkway
KSOPHT0101-Z2040
Overland Park, KS 66251-2040

With copies of Notices of Default to:

Sprint Communications Company, L.P.
Legal Department
6391 Sprint Parkway
KSOPHT0101-Z2020
Overland Park, KS 66251-2020

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this

franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that

power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	January 7, 2002	**Second Reading**:	January 22, 2002
Third Reading:	February 4, 2002	**Effective Date**:	April 5, 2002

Passed by the Governing Body this 4th day of February, 2002.

Approved by the Mayor this 4th day of February, 2002.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler

Lisa R. Wetzler, Assistant City Attorney

I:\22SPRINT.DOC
CT9-02-001

Martha

Sprint

6100 Sprint Parkway
Overland Park, Kansas 66251

March 26, 2002

Hand Delivered

Ms. Lisa Wetzler
Assistant City Attorney
City of Leawood, KS
4800 Town Center Dr
Leawood, KS 66211

Re: Sprint Communications Company L.P.
Ordinance No. 1942

Dear Ms. Wetzler:

Let this letter serve as notification of Sprint's acceptance of Ordinance No. 1942 on the effective date of April 5, 2002.

Enclosed please find Check No. 0005634690 in the amount of $30,062.50, submitted for the payment of franchise fees associated with the above referenced Ordinance.

Our contractor will obtain the required construction permit with the City's Public Works Department prior to pulling fiber through the conduit system. Please call if you have any questions.

Sincerely,

Jeanne Calkins

Jeanne Calkins
Associate Real Estate Negotiator
Mailstop KSOPHK0210-2A500
6100 Sprint Parkway
Overland Park, KS 66251-0001
913.315.4005 Phone
913.315.3928 Fax
jeanne.calkins@mail.sprint.com

Enclosure

cc: B.George, Cable Project Engineer

ARN 59896
PN 187180

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

0005634690

Sprint

Sprint United Management Company
Paying Agent on Behalf of Itself and Sprint Corporation's Affiliates
P. O. Box 7977
Overland Park, Kansas 66211
1-888-283-4636, Opt. 1

56-382/412

03/25/2002

PAY **********30,062 DOLLARS AND 50 CENTS **********30,062.50

PAY TO THE ORDER OF

000165 M

CITY OF LEAWOOD
OCCUPATION LICENSE
4800 TOWN CENTER DRIVE
LEAWOOD KS 66211

VOID IF NOT CASHED WITHIN 180 DAYS

Authorized Signature

Jane M. Betts

Norwest Bank Ohio, N.A.
Van Wert, Ohio 45891

⑈0005634690⑈ ⑆041203824⑆ 9600016249⑈

ORD1942

Publication Fees: $377.98

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 2 consecutive week(s), as follows:

ORDINANCE NO. 1942--2/12/02 & 2/19/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
FEBRUARY 20, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$377.98

First published in The Legal Record, Tuesday, February 12, 2002.

ORDINANCE NO. 1943C

ORDINANCE AMENDING CHAPTER 7, ARTICLE 2, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL FIRE CODE, 2000, SAVE AND EXCEPT CERTAIN PORTIONS AS ARE DELETED OR AMENDED AND ADDING CERTAIN SECTIONS THERETO REGARDING FIRE PROTECTION AND REPEALING EXISTING ARTICLE 2 OF CHAPTER 7, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 7, Article 2, Section 7-201, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. FIRE PREVENTION

7-201. **ADOPTION OF THE INTERNATIONAL FIRE CODE.** In addition to other standards set forth in this chapter, there is hereby incorporated by reference that certain Fire Code known as the "International Fire Code", edition of 2000, prepared and published by the International Code Council, Inc., including appendix chapters E, F, and G save and except such portions as are hereinafter deleted, modified or amended. Not less than three copies of the Fire Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1943C." A copy of the ordinance shall be attached to each Code copy and shall be filed with the City Clerk to be open for inspection and available to the public at all reasonable business hours. The police department, municipal judges, concerned public officials and all administrative departments of the City charged with the enforcement of such codes shall be supplied, at the cost of the City, with such numbers of official copies similarly marked as deemed expedient.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 7, Article 2, Section 7-202, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-202. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 101.1, "TITLE."** Section 101.1 of the International Fire Code, is amended to read as follows: **TITLE.** These regulations shall be known as the Fire Code of the City of Leawood, Kansas, hereinafter referred to as "this code."

SECTION THREE: Chapter 7, Article 2, Section 7-203, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-203. **INTERNATIONAL FIRE CODE, SECTION ADDED; SECTION 101.6, "CODE OFFICIAL DESIGNATED."** A new section 101.6 is hereby added to the International Fire Code, to read as follows: **"CODE OFFICIAL DESIGNATED."** The Fire Marshal, under the direction of the Fire Chief, is hereby designated as the authority charged with the duties of administration and enforcement of the Fire Code of the City of Leawood and all references to the "code official" in the International Fire Code and in this Chapter, shall mean the Fire Marshal, under the direction of the Fire Chief.

SECTION FOUR: Chapter 7, Article 2, Section 7-204, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-204. **INTERNATIONAL FIRE CODE, SECTION AMENDED; SECTION 103.1, "ESTABLISHMENT OF THE BUREAU OF FIRE PREVENTION."** Section 103.1 of the International Fire Code, is hereby amended to read as follows: The Fire Code of the City of Leawood shall be enforced by the Bureau of Fire Prevention under the direction of the Fire Marshal. The function of the Bureau shall be the implementation, administration and enforcement of the provisions of the International Fire Code as hereby amended.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

B. Compressed gases. An operational permit is required for the storage, use or handling at normal temperature and pressure (NTP) of compressed gases in excess of the amounts shown in Table 105.6.9 of the International Fire Code, 2000, provided, however, such permit is not required for vehicles equipped for and using compressed gas as a fuel for propelling the vehicle.

C. Covered Mall Buildings. An operational permit is required for:

1. The placement of retail fixtures and displays, concession equipment, displays of highly combustible goods and similar items in the mall.
2. The display of liquid- or gas-fired equipment in the mall.
3. The use of open-flame or flame-producing equipment in the mall.

D. Liquid- or gas-fueled vehicles or equipment in assembly buildings. An operational permit is required to display, operate or demonstrate liquid- or gas-fueled vehicles or equipment in assembly buildings.

E. Miscellaneous combustible storage. An operational permit is required to store in any building or upon any premises in excess of 2,500 cubic feet (71 m^3) gross volume of combustible empty packing cases, boxes, barrels or similar containers, rubber tires, rubber, cork or similar combustible material.

F. Temporary membrane structures, tents and canopies. An operational permit is required to operate an air-supported temporary membrane structure or a tent having an area in excess of 800 square feet, or a canopy in excess of 1600 square feet. Tents used exclusively for recreational camping purposes do not require a permit.

SECTION SEVEN: Chapter 7, Article 2, Section 7-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-207. **INTERNATIONAL FIRE CODE, SECTION DELETED AND OMITTED; SECTION 105.7, "REQUIRED CONSTRUCTION PERMITS."** Section 105.7 of the International Fire Code, entitled, "Required construction permits," and all of its subsections, are hereby deleted and omitted.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 7, Article 2, Section 7-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-208. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 109.3, "VIOLATION PENALTIES."** All provisions of Section 109.3 of the International Fire Code, entitled "Violation penalties," including subsection 109.3.1, are hereby deleted and omitted.

SECTION NINE: Chapter 7, Article 2, Section 7-209, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-209. **INTERNATIONAL FIRE CODE, SECTION OMITTED AND DELETED; SECTION 111.4, "FAILURE TO COMPLY."** All provisions of Section 111.4 of the International Fire Code, entitled "Failure to comply," are hereby deleted and omitted.

SECTION TEN: Chapter 7, Article 2, Section 7-210, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

7-210. **INTERNATIONAL FIRE CODE, SECTION AMENDED, SECTION 307, "OPEN BURNING."** All provisions of Section 307 of the International Fire Code, entitled "Open Burning," including all subsections thereof, are amended to read as follows: **Open Burning.** No open burning shall be allowed within the boundaries of the City of Leawood.

Exceptions:

1. Open burning of vegetation for land clearing operations is allowed when all of the following conditions are met:
   (a) There is 1000 feet clearance from occupied dwellings and public roadways.
   (b) Approved smoke abatement methods are used.
      1. A burn pit and blower is used to increase efficiency of combustion
      2. Alternative methods are specified.
   (c) Daily weather conditions are as follows:
      1. Wind speed greater than 5 mph and less than 15 mph
      2. Cloud ceiling above 1000 feet
      3. Atmospheric conditions are not conducive to thermal inversion. Such conditions typically are low temperature, high humidity, fog, calm winds.
   (d) Burning is accomplished between sunrise and 30 minutes prior to sundown each approved burning day.
   (e) The maximum fuel at any given time does not exceed 3000 cu. ft.
   (f) The burn site is constantly attended while burning operations are occuring.
2. Open burning on a construction site is allowed where the materials burned are contained in a non-combustible container not exceeding 55 gallons water capacity and where separated by 20 feet from combustibles.
3. In R-3 occupancies, the burning of solid fuel or LPG for cooking purposes in a non-combustible container is allowed where the solid fuel load does not exceed 4 pieces of wood 18 inches in length or an equivalent amount of other wood material.
4. In R-1, R-2 and R-4 occupancies, the burning of LPG in a listed appliance for outdoor cooking purposes is allowed where the LPG supply does not exceed 5 gallons water capacity.

(Code 1973)
(Code 1984)
(Ord. 1714C; 03-23-98)
(Code 2000)

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c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate, non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or a franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading: January 7, 2002 **Second Reading:** January 22, 2002

Third Reading: February 4, 2002 **Effective Date:** April 5, 2002

Passed by the Governing Body this 4th day of February, 2002.

Approved by the Mayor this 4th day of February, 2002.

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler, Assistant City Attorney

ORDINANCE NO. 1942

First published in The Legal Record, Tuesday, February 12, 2002.

ORDINANCE NO. 1942

AN ORDINANCE GRANTING TO SPRINT COMMUNICATIONS COMPANY, L.P., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Sprint Communications Company, L.P., ['SPRINT'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Sprint Communications Company, L.P., or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

   This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. ***Use of Public Right-of-Way and Utility Easements.*** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

   All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

   Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

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provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

Sprint Communications Company, L.P.
Network Real Estate
6391 Sprint Parkway
KSOPHT0101-Z2040
Overland Park, KS 66251-2040

With copies of Notices of Default to:

Sprint Communications Company, L.P.
Legal Department
6391 Sprint Parkway
KSOPHT0101-Z2020
Overland Park, KS 66251-2020

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent, from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death, or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirement.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

   a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

   b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

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provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

Sprint Communications Company, L.P.
Network Real Estate
6391 Sprint Parkway
KSOPHT0101-Z2040
Overland Park, KS 66251-2040

With copies of Notices of Default to:

Sprint Communications Company, L.P.
Legal Department
6391 Sprint Parkway
KSOPHT0101-Z2020
Overland Park, KS 66251-2020

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

   a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

   b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

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ORDINANCE NO. 1942

First published in The Legal Record, Tuesday, February 12, 2002.

ORDINANCE NO. 1942

AN ORDINANCE GRANTING TO SPRINT COMMUNICATIONS COMPANY, L.P., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Sprint Communications Company, L.P., ['SPRINT'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Sprint Communications Company, L.P., or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1941C

ORDINANCE AMENDING CHAPTER 8, ARTICLE 2, SECTION 8-203; AND CHAPTER 8, ARTICLE 2, SECTION 8-303 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO HEALTH AND WELFARE, AND REPEALING ANY AND ALL OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 8, Article 2, Section 8-203 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

8-203. **ABATEMENT OF NUISANCES.** Whenever the Public Officer, as the enforcement officer for the Property Maintenance Code incorporated by Article 5 of Chapter 8 of this Code, is notified that a nuisance exists within the city, he or she shall give notice as provided by the Property Maintenance Code, as supplemented by Section 8-501 et seq.. The person maintaining the nuisance shall be subject to the duty to abate as provided for by the Property Maintenance Code, as supplemented by Section 8-501 et seq. Failure to abate a nuisance as directed shall result in abatement of the nuisance by the city and assessment of costs against the property, as provided for by the Property Maintenance Code, as supplemented by Section 8-501 et seq.

(Code 1984)
(Code 2000)

SECTION TWO: Chapter 8, Article 3, Section 8-303 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

8-303. **INOPERATIVE VEHICLES PROHIBITED.** Inoperative vehicles which are junked, wrecked, dismantled, inoperative, discarded, unregistered, unlicensed, or abandoned in and upon property within the city shall be prohibited. The removal of such vehicles shall be governed by the provisions of the Property Maintenance Code incorporated by Section 8-501 et seq., and other provisions of this Code.

(Ord. 692; 04-06-81)
(Code 2000)

SECTION THREE Repeal of Existing Sections. The existing Sections 8-203 and 8-303, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION FOUR: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FIVE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION SIX: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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

ORD1941C

Publication Fees: $35.49

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1941C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

ORDINANCE NO. 1941C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1941C

ORDINANCE AMENDING CHAPTER 8, ARTICLE 2, SECTION 8-203; AND CHAPTER 8, ARTICLE 2, SECTION 8-303 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO HEALTH AND WELFARE, AND REPEALING ANY AND ALL OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 8, Article 2, Section 8-203 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

8-203. **ABATEMENT OF NUISANCES.** Whenever the Public Officer, as the enforcement officer for the Property Maintenance Code incorporated by Article 5 of Chapter 8 of this Code, is notified that a nuisance exists within the city, he or she shall give notice as provided by the Property Maintenance Code, as supplemented by Section 8-501 et seq.. The person maintaining the nuisance shall be subject to the duty to abate as provided for by the Property Maintenance Code, as supplemented by Section 8-501 et seq. Failure to abate a nuisance as directed shall result in abatement of the nuisance by the city and assessment of costs against the property, as provided for by the Property Maintenance Code, as supplemented by Section 8-501 et seq.

(Code 1984)
(Code 2000)

SECTION TWO: Chapter 8, Article 3, Section 8-303 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

8-303. **INOPERATIVE VEHICLES PROHIBITED.** Inoperative vehicles which are junked, wrecked, dismantled, inoperative, discarded, unregistered, unlicensed, or abandoned in and upon property within the city shall be prohibited. The removal of such vehicles shall be governed by the provisions of the Property Maintenance Code incorporated by Section 8-501 et seq., and other provisions of this Code.

(Ord. 692; 04-06-81)
(Code 2000)

SECTION THREE Repeal of Existing Sections. The existing Sections 8-203 and 8-303, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION FOUR: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FIVE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION SIX: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn
Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Helzer
Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

$35.49

ORDINANCE NO. 1940C

ORDINANCE AMENDING CHAPTER 8, TO ADD A NEW ARTICLE 5, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING PROPERTY MAINTENANCE CODE, AND ADDING CERTAIN PROVISIONS REGARDING THE LEAWOOD MAINTENANCE CODE AND REPEALING ARTICLE 7 OF CHAPTER 4.

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

SECTION ONE: A new Article 5 is hereby added to Chapter 8 of the Code of the City of Leawood, Kansas, 2000, with the following Sections to read as follows:

ARTICLE 5. PROPERTY MAINTENANCE

8-501. PROPERTY MAINTENANCE CODE INCORPORATED BY REFERENCE. That there is hereby incorporated by reference as fully as if set forth herein, for the purpose of insuring public health, safety and welfare in the City of Leawood insofar as they are affected by the maintenance of structures and premises, that certain document known as the "1995 Property Maintenance Code, Minimum Housing Code and Rental Inspection Program of the City of Leawood, Kansas", dated August 7, 1995, prepared and published in book form by the City of Leawood, Kansas, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, inclusive, as amended. No fewer than three (3) copies of said document shall be marked or stamped "Official Copy" and to which shall be attached a copy of this ordinance, and filed in the Office of the City Clerk to be open to inspection and available to the public during regular office hours.

(Ord. No. 1510C; 08-07-95)

8-502. WEEDS TO BE REMOVED. It shall be unlawful for any property owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Ord. 1646C; 01-20-97)

8-503. DEFINITIONS.

(a) ***Calendar Year*** as used herein, means that period of time beginning January 1 and ending December 31 of the same year.

(b) ***Noxious Weeds*** –For the purpose of this Section, the term *Noxious Weeds,* means those items listed in K.S.A. § 2-1314, or any amendments thereto, and those further declared as such pursuant to K.S.A. § 2-1314(b), and shall include: kudzu [Pueraria

lobata], field bindweed [Convolvulus arvensis], Russian knapweed [Centaurea picris], hoary cress [Lepidium draba], Canada thistle [Cirsium arvense], quackgrass [Agropyron repens], leafy spurge [Euphorbia esula], bur ragweed [Ambrosia grayii], pignut [Hoffmannseggia densiflora], musk [nodding], thistle [Carduus nutans L.], Johnson grass [Sorghum halepense], lespedeza [Lespedexa cuneata], and multiflora rose [Rosa multiflora] or any plants which are poisonous to the touch, including but not limited to, poison ivy, poison oak, and poison sumac.

(c) ***Property Owner*** – shall mean the named property owner as indicated by the records of the Register of Deeds or Appraiser's office in Johnson County, Kansas.

(d) ***Public Officer*** – shall mean the Neighborhood Services Administrator, an authorized assistant, authorized representative, or his/her designee.

(e) ***Rank Vegetation*** – shall mean any annual or perennial herbaceous plants, including grasses, of volunteer growth, not cultivated or of any agricultural nature nor useful for human food or enjoyment which, because of its height, but not less than twelve inches [12"], will be a fire menace, harbor rats, insects or other creatures or will have blighting influence upon the neighborhood.

(f) ***Weeds*** as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Plant matter which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Plants which bear or may bear seeds of a downy or wingy nature;

(Ord. 1646C; 01-20-97)

8-504. **CITY CLERK; NOTICE TO REMOVE.** The City Clerk shall notify the property owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, in writing by certified mail, return receipt requested mail or by personal service, once per calendar year as set forth in K.S.A. §12-1617f. If property is unoccupied and the property owner is a nonresident, such notice shall be sent by certified mail, return receipt requested to the last known address, or if the owner is unknown or is a nonresident, and there is no resident agent, then notice shall be given by publication. Such notice shall include the following information:

(a) That the property owner, occupant or agent in charge of the property is in violation of the city weed control law;

(b) That the property owner, occupant, or agent in charge of the property is ordered to cut the weeds within five days of the receipt of notice;

(c) That the property owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days after notice has been published by the City Clerk in the official city paper in cases where the owner is unknown or is a nonresident, and there is no resident agent;

(d) That the property owner, occupant or agent in charge of the property may request a hearing before the Governing Body or its designated representative within five days of the receipt of notice, or ten days after publication notice, and said hearing shall be set on the agenda of the next meeting and said notice shall toll the time for correction of the alleged violation;

(e) That if the property owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the property owner, occupant or agent in charge of the property;

(f) That the property owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment or the City may proceed with collection under K.S.A. § 12-1,115, as amended;

(g) That, pursuant to ordinance and to K.S.A. § 12-1617f, no further notice shall be given prior to removal of weeds during the current calendar year

(h) That the public officer should be contacted if there are any questions regarding the order;

If there is a change in the record property owner of title to property subsequent to the giving of notice pursuant to this subsection, the city shall issue a new notice to the new property owner of record and proceed as set forth herein. The city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title of such property is provided notice as required by this section.

(Ord. 1646C; 01-20-97)

8-505. ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of five days after receipt of the notice required by Section 8-504, and in the event that the property owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements herein or fail to file a request for hearing, , the Public Officer shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The Public Officer shall provide a report of all costs to the City Clerk and shall give notice to the property owner, occupant or agent in charge of the premises by certified mail, return receipt requested mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the City Clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the county. Alternatively, the City may proceed with collection as authorized under K.S.A. § 12-1,115, as amended.

(Ord. 1646C; 01-20-97)

8-506. **RIGHT OF ENTRY.** The Public Officer, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this ordinance.

(Ord. 1646C; 01-20-97)

8-507. **UNLAWFUL INTERFERENCE.** It shall be unlawful for any person to interfere with or to attempt to prevent the Public Officer from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation.

(Ord. 1646C; 01-20-97)

8-508. **NOXIOUS WEEDS.** Nothing in this Article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(Ord. 1646C; 01-20-97)

SECTION TWO: Repeal of Existing Article. The existing Chapter 4, Article 7, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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

ORD1940C

Publication Fees: $82.88

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1940C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:

JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$82.88

ORDINANCE NO. 1933C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1933C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 5, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL MECHANICAL CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 5, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 5, Section 4-501, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 5. MECHANICAL CODE

4-501. INTERNATIONAL MECHANICAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Mechanical Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendix A save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1933C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1629C; 11-04-96)
(Code 2000)

(e) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(f) The building official shall have the authority to authorize the temporary connection of a mechanical system to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 5, Section 4-505, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-505. INTERNATIONAL MECHANICAL CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 5, the Code of the City of Leawood 2000 is hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn
Peggy Dunn, Mayor

ORDINANCE NO. 1937C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1937C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 10, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE, 1997, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 10, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 10, Section 4-1001, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 10. SWIMMING POOL, SPA, AND HOT TUB CODE

4-1001. UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE ADOPTED. There is hereby incorporated by reference that certain code known as the Uniform Swimming Pool, Spa, and Hot Tub Code, 1997 edition, prepared and published in book form by the International Association of Plumbing and Mechanical Officials, including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1937C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION TWO: Chapter 4, Article 10, Section 4-1002, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1002. UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE CHAPTER 1 OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION THREE: Chapter 4, Article 10, Section 4-1003, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1003. SCOPE. The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance, or use of any swimming pool, spa, or hot tub plumbing system except as otherwise provided in this code.

SECTION FOUR: Chapter 4, Article 10, Section 4-1004, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1004. NUISANCE. Any portion of a swimming pool, spa, or hot tub plumbing system found by the building official to be unsanitary as defined herein is hereby declared to be a nuisance and the building official shall seek abatement of such nuisance as otherwise provided by law.

SECTION FIVE: Chapter 4, Article 10, Section 4-1005, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1005. WORK NOT REQUIRING PERMIT. No permit shall be required in the case of any repair work as follows: The stopping of leaks in drains, soil, waste or vent pipe. However, should any trap, drainpipe, soil, waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as new work, and a permit shall be procured and inspection made as herein before provided. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

SECTION SIX: Chapter 4, Article 10, Section 4-1006, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1006. UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE AMENDED, SECTION 202.1, ADDED, DEFINITION OF SWIMMING POOL FURTHER DEFINED. Swimming Pool, private or public, is any manmade structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground swimming pools, hot tubs, and spas. (Note: Aboveground or on-ground swimming pools are not permitted.)

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 10, Section 4-1007, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1007. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION EIGHT: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION NINE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION ELEVEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn
Peggy Dunn, Mayor

ATTEST:

Martha Heizer
Martha Heizer, City Clerk

APPROVED AS TO FORM:

ORDINANCE NO. 1940C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1940C

ORDINANCE AMENDING CHAPTER 8, TO ADD A NEW ARTICLE 5, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING PROPERTY MAINTENANCE CODE, AND ADDING CERTAIN PROVISIONS REGARDING THE LEAWOOD MAINTENANCE CODE AND REPEALING ARTICLE 7 OF CHAPTER 4.

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

SECTION ONE: A new Article 5 is hereby added to Chapter 8 of the Code of the City of Leawood, Kansas, 2000, with the following Sections to read as follows:

ARTICLE 5. PROPERTY MAINTENANCE

8-501. PROPERTY MAINTENANCE CODE INCORPORATED BY REFERENCE. That there is hereby incorporated by reference as fully as if set forth herein, for the purpose of insuring public health, safety and welfare in the City of Leawood insofar as they are affected by the maintenance of structures and premises, that certain document known as the "1995 Property Maintenance Code, Minimum Housing Code and Rental Inspection Program of the City of Leawood, Kansas", dated August 7, 1995, prepared and published in book form by the City of Leawood, Kansas, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, inclusive, as amended. No fewer than three (3) copies of said document shall be marked or stamped "Official Copy" and to which shall be attached a copy of this ordinance, and filed in the Office of the City Clerk to be open to inspection and available to the public during regular office hours.

(Ord. No. 1510C; 08-07-95)

8-502. WEEDS TO BE REMOVED. It shall be unlawful for any property owner, agent, lessee, tenant, or other person occupying or having charge or control of any premises to permit weeds to remain upon said premises or any area between the property lines of said premises and the centerline of any adjacent street or alley, including but not specifically limited to sidewalks, streets, alleys, easements, rights-of-way and all other areas, public or private. All weeds as hereinafter defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

(Ord. 1646C; 01-20-97)

8-503. DEFINITIONS.

(a) ***Calendar Year*** as used herein, means that period of time beginning January 1 and ending December 31 of the same year.

(b) ***Noxious Weeds*** –For the purpose of this Section, the term *Noxious Weeds*, means those items listed in K.S.A. § 2-1314, or any amendments thereto, and those further declared as such pursuant to K.S.A. § 2-1314(b), and shall include: kudzu [Pueraria lobata], field bindweed [Convolvulus arvensis], Russian knapweed [Centaurea picris], hoary cress [Lepidium draba], Canada thistle [Cirsium arvense], quackgrass [Agropyron repens], leafy spurge [Euphorbia esula], bur ragweed [Ambrosia grayii], pignut [Hoffmannseggia densiflora], musk [nodding], thistle [Carduus nutans L.], Johnson grass [Sorghum halepense], lespedeza [Lespedexa cuneata], and multiflora rose [Rosa multiflora] or any plants which are poisonous to the touch, including but not limited to, poison ivy, poison oak, and poison sumac.

(c) ***Property Owner*** – shall mean the named property owner as indicated by the records of the Register of Deeds or Appraiser's office in Johnson County, Kansas.

(d) ***Public Officer*** – shall mean the Neighborhood Services Administrator, an authorized assistant, authorized representative, or his/her designee.

(e) ***Rank Vegetation*** – shall mean any annual or perennial herbaceous plants, including grasses, of volunteer growth, not cultivated or of any agricultural nature nor useful for human food or enjoyment which, because of its height, but not less than twelve inches [12"], will be a fire menace, harbor rats, insects or other creatures or will have blighting influence upon the neighborhood.

(f) ***Weeds*** as used herein, means any of the following:

(1) Brush and woody vines shall be classified as weeds;

(2) Plant matter which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

(3) Plants which bear or may bear seeds of a downy or wingy nature;

(Ord. 1646C; 01-20-97)

8-504. CITY CLERK; NOTICE TO REMOVE. The City Clerk shall notify the property owner, occupant or agent in charge of any premises in the city upon which weeds exist in violation of this ordinance, in writing by certified mail, return receipt requested mail or by personal service, once per calendar year as set forth in K.S.A. §12-1617f. If property is unoccupied and the property owner is a nonresident, such notice shall be sent by certified mail, return receipt requested to the last known address, or if the owner is unknown or is a nonresident, and there is no resident agent, then notice shall be given by publication. Such notice shall include the following information:

(a) That the property owner, occupant or agent in charge of the property is in violation of the city weed control law;

(b) That the property owner, occupant, or agent in charge of the property is ordered to cut the weeds within five days of the receipt of notice;

(c) That the property owner, occupant, or agent in charge of the property is ordered to cut the weeds within 10 days after notice has been published by the City Clerk in the official city paper in cases where the owner is unknown or is a nonresident, and there is no resident agent;

(d) That the property owner, occupant or agent in charge of the property may request a hearing before the Governing Body or its designated representative within five days of the receipt of notice, or ten days after publication notice, and said hearing shall be set on the agenda of the next meeting and said notice shall toll the time for correction of the alleged violation;

(e) That if the property owner, occupant or agent in charge of the property does not cut the weeds, the city or its authorized agent will cut the weeds and assess the cost of the cutting, including a reasonable administrative fee, against the property owner, occupant or agent in charge of the property;

(f) That the property owner, occupant or agent in charge of the property will be given an opportunity to pay the assessment, and, if it is not paid, it will be added to the property tax as a special assessment or the City may proceed with collection under K.S.A. § 12-1,115, as amended;

(g) That, pursuant to ordinance and to K.S.A. § 12-1617f, no further notice shall be given prior to removal of weeds during the current calendar year

(h) That the public officer should be contacted if there are any questions regarding the order;

If there is a change in the record property owner of title to property subsequent to the giving of notice pursuant to this subsection, the city shall issue a new notice to the new property owner of record and proceed as set forth herein. The city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title of such property is provided notice as required by this section.

(Ord. 1646C; 01-20-97)

8-505. ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of five days after receipt of the notice required by Section 8-504, and in the event that the property owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements herein or fail to file a request for hearing, , the Public Officer shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

(b) The Public Officer shall provide a report of all costs to the City Clerk and shall give notice to the property owner, occupant or agent in charge of the premises by certified mail, return receipt requested mail of the costs of abatement of the nuisance. The notice shall state that payment of the costs is due and payable within 30 days following receipt of the notice.

(c) If the costs of removal or abatement remain unpaid after 30 days following receipt of notice, a record of the costs of cutting and destruction and/or removal shall be certified to the City Clerk who shall cause such costs to be assessed against the particular lot or piece of land on which such weeds were so removed, and against such lots or pieces of land in front of or abutting on such street or alley on which such weeds were so removed. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the county. Alternatively, the City may proceed with collection as authorized under K.S.A. § 12-1,115, as amended.

(Ord. 1646C; 01-20-97)

8-506. RIGHT OF ENTRY. The Public Officer, contracting agents or other representatives are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying and/or removing such weeds in a manner not inconsistent with this ordinance.

(Ord. 1646C; 01-20-97)

8-507. UNLAWFUL INTERFERENCE. It shall be unlawful for any person to interfere with or to attempt to prevent the Public Officer from entering upon any such lot or piece of ground or from proceeding with such cutting and destruction. Such interference shall constitute an ordinance violation.

(Ord. 1646C; 01-20-97)

8-508. NOXIOUS WEEDS. Nothing in this Article shall affect or impair the rights of the city under the provisions of Chapter 2, Article 13 of the Kansas Statutes Annotated, relating to the control and eradication of certain noxious weeds.

(Ord. 1646C; 01-20-97)

SECTION TWO: Repeal of Existing Article. The existing Chapter 4, Article 7, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1939C

ORDINANCE AMENDING CHAPTER 4, ADDING A NEW ARTICLE 12, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO INSURANCE PROCEEDS FUND, AND REPEALING EXISTING ARTICLE 5 OF CHAPTER 8, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 12 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to add sections to read as follows:

ARTICLE 12. INSURANCE PROCEEDS FUND

4-1201. SCOPE AND APPLICATION

The city is hereby authorized to utilize the procedures established by K.S.A. § 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion, or windstorm, where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this ordinance.

(Ord. 1882C; 01-16-01)

4-1202. LIEN CREATED

The governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion, or windstorm, where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy(s) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city 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 year prior to the filing of a proof of loss.

(Ord. 1882C; 01-16-01)

4-1203. ENCUMBRANCES

Prior to final settlement on any claim covered by Section 2, the insurer or insurers shall contact the county treasurer, Johnson County, Kansas, to

determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the county treasurer, Johnson County, Kansas.

(Ord. 1882C; 01-16-01)

4-1204. PRO RATA BASIS

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

(Ord. 1882C; 01-16-01)

4-1205. PROCEDURE

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when 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, shall have been paid, the insurance company or companies shall execute a draft payable to the city in an amount equal to the sum of 15 percent of the covered claim payment unless the Building Official of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises safe and secure.

(b) Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the Building Official shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this ordinance.

(Ord. 1882C; 01-16-01)

4-1206. FUND CREATED; DEPOSIT OF MONEYS

The city finance director is hereby authorized and shall create a fund to be known as the "Insurance Proceeds Fund." All moneys received by the city

finance department as provided for by this ordinance shall be placed in said fund and deposited in an interest-bearing account.

(Ord. 1882C; 01-16-01)

4-1207. BUILDING OFFICIAL; INVESTIGATION, REMOVAL OF STRUCTURE

(a) Upon receipt of moneys as provided for by this ordinance, the city Finance Director shall immediately notify the Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Building Official.

(b) Within 20 days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. § 12-1750 et seq., as amended.

(c) Prior to the expiration of the 20 days established by subsection (b) of this section, the Building Official shall notify the city finance director whether he or she intends to initiate proceedings under K.S.A. § 12-1750 et seq., as amended.

(d) If the Building Official has determined that proceedings under K.S.A. § 12-1750 et seq., as amended shall be initiated, he or she will do so immediately but no later than 30 days after receipt of the moneys by the city finance department.

(e) Upon notification to the city finance department by the Building Official that no proceedings shall be initiated under K.S.A. § 12-1750 et seq., as amended, the city finance director shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

(Ord. 1882C; 01-16-01)

4-1208. REMOVAL OF STRUCTURE; EXCESS MONEYS

If the Building Official has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(Ord. 1882C; 01-16-01)

4-1209. SAME; DISPOSITION OF FUNDS

If the Building Official, with regard to a building or other structure damaged by fire, explosion, or windstorm, determines that it is necessary to act under K.S.A. § 12-1756, any proceeds received by the city finance

department under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. § 12-1756. Upon reimbursement from the insurance proceeds, the Building Official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city under Section 5(a), the Building Official shall publish a new lien as authorized by K.S.A. § 12-1756, in an amount equal to such excess expenses incurred.

(Ord. 1882C; 01-16-01)

4-1210. EFFECT UPON INSURANCE POLICIES

This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(Ord. 1882C; 01-16-01)

4-1211. INSURERS; LIABILITY

Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

(Ord. 1882C; 01-16-01)

SECTION TWO: Repeal of Existing Article. The existing Chapter 8, Article 5, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1939C

Publication Fees: $77.90

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CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1939C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$77.90

ORDINANCE NO. 1939C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1939C

ORDINANCE AMENDING CHAPTER 4, ADDING A NEW ARTICLE 12, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO INSURANCE PROCEEDS FUND, AND REPEALING EXISTING ARTICLE 5 OF CHAPTER 8, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 12 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to add sections to read as follows:

4-1201. DEFINITIONS

A. Building Official: The Building Official of the City of Leawood.

B. Insurance Proceeds: Any proceeds payable under any policy of insurance covering any building or other structure located within the City of Leawood, Kansas, which are payable because of damage to such building or other structure.

C. Insurer: Any person or entity insuring any building or other structure located within the City of Leawood, Kansas.

4-1202. INSURANCE PROCEEDS FUND

There is hereby created a fund to be known as the "Insurance Proceeds Fund" which shall be used to reimburse the City for any expenses incurred by the City in proceeding under K.S.A. § 12-1756. Upon reimbursement from the insurance proceeds, the Building Official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city under Section 5(a), the Building Official shall publish a new lien as authorized by K.S.A. § 12-1756, in an amount equal to such excess expenses incurred.

(Ord. 1882C; 01-16-01)

4-1210. EFFECT UPON INSURANCE POLICIES

This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(Ord. 1882C; 01-16-01)

4-1211. INSURERS; LIABILITY

Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

(Ord. 1882C; 01-16-01)

SECTION TWO: Repeal of Existing Article. The existing Chapter 8, Article 5, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

department under the authority of Section 5(a) relating to that building or other structure shall be used to reimburse the City for any expenses incurred by the City in proceeding under K.S.A. § 12-1756. Upon reimbursement from the insurance proceeds, the Building Official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city under Section 5(a), the Building Official shall publish a new lien as authorized by K.S.A. § 12-1756, in an amount equal to such excess expenses incurred.

(Ord. 1882C; 01-16-01)

4-1210. EFFECT UPON INSURANCE POLICIES

This ordinance shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

(Ord. 1882C; 01-16-01)

4-1211. INSURERS; LIABILITY

Insurers complying with this ordinance or attempting in good faith to comply with this ordinance shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including withholding payment of any insurance proceeds pursuant to this ordinance, or releasing or disclosing any information pursuant to this ordinance.

(Ord. 1882C; 01-16-01)

SECTION TWO: Repeal of Existing Article. The existing Chapter 8, Article 5, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

Building Code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this City.

SECTION SIX: Chapter 4, Article 11, Section 4-1106, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1106: ABATEMENT OF DANGEROUS BUILDINGS CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1938C

ORDINANCE AMENDING CHAPTER 4, ADDING A NEW ARTICLE 11, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 11, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 11, Section 4-1101, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 11. ABATEMENT OF DANGEROUS BUILDINGS CODE

4-1101. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS ADOPTED. There is hereby incorporated by reference that certain code known as the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, prepared and published in book form by the International Conference of Building Officials, including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1938C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 11, Section 4-1102, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1102. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS OMITTED AND DELETED; CHAPTER 1. TITLE AND SCOPE. All sections of Chapter 1, entitled Title and Scope, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 11, Section 4-1103, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1103. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS CHAPTER OMITTED AND DELETED; CHAPTER 2. ENFORCEMENT. All sections of Chapter 2, entitled Enforcement, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION FOUR: Chapter 4, Article 11, Section 4-1104, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1104. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, CHAPTER OMITTED AND DELETED. CHAPTER 9, RECOVERY OF COST OF REPAIR AND DEMOLITION. All sections of Chapter 9, entitled Recovery of Cost of Repair and Demolition, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 4, Article 11, Section 4-1105, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1105. PURPOSE and SCOPE. It is the purpose of this article to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this article. The provisions of this article and the Leawood Building Code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this City.

SECTION SIX: Chapter 4, Article 11, Section 4-1106, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1106. ABATEMENT OF DANGEROUS BUILDINGS CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1938C

Publication Fees: $51.63

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1938C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$51.63

(e) Upon notification to the city finance department by the Building Official that no proceedings shall be initiated under K.S.A. § 12-1750 et seq., as amended, the city finance director shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within 30 days of the receipt of the moneys from the insurance company or companies.

(Ord. 1882C; 01-16-01)

4-1208. **REMOVAL OF STRUCTURE; EXCESS MONEYS**
If the Building Official has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

(Ord. 1882C; 01-16-01)

-1209. **SAME; DISPOSITION OF FUNDS**
If the Building Official with regard to a building or other structure damaged

ORDINANCE NO. 1938C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1938C

ORDINANCE AMENDING CHAPTER 4, ADDING A NEW ARTICLE 11, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 11, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 11, Section 4-1101, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 11. ABATEMENT OF DANGEROUS BUILDINGS CODE

4-1101. **UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS ADOPTED.** There is hereby incorporated by reference that certain code known as the Uniform Code for the Abatement of Dangerous Buildings, 1997 edition, prepared and published in book form by the International Conference of Building Officials, including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1938C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 11, Section 4-1102, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1102. **UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS OMITTED AND DELETED; CHAPTER 1. TITLE AND SCOPE.** All sections of Chapter 1, entitled Title and Scope, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 11, Section 4-1103, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1103. **UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS CHAPTER OMITTED, AND DELETED; CHAPTER 2. ENFORCEMENT.** All sections of Chapter 2, entitled Enforcement, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION FOUR: Chapter 4, Article 11, Section 4-1104, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1104. **UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, CHAPTER OMITTED AND DELETED. CHAPTER 9, RECOVERY OF COST OF REPAIR AND DEMOLITION.** All sections of Chapter 9, entitled Recovery of Cost of Repair and Demolition, are hereby deleted.

(Ord. 1712C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 4, Article 11, Section 4-1105, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1105. **PURPOSE and SCOPE.** It is the purpose of this article to provide a just, equitable and practicable method, to be cumulative with and in addition to any other remedy provided by law, whereby buildings or structures which from any cause endanger the life, limb, health, morals, property, safety or welfare of the general public or their occupants may be required to be repaired, vacated or demolished. The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this article. The provisions of this article and the Leawood Building Code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter become dangerous in this City.

SECTION SIX: Chapter 4, Article 11, Section 4-1106, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1106. **ABATEMENT OF DANGEROUS BUILDINGS CODE, PENALTIES.** Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1937C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 10, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE, 1997, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 10, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 10, Section 4-1001, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 10. SWIMMING POOL, SPA, AND HOT TUB CODE

4-1001. UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE ADOPTED. There is hereby incorporated by reference that certain code known as the Uniform Swimming Pool, Spa, and Hot Tub Code, 1997 edition, prepared and published in book form by the International Association of Plumbing and Mechanical Officials, including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1937C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION TWO: Chapter 4, Article 10, Section 4-1002, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1002. UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION THREE: Chapter 4, Article 10, Section 4-1003, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1003. **SCOPE.** The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance, or use of any swimming pool, spa, or hot tub plumbing system except as otherwise provided in this code.

SECTION FOUR: Chapter 4, Article 10, Section 4-1004, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1004. **NUISANCE.** Any portion of a swimming pool, spa, or hot tub plumbing system found by the building official to be unsanitary as defined herein is hereby declared to be a nuisance and the building official shall seek abatement of such nuisance as otherwise provided by law.

SECTION FIVE: Chapter 4, Article 10, Section 4-1005, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1005. **UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE AMENDED; SECTION 108.0, WORK NOT REQUIRING PERMIT.** No permit shall be required in the case of any repair work as follows: The stopping of leaks in drains, soil, waste or vent pipe. However, should any trap, drainpipe, soil, waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as new work and a permit shall be procured and inspection made as herein before provided. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

SECTION SIX: Chapter 4, Article 10, Section 4-1006, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1006. **UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE AMENDED; SECTION 202.1, ADDED, DEFINITION OF SWIMMING POOL, FURTHER DEFINED.** Swimming Pool, private or public, is any manmade structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground swimming pools, hot tubs, and spas. (Note: Aboveground or on-ground swimming pools are not permitted.)

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 10, Section 4-1007, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1007. **INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES.** Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION EIGHT: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION NINE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION ELEVEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1937C

Publication Fees: $52.66

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published *in all editions of the regular and entire issue* for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1937C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$52.66

notice shall be given prior to removal of weeds during the current calendar year

(h) That the public officer should be contacted if there are any questions regarding the order;

If there is a change in the record property owner of title to property subsequent to the giving of notice pursuant to this subsection, the city shall issue a new notice to the new property owner of record and proceed as set forth herein. The city may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title of such property is provided notice as required by this section.

(Ord. 1646C; 01-20-97)

8-505. ABATEMENT; ASSESSMENT OF COSTS.

(a) Upon the expiration of five days after receipt of the notice required by Section 8-504, and in the event that the property owner, occupant or agent in charge of the premises shall neglect or fail to comply with the requirements herein or fail to file a request for hearing, . the Public Officer shall cause to be cut, destroyed and/or removed all such weeds and abate the nuisance created thereby at any time during the current calendar year.

ORDINANCE NO. 1937C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1937C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 10, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE, 1997, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 10, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 10, Section 4-1001, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 10. SWIMMING POOL, SPA, AND HOT TUB CODE

4-1001. **UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE ADOPTED.** There is hereby incorporated by reference that certain code known as the Uniform Swimming Pool, Spa, and Hot Tub Code, 1997 edition, prepared and published in book form by the International Association of Plumbing and Mechanical Officials, including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1937C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION TWO: Chapter 4, Article 10, Section 4-1002, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1002. **UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION.** All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION THREE: Chapter 4, Article 10, Section 4-1003, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1003. **SCOPE.** The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, addition, repair, relocation, replacement, maintenance, or use of any swimming pool, spa, or hot tub plumbing system except as otherwise provided in this code.

SECTION FOUR: Chapter 4, Article 10, Section 4-1004, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1004. **NUISANCE.** Any portion of a swimming pool, spa, or hot tub plumbing system found by the building official to be unsanitary as defined herein is hereby declared to be a nuisance and the building official shall seek abatement of such nuisance as otherwise provided by law.

SECTION FIVE: Chapter 4, Article 10, Section 4-1005, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1005. **WORK NOT REQUIRING PERMIT.** No permit shall be required in the case of any repair work as follows: The stopping of leaks in drains, soil, waste or vent pipe. However, should any trap, drainpipe, soil, waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with new material in any part or parts, the same shall be considered as new work and a permit shall be procured and inspection made as herein before provided. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

SECTION SIX: Chapter 4, Article 10, Section 4-1006, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-1006. **UNIFORM SWIMMING POOL, SPA, AND HOT TUB CODE AMENDED; SECTION 202.1, ADDED, DEFINITION OF SWIMMING POOL, FURTHER DEFINED.** Swimming Pool, private or public, is any manmade structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground swimming pools, hot tubs, and spas. (Note: Aboveground or on-ground swimming pools are not permitted.)

(Ord. 1280C; 03-02-92)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 10, Section 4-1007, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-1007. **INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES.** Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION EIGHT: Repeal of Existing Article. The existing Chapter 4, Article 10, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION NINE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION ELEVEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1936C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 9, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 9, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 9, Section 4-901, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 9. RESIDENTIAL CODE

4-901. INTERNATIONAL RESIDENTIAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Residential Code for One- and Two-Family Dwellings, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices A, B, C, E, G, H and I, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added hereto, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1936C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 9, Section 4-902, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-902. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 9, Section 4-903, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-903. SCOPE. The provisions of this International Residential Code for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures.

SECTION FOUR: Chapter 4, Article 9, Section 4-904, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-904. INSPECTIONS. (a) For on-site construction, from time to time, the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with the Leawood Building Code.

(b) Inspection of the foundation shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

(c) Rough inspection of plumbing, mechanical, gas and electrical systems shall be made prior to covering or concealment, before fixtures or appliances are set or installed, and prior to framing inspection, provided, however, that ground-source heat pump loop systems tested in accordance with M2105.1 shall be permitted to be backfilled prior to inspection.

(d) For construction permitted in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, and prior to further vertical construction, the building official shall require submission of a certification prepared by a registered professional engineer or land surveyor, of the elevation of the lowest floor, including basement, required in Section R327.

(e) Inspection of framing and masonry construction shall be made after the roof, masonry, all framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are approved.

(f) Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after all lathing and/or wallboard is in place, but before any plaster is applied, or before wallboard joints and fasteners are taped and finished.

(g) Final inspection shall be made after the permitted work is complete and prior to occupancy.

(h) In addition to the called inspections above, the building official may make or require any other inspections to ascertain compliance with the Leawood Building Code and other ordinances.

SECTION FIVE: Chapter 4, Article 9, Section 4-905, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-905. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; TABLE R301.2(1). TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA. Table R301.2(1) shall be amended to include the following data:

(a) Roof Snow Load: 20 pounds per square foot.
(b) Wind Speed: 90 miles per hour.
(c) Seismic Design Category: 17%g.
(d) Weathering: Severe.
(e) Frost Line Depth: 36 inches.
(f) Termite: Moderate to severe.
(g) Decay: Moderate.
(h) Winter Design Temperature: Six degrees Fahrenheit.
(i) Flood Hazards: Latest adopted FIRM and FBFM documents.
(j) Climate Zone: 11.
(k) Heating Degree Days: 5,333.

SECTION SIX: Chapter 4, Article 9, Section 4-906, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-906. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION R301.3. DEAD LOAD. Section R301.3 is hereby amended to read as follows: The actual weights of materials and construction shall be used for determining dead load with consideration for the dead load of fixed service equipment. The following minimum dead loads shall be used in the design of building:

(a) Floors, ceilings, decks, and balconies: 10 pounds per square foot.
(b) Roofs: 20 pounds per square foot.

SECTION SEVEN: Chapter 4, Article 9, Section 4-907, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-907. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED, SECTION R305.1, MINIMUM HEIGHT. Section R305.1 is hereby amended to read as follows: Habitable rooms, hallways, corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finished floor to the lowest projections from the ceiling.

Exceptions:

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches (152 mm) below the required ceiling height.

2. Not more than 50 percent of the required floor area of a room or space is permitted to have a sloped ceiling less than 7 feet (2134 mm) in height with no portion of the required floor area less than 5 feet (1524 mm) in height.

SECTION EIGHT: Chapter 4, Article 9, Section 4-908, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-908. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS AMENDED; SECTION R310.1 EMERGENCY ESCAPE AND RESCUE REQUIRED. Section R310.1 is hereby amended to read as follows: Basements and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Where openings are provided as a means of escape and rescue they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with R310.2.

SECTION NINE: Chapter 4, Article 9, Section 4-909, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-909. INTERNATIONAL RESIDENTIAL CODE, NEW SECTION R310.5, MAXIMUM ACCESS HEIGHT OF SLEEPING ROOM WINDOW SILL, ADDED. Section 310.5 is hereby added as follows: No window from a sleeping area shall have a sill height in excess of 25 feet from grade level, unless

(a) The building is equipped with an approved automatic sprinkler system.

(b) In sleeping rooms, which have two separate and distinct exits, which do not share a common interior atmosphere at any point from the sleeping room to an approved exterior exit.

(c) The sleeping rooms' emergency egress windows are facing the nearest approved point of fire department vehicle access and are within 35 horizontal feet of the approved point of fire department access. Note: Residential driveways are not approved fire department access points.

(d) The sleeping rooms' emergency egress windows with balconies meet the following requirements:
   (1) Balcony floor located not more that 44 inches below windowsill.
   (2) Balcony shall be designed to support a 60 psf live load.
   (3) Balcony shall extend a minimum of 36 inches perpendicular to the exterior wall.
   (4) Balcony shall extend a minimum of 12 inches beyond each side of the emergency egress windows width.
   (5) Balcony is equipped with a guard in accordance with R316.

SECTION TEN: Chapter 4, Article 9, Section 4-910, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-910. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, NEW SECTION R310.6, MAXIMUM HEIGHT OF GROUP R-3 BUILDINGS, ADDED. Section 310.6 is hereby added as follows: The maximum height for Group R-3 buildings may be 50 feet on all sides not facing the street provided the side facing the street shall not exceed 40 feet.

SECTION ELEVEN: Chapter 4, Article 9, Section 4-911, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-911. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, NEW SECTION R310.7, FIRE SPRINKLER SYSTEM, ADDED. Section 310.7 is hereby added as follows: Refer to Article 4-203 for fire sprinkler requirements.

SECTION TWELVE: Chapter 4, Article 9, Section 4-912, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-912. INTERNATIONAL RESIDENTIAL CODE AMENDED; SECTION R315.1. HANDRAILS. Section R315.1 is hereby amended to read as follows: Handrails having minimum and maximum heights of 34 inches and 38 inches (864 mm and 965 mm), respectively, measured vertically from the nosing of the treads, shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of stairs with three or more risers from a point directly above the top riser of a flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches (38 mm) between the wall and the handrail.

EXCEPTIONS:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.
2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

SECTION THIRTEEN: Chapter 4, Article 9, Section 4-913, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-913. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION R902.1. ROOFING COVERING MATERIALS. Section R902.1 is hereby amended to read as follows: Roofs shall be covered with materials authorized under the provisions of Sections R904 and R905, and the Leawood Development Ordinance, as amended. Class A roofing shall be installed in areas designated by law as requiring their use or when the edge of the roof is less than 3 feet (914 mm) from a property line or when less than 20-feet separation exists between structures. Classes A, B and C roofing required to be listed by this section shall be tested in accordance with UL 790 or ASTM E 108. Roof assemblies with coverings of brick, masonry, slate, clay or concrete roof tile, exposed concrete roof deck, ferrous or copper shingles or sheets, and metal sheets and shingles, shall be considered Class A roof covering.

SECTION FOURTEEN: Chapter 4, Article 9, Section 4-914, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-914. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; TABLE N1102.1. MINIMUM REQUIRED THERMAL PERFORMANCE (U-FACTOR AND R-VALUE). TABLE N1102.1 is hereby amended to read as follows: The minimum required U-Factor [Btu / (hr * ft² * °F)] and R-Values [(hr * ft² * °F) / Btu)] shall be as follows:

(a) Maximum Glazing U-Factor: 0.40.
(b) Minimum Ceilings R-Value: R-38.
(c) Minimum Cathedral Ceilings R-Value: R-30.
(d) Minimum Exterior Walls R-Value: R-13.
(e) Minimum Floors R-Value: R-19.
(f) Minimum Basement Walls R-Value: R-9.
(g) Minimum Slab Perimeter R-Value and Depth: R-6, 2 ft.
(h) Minimum Crawl Space Walls R-Value: R-19.

SECTION FIFTEEN: Chapter 4, Article 9, Section 4-915, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-915. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION N1102.1.5, BASEMENT WALLS. Section N1102.1.5 is hereby amended to read as follows: When the basement is a conditioned space, the basement walls shall be insulated in accordance with Table N1102.1. When the basement is not a conditioned space, either the basement walls or the ceilings separating the basement from conditioned space shall be insulated in accordance with Table N1102.1. When insulating basement walls, the required R-value shall be applied from the top of the basement wall to a depth of 10 feet (3048 mm) below grade or to the top of the basement floor, whichever is less.

EXCEPTION: Unfinished basements do not have to comply with this section.

SECTION SIXTEEN: Chapter 4, Article 9, Section 4-916, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-916. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3103.1, ROOF EXTENSION. Section P3103.1 is hereby amended to read as follows: All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where roof or is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

SECTION SEVENTEEN: Chapter 4, Article 9, Section 4-917, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-917. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3114.1, GENERAL. Section P3114.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is structurally not feasible to install a hard piped venting system and approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual-and branch-type air admittance valves shall conform to ASSE 1051. Stack type air admittance valves shall conform to ASSE 1050.

SECTION EIGHTEEN: Chapter 4, Article 9, Section 4-918, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-918. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION E3306.2, CONDUCTOR MATERIAL. Section E3306.2 is hereby amended to read as follows: Conductors normally used to carry current shall be of copper.

SECTION NINETEEN: Chapter 4, Article 9, Section 4-919, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-919. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TWENTY: Repeal of Existing Article. The existing Chapter 4, Article 9, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION TWENTY-ONE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-TWO: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-THREE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1936C

Publication Fees: $133.53

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1936C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$133.53

ORDINANCE NO. 1935C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1935C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 8, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL ENERGY CONSERVATION CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 8, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 8, Section 4-801, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 8. ENERGY CONSERVATION CODE

4-801. INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Energy Conservation Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as Incorporated by Ordinance No. 1935C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 8, Section 4-802, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-802. INTERNATIONAL ENERGY CONSERVATION CODE CHAPTER OMITTED AND DELETED; CHAPTER 1, ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 8, Section 4-803, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-803. SCOPE. The Leawood Building Code establishes minimum prescriptive and performance-related regulations for the design of energy-efficient buildings and structures or portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies designed primarily for human occupancy. The Leawood Building Code thereby addresses the design of energy-efficient building envelopes and the selection and installation of energy-efficient mechanical, service water-heating, electrical distribution and illumination systems and equipment for the effective use of energy in these buildings and structures. The following buildings are exempt from the provisions of this Energy Code, provided however, that commercial buildings provided with service water heating and/or electric lighting shall meet the applicable provisions of Chapter 7 or 8 of this Energy Code, regardless of exempt status:

(a) Separated Buildings. Buildings and structures, or portions thereof separated by building envelope assemblies from the remainder of the building, that have a peak design rate of energy usage less than 3.4 Btu/h per square foot (10.7 W/m²) or 1.0 watt per square foot (10.7 W/m²) of floor area for all purposes.

(b) Unconditioned Buildings. Buildings and structures or portions thereof which are neither heated nor cooled.

SECTION FOUR: Chapter 4, Article 8, Section 4-804, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-804. MATERIAL, SYSTEMS AND EQUIPMENT

(a) **General.** Materials, equipment and systems shall be identified in a manner that will allow a determination of their compliance with the applicable provisions of the Leawood Building Code.

(b) **Materials, equipment and systems installation.** All insulation materials, caulking and weatherstripping, fenestration assemblies, mechanical equipment and systems components, and water-heating equipment and system components shall be installed in accordance with the manufacturer's installation instructions.

(c) **Maintenance information.** Required regular maintenance actions shall be clearly stated and incorporated on a readily accessible label. Such label shall include the title or publication number, the operation and maintenance manual for that particular model and type of product. Maintenance instructions shall be furnished for equipment that requires preventive maintenance for efficient operation.

(d) **Insulation installation.** Roof/ceiling, floor, wall cavity and duct distribution systems insulation shall be installed in a manner that permits inspection of the manufacturer's *R*-value identification mark. Insulation applied to the exterior of foundations shall extend beyond the perimeter of

requirements of the Leawood Building Code shall be determined by assigning such products a default SHGC in accordance with Table C. Product features must be verifiable for the product to qualify for the default value associated with those features. Where the existence of a particular feature cannot be determined with reasonable certainty, the product shall not receive credit for that feature. Where a composite of materials from two different product types is used, the product shall be assigned the higher *U*-factor.

(4) **Duct distribution systems insulation.** A thermal resistance (*R*) identification mark shall be applied by the manufacturer in maximum intervals of no greater than 10 feet (3048mm) to insulated flexible duct products showing the thermal performance *R*-value for the duct insulation itself [excluding air films, vapor retarders, or other duct components].

TABLE A
***U*-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS AND SKYLIGHTS**

FRAME MATERIAL AND PRODUCT TYPE[a]	SINGLE GLAZED	DOUBLE GLAZED
Metal without thermal break		
Operable (including sliding and swinging glass doors)	1.27	0.87
Fixed	1.13	0.69
Garden window	2.60	1.81
Curtain wall	1.22	0.79
Skylight	1.98	1.31
Site-assembled sloped/overhead glazing	1.36	0.82
Metal with thermal break		
Operable (including sliding and swinging glass doors)	1.08	0.65
Fixed	1.07	0.63
Curtain wall	1.11	0.68
Skylight	1.89	1.11
Site-assembled sloped/overhead glazing	1.25	0.70
Reinforced vinyl/metal clad wood		
Operable (including sliding and swinging glass doors)	0.90	0.57
Fixed	0.98	0.56
Skylight	1.75	1.05
Wood/vinyl/fiberglass		
Operable (including sliding and swinging glass doors)	0.89	0.55
Fixed	0.98	0.56
Garden window	2.31	1.61
Skylight	1.47	0.84

[a] Glass block assemblies with mortar but without reinforcing or framing shall have a *U*-factor of 0.60.

TABLE B
***U*-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS**

DOOR TYPE	WITH FOAM CORE	WITHOUT FOAM CORE
Steel doors (1.75 inches thick)	0.35	0.60
	WITHOUT STORM DOOR	WITH STORM DOOR
Wood doors (1.75 inches thick)		
Panel with 0.438-inch panels	0.54	0.36
Hollow core flush	0.46	0.32
Panel with 1.125-inch panels	0.39	0.28
Solid core flush	0.40	0.26

For SI: 1 inch = 25.4 mm.

TABLE C
SHGC DEFAULT TABLE FOR FENESTRATION

PRODUCT DESCRIPTION	SINGLE GLAZED				DOUBLE GLAZED			
	Clear	Bronze	Green	Gray	Clear + Clear	Bronze + Clear	Green + Clear	Gray + Clear
Metal frames								
Operable	0.75	0.64	0.62	0.61	0.66	0.55	0.53	0.52
Fixed	0.78	0.67	0.65	0.64	0.68	0.57	0.55	0.54
Nonmetal frames	0.63	0.54	0.53	0.52	0.55	0.46	0.45	0.44
Operable	0.75	0.64	0.62	0.61	0.66	0.54	0.53	0.52
Fixed								

SECTION FIVE: Chapter 4, Article 8, Section 4-805, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-805. INTERNATIONAL ENERGY CONSERVATION CODE AMENDED; Section 302.1 Exterior design conditions. Section 302.1 of the International Energy Conservation Code is hereby amended to read as follows: The following design parameters in Table 302.1 shall be used for calculations required under this code:

Condition	Value
(a) Winter, Design Dry-bulb (°F):	6.
(b) Summer, Design Dry-bulb (°F):	ASHRAE Handbook of Fundamentals.
(c) Summer, Design Wet-bulb (°F):	ASHRAE Handbook of Fundamentals.
(d) Degree days heating:	5,333.
(e) Degree days cooling:	NOAA and/or ASHRAE Handbook of Fundamentals
(f) Climate zone:	1B.

SECTION SIX: Chapter 4, Article 8, Section 4-806, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-806. INTERNATIONAL ENERGY CONSERVATION CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 8, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

VEHICLE AUCTION

First published in The Legal Record, Tuesday, January 29, 2002.

At Dale's Tow Service, the following vehicles have been impounded by local police departments and property owners, and will be sold at public auction for cash, unless positive proof of ownership is presented and removal and storage charges are paid within 15 days after the publication of this notice.

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1986 ACU INTEG GOLD  JH4DA1755GS007285
1993 ACU INTEG WHITE JH4DB2385PS000145
1989 BUI REGAL MAROO 2G4WB14T5K1484572
1978 BUI SKYLA BROWN      4S07A8U410019
1982 CHE             1GCEC14H5CF330592
1985 CHE CAPRI- SILVE 1G1BN69H6FY206447
1983 CHE CAVAL WHITE 1G1AD35P8D1186069
1990 CHE CAVAL WHITE 1G1JC14G5LJ107898
1987 CHE CELEB BLUE  1G1AW51R7H6140285
1988 CHE CORSI WHITE 1G1LT5117JE603985
1993 CHR LEBAR GREEN 1C3XA3638PF657591
1988 DOD CARAV GRAY  1B4FK4033JX240252
1994 DOD CARAV GREEN 1B4GH44R4RX369243
1985 DOD DIPLO GOLD  1B3BG26P5GX524008
1988 DOD RAM 2 BROWN 2B6HB23Y8JK164403
1983 DOD RAM V GRAY  2B6HB23T9DK366840
1991 DOD SHADO WHITE 3B3XP65J4MT555106
1976 FOR MAVRI YELLO       6K9IL177752
1998 FOR MUSTA GREEN 1FAFP4448WF227524
1989 FOR PROBE GRAY  1ZVBT21CXK5257495
1992 FOR TAURU WHITE 1FACP52U7NA104126
1993 FOR TEMPO BLUE  1FAPP36X1PK215567
1989 FOR TEMPO BLUE  1FACP36X7KK233045
1973 FOR VAN  GREY         E11GHQ00465
1985 HON CIVIC BLUE  JHMAH5321FS005372
1994 JEE WANGL RED   1J4FY19P6RP417257
1993 MAZ MX-3 BLUE   JM1EC4322P0211325
1988 MER SABLE RED   1MEBM58U6JG625351
1991 NIS PICKU BLUE  1M6SD11S9MC306179
1986 OLD EIGHT GOLD  1G3HY6938GW440616
1980 PLY P/U  BLUE/       9JL4UA7110055
1989 PLY SUNDA GREEN 1P3BP44K2KN682781
1991 PON GRAND BLACK 1G2NE14U9MC521835
1985 PON GRAND GOLD  1G2NE27U1FC707096
1988 PON LEMAN BLUE  KL2TN2162JB374244
2000 TOY CELIC SILVE JTDDY32T7YOO08594
1990 TOY CELIC MAROO JT28T87N3L0004878
1988 TOY COROL GRAY  JT2AE92FXJ3069399
1988 TOY SUPRA MAROO JT2MA70J7J0099264
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ORDINANCE NO. 1936C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1936C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 9, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 9, *AND OTHER SECTIONS IN CONFLICT HEREWITH.*

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

SECTION ONE: Chapter 4, Article 9, Section 4-901, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 9. RESIDENTIAL CODE

4-901. INTERNATIONAL RESIDENTIAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Residential Code for One- and Two-Family Dwellings, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices A, B, C, E, G, H and I, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added hereto, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1936C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 9, Section 4-902, of the Code of the City of Leawood, Kansas, 2000, *is hereby amended to read as follows:*

4-902. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 9, Section 4-903, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-903. SCOPE. The provisions of this *International Residential Code for One- and Two-*Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures.

SECTION FOUR: Chapter 4, Article 9, Section 4-904, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-904. INSPECTIONS. (a) For on-site construction, from time to time, the building official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with the Leawood Building Code.

(b) Inspection of the foundation shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and prior to the placing of concrete. The foundation inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations.

(c) Rough inspection of plumbing, mechanical, gas and electrical systems shall be made prior to covering or concealment, before fixtures or appliances are set or installed, and prior to framing inspection, provided, however, that ground-source heat pump loop systems tested in accordance with M2105.1 shall be permitted to be backfilled prior to inspection.

(d) For construction permitted in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, and prior to further vertical construction, the building official shall require submission of a certification prepared by a registered professional engineer or land surveyor, of the *elevation of the lowest floor, including basement, required in Section R327.*

(e) Inspection of framing and masonry construction shall be made after the roof, masonry, all framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are approved.

(f) Where fire-resistance-rated construction is required between dwelling units or due to location on property, the building official shall require an inspection of such construction after all lathing and/or wallboard is in place, but before any plaster is applied, or before wallboard joints and fasteners are taped and finished.

(g) Final inspection shall be made after the permitted work is complete and prior to occupancy.

(h) In addition to the called inspections above, the building official may make or require any other inspections to ascertain compliance with the Leawood Building Code and other ordinances.

SECTION FIVE: Chapter 4, Article 9, Section 4-905, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-905. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; TABLE R301.2(1). TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA. Table R301.2(1) shall be amended to include the following data:

(a) *Roof Snow Load: 20 pounds per square foot.*
(b) Wind Speed: 90 miles per hour.
(c) Seismic Design Category: 17%g.
(d) Weathering: Severe.
(e) Frost Line Depth: 36 inches.
(f) Termite: Moderate to severe.
(g) Decay: Moderate.
(h) Winter Design Temperature: Six degrees Fahrenheit.
(i) Flood Hazards: Latest adopted FIRM and FBFM documents.
(j) Climate Zone: 11.
(k) Heating Degree Days: 5,333.

SECTION SIX: Chapter 4, Article 9, Section 4-906, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-906. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION R301.3. DEAD LOAD. Section R301.3 is hereby amended to read as follows: The actual weights of materials and construction shall be used for determining dead load with consideration for the dead load of fixed service equipment. The following minimum dead loads shall be used in the design of building:

(a) *Floors, ceilings, decks, and balconies: 10 pounds per square foot.*
(b) Roofs: 20 pounds per square foot.

SECTION SEVEN: Chapter 4, Article 9, Section 4-907, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-907. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED, SECTION R305.1, MINIMUM HEIGHT. Section R305.1 is hereby amended to *read as follows: Habitable rooms, hallways,* corridors, bathrooms, toilet rooms, laundry rooms and basements shall have a ceiling height of not less than 7 feet (2134 mm). The required height shall be measured from the finished floor to the lowest projections from the ceiling.

Exceptions:

1. Beams and girders spaced not less than 4 feet (1219 mm) on center may project not more than 6 inches *(152 mm) below the* required ceiling height.

2. Not more than 50 percent of the required floor area of a room or space is permitted to have a sloped ceiling less than 7 feet (2134 mm) in height with no portion of the required floor area less than 5 feet (1524 mm) in height.

SECTION EIGHT: Chapter 4, Article 9, Section 4-908, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-908. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS AMENDED; SECTION R310.1 EMERGENCY ESCAPE AND RESCUE REQUIRED. Section R310.1 is hereby amended to read as follows: Basements and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Where openings are provided as a means of escape and rescue they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with R310.2.

SECTION NINE: Chapter 4, Article 9, Section 4-909, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-909. INTERNATIONAL RESIDENTIAL CODE, NEW SECTION R310.5, MAXIMUM ACCESS HEIGHT OF SLEEPING ROOM WINDOW SILL, ADDED. Section 310.5 is hereby added as follows: *No window from a sleeping area shall have a* sill height in excess of 25 feet from grade level, unless

(a) The building is equipped with an approved automatic sprinkler system.

(b) In sleeping rooms, which have two separate and distinct exits, which do not share a common interior atmosphere at any point from the sleeping room to an approved exterior exit.

(c) The sleeping rooms' emergency egress windows are facing the nearest approved point of fire department vehicle access and are within 35 horizontal feet of the approved point of fire department access. Note: Residential driveways are not approved fire department access points.

(d) The sleeping rooms' emergency egress windows with balconies meet the following requirements:
(1) Balcony floor located not more that 44 inches below windowsill.
(2) Balcony shall be designed to support a 60 psf live load.
(3) Balcony shall extend a minimum of 36 inches perpendicular to the exterior wall.
(4) Balcony shall extend a minimum of 12 inches beyond each side of the emergency egress windows width.
(5) Balcony is equipped with a guard in accordance with R316.

SECTION TEN: Chapter 4, Article 9, Section 4-910, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-910. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, NEW SECTION R310.28, MAXIMUM HEIGHT OF GROUP R-3 BUILDINGS, ADDED. Section 310.28 is hereby added as follows: The maximum height for Group R-3 buildings may be 50 feet on all sides not facing the street provided the side facing the street shall not exceed 40 feet.

SECTION ELEVEN: Chapter 4, Article 9, Section 4-911, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-911. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY *DWELLINGS, NEW SECTION R310.29, FIRE SPRINKLER SYSTEM, ADDED.* Section 310.29 is hereby added as follows: Refer to Article 4-203 for fire sprinkler requirements.

SECTION TWELVE: Chapter 4, Article 9, Section 4-912, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-912. INTERNATIONAL RESIDENTIAL CODE AMENDED; SECTION R315.1. HANDRAILS. Section R315.1 is hereby amended to read as follows: Handrails having minimum and maximum *heights of 34 inches and 38 inches* (864 mm and 965 mm), respectively, measured vertically from the nosing of the treads, shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of stairs with three or more risers from a point directly above the top riser of a flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches (38 mm) between the wall and the handrail.

EXCEPTIONS:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.
2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

SECTION THIRTEEN: Chapter 4, Article 9, Section 4-913, of the Code of the City of Leawood, Kansas, 2000, *is hereby amended to read as follows:*

4-913. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION R902.1. ROOFING COVERING MATERIALS. Section R902.1 is hereby amended to read as follows: Roofs shall be covered with materials authorized under the provisions of Sections R904 and R905, and the Leawood Development Ordinance, as amended. Class A roofing shall be installed in areas designated by law as requiring their use or when the edge of the roof is less than 3 feet (914 mm) from a property line or when less than 20-feet separation exists between structures. Classes A, B and C roofing required to be listed by this section shall be tested in accordance with UL 790 or ASTM E 108. Roof assemblies with coverings of brick, masonry, slate, clay or concrete roof tile, exposed concrete roof deck, ferrous or copper shingles or sheets, and metal sheets and shingles, shall be considered Class A roof covering.

SECTION FOURTEEN: Chapter 4, Article 9, Section 4-914, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-914. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; TABLE N1102.1. MINIMUM REQUIRED THERMAL PERFORMANCE (U-FACTOR AND R-VALUE). TABLE N1102.1 is hereby amended to read as follows: The minimum required U-Factor [Btu / (hr * ft² * °F)] and R-Values [(hr * ft² * °F) / Btu)] shall be as follows:

(a) Maximum Glazing U-Factor: 0.40.
(b) Minimum Ceilings R-Value: R-38.
(c) Minimum Cathedral Ceilings R-Value: R-30.
(d) Minimum Exterior Walls R-Value: R-13.
(e) Minimum Floors R-Value: R-19.
(f) *Minimum Basement Walls R-Value: R-9.*
(g) Minimum Slab Perimeter R-Value and Depth: R-6, 2 ft.
(h) Minimum Crawl Space Walls R-Value: R-19.

SECTION FIFTEEN: Chapter 4, Article 9, Section 4-915, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-915. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY *DWELLINGS, AMENDED; SECTION N1102.1.5, BASEMENT WALLS.* Section N1102.1.5 is hereby amended to read as follows: When the basement is a conditioned space, the basement walls shall be insulated in accordance with Table N1102.1. When the basement is not a conditioned space, either the basement walls or the ceilings separating the basement from conditioned space shall be insulated in accordance with Table N1102.1. When insulating basement walls, the required R-value shall be applied from the top of the basement wall to a depth of 10 feet (3048 mm) below grade or to the top of the basement floor, whichever is less.

EXCEPTION: Unfinished basements do not have to comply with this section.

SECTION SIXTEEN: Chapter 4, Article 9, Section 4-916, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-916. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3103.1, ROOF EXTENSION. Section P3103.1 is hereby amended to read as follows: All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where roof or is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

SECTION SEVENTEEN: Chapter 4, Article 9, Section 4-917, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-917. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3114.1, GENERAL. Section P3114.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is structurally not feasible to install a hard piped venting system and approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual-and branch-type air admittance valves shall conform to ASSE 1051. Stack type *air admittance valves shall conform to* ASSE 1050.

SECTION EIGHTEEN: Chapter 4, Article 9, Section 4-918, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-918. *INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION E3306.2, CONDUCTOR MATERIAL.* Section E3306.2 is hereby amended to read as follows: Conductors normally used to carry current shall be of copper.

SECTION NINETEEN: Chapter 4, Article 9, Section 4-919, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-919. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TWENTY: Repeal of Existing Article. The existing Chapter 4, Article 9, *of the Code of the City of Leawood 2000 is hereby repealed.*

SECTION TWENTY-ONE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry *out its purposes* which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-TWO: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-THREE: Effective Date. That said ordinance shall become *effective following publication.*

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1935C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 8, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL ENERGY CONSERVATION CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 8, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 8, Section 4-801, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 8. ENERGY CONSERVATION CODE

4-801. INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Energy Conservation Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1935C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 8, Section 4-802, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-802. INTERNATIONAL ENERGY CONSERVATION CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 8, Section 4-803, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-803. SCOPE. The Leawood Building Code establishes minimum prescriptive and performance-related regulations for the design of energy-efficient buildings and structures or portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies designed primarily for human occupancy. The Leawood Building Code thereby addresses the design of energy-efficient building envelopes and the selection and installation of energy-efficient mechanical, service water-heating, electrical distribution and illumination systems and equipment for the

effective use of energy in these buildings and structures. The following buildings are exempt from the provisions of this Energy Code, provided however, that commercial buildings provided with service water heating and/or electric lighting shall meet the applicable provisions of Chapter 7 or 8 of this Energy Code, regardless of exempt status:

(a) Separated Buildings. Buildings and structures, or portions thereof separated by building envelope assemblies from the remainder of the building, that have a peak design rate of energy usage less than 3.4 Btu/h per square foot (10.7 W/m^2) or 1.0 watt per square foot (10.7 W/m^2) of floor area for all purposes.

(b) Unconditioned Buildings. Buildings and structures or portions thereof which are neither heated nor cooled.

SECTION FOUR: Chapter 4, Article 8, Section 4-804, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-804. MATERIAL, SYSTEMS AND EQUIPMENT

(a) **General.** Materials, equipment and systems shall be identified in a manner that will allow a determination of their compliance with the applicable provisions of the Leawood Building Code.

(b) **Materials, equipment and systems installation**. All insulation materials, caulking and weatherstripping, fenestration assemblies, mechanical equipment and systems components, and water-heating equipment and system components shall be installed in accordance with the manufacturer's installation instructions.

(c) **Maintenance information.** Required regular maintenance actions shall be clearly stated and incorporated on a readily accessible label. Such label shall include the title or publication number, the operation and maintenance manual for that particular model and type of product. Maintenance instructions shall be furnished for equipment that requires preventive maintenance for efficient operation.

(d) **Insulation installation.** Roof/ceiling, floor, wall cavity and duct distribution systems insulation shall be installed in a manner that permits inspection of the manufacturer's *R*-value identification mark. Insulation applied to the exterior of foundation walls and around the perimeter of slab-on-grade floors shall have a rigid, opaque and weather-resistant protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed area of the exterior insulation and extend a minimum of 6 inches [153mm] below grade.

(e) **Identification.** Materials, equipment and systems shall be identified in accordance with the Leawood Building Code.

(1) **Building envelope insulation.** A thermal resistance (*R*) identification mark shall be applied by the manufacturer to each

piece of building envelope insulation 12 inches [305mm] or greater in width.

Alternatively, the insulation installer shall provide a signed and dated certification for the insulation installed in each element of the building envelope, listing the type of insulation installations in roof/ceilings, the manufacturer and the *R*-value. For blown-in or sprayed insulation, the installer shall also provide the initial installed thickness, the settled thickness, the coverage area and the number of bags installed. Where blown-in or sprayed insulation is installed in walls, floors and cathedral ceilings, the installer shall provide a certification of the installed density and *R*-value. The installer shall post the certification in a conspicuous place on the job site.

(2) **Roof/ceiling insulation.** The thickness of roof/ceiling insulation that is either blown in or sprayed shall be identified by thickness markers that are labeled in inches or millimeters installed at least one for every 300 square feet ($28m^2$) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness and minimum settled thickness with numbers a minimum of 1 inch (25mm) in height. Each marker shall face the attic access. The thickness of installed insulation shall meet or exceed the minimum initial installed thickness shown by the marker and provide the building official a copy of the certification.

(3) **Fenestration product rating, certification and labeling.** *U*-factors of fenestration products [windows, doors and skylights] shall be determined in accordance with NFRC 100 by an accredited, independent laboratory, and labeled and certified by the manufacturer. The solar heat gain coefficient [SHGC] of glazed fenestration products [windows, glazed doors and skylights] shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the manufacturer. Where a shading coefficient for a fenestration product is used, it shall be determined by converting the product's SHGC, as determined in accordance with NFRC 200, to a shading coefficient by dividing the SHGC by 0.87. Such certified and labeled *U*-factors and SHGCs shall be accepted for purposes of determining compliance with the building envelope requirements of the Leawood Building Code.

When a manufacturer has not determined product *U*-factor in accordance with NFRC 100 for a particular product line, compliance with the building envelope requirements of the Leawood Building Code shall be determined by assigning such products a default *U*-factor in accordance with Tables A and B. When a SHGC or shading coefficient is used for code compliance and a manufacturer has not determined product SHGC in accordance with NFRC 200 for a particular product line, compliance with the building envelope

requirements of the Leawood Building Code shall be determined by assigning such products a default SHGC in accordance with Table C. Product features must be verifiable for the product to qualify for the default value associated with those features. Where the existence of a particular feature cannot be determined with reasonable certainty, the product shall not receive credit for that feature. Where a composite of materials from two different product types is used, the product shall be assigned the higher *U*-factor.

(4) **Duct distribution systems insulation.** A thermal resistance (*R*) identification mark shall be applied by the manufacturer in maximum intervals of no greater than 10 feet (3048mm) to insulated flexible duct products showing the thermal performance *R*-value for the duct insulation itself [excluding air films, vapor retarders, or other duct components].

TABLE A
U-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS AND SKYLIGHTS

FRAME MATERIAL AND PRODUCT TYPE[a]	SINGLE GLAZED	DOUBLE GLAZED
Metal without thermal break		
Operable (including sliding and swinging glass doors)	1.27	0.87
Fixed	1.13	0.69
Garden window	2.60	1.81
Curtain wall	1.22	0.79
Skylight	1.98	1.31
Site-assembled sloped/overhead glazing	1.36	0.82
Metal with thermal break		
Operable (including sliding and swinging glass doors)	1.08	0.65
Fixed	1.07	0.63
Curtain wall	1.11	0.68
Skylight	1.89	1.11
Site-assembled sloped/overhead glazing	1.25	0.70
Reinforced vinyl/metal clad wood		
Operable (including sliding and swinging glass doors)	0.90	0.57
Fixed	0.98	0.56
Skylight	1.75	1.05
Wood/vinyl/fiberglass		
Operable (including sliding and swinging glass doors)	0.89	0.55
Fixed	0.98	0.56
Garden window	2.31	1.61
Skylight	1.47	0.84

[a] Glass block assemblies with mortar but without reinforcing or framing shall have a *U*-factor of 0.60.

TABLE B
***U*-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS**

DOOR TYPE	WITH FOAM CORE	WITHOUT FOAM CORE
Steel doors (1.75 inches thick)	0.35	0.60
	WITHOUT STORM DOOR	**WITH STORM DOOR**
Wood doors (1.75 inches thick)		
Panel with 0.438-inch panels	0.54	0.36
Hollow core flush	0.46	0.32
Panel with 1.125-inch panels	0.39	0.28
Solid core flush	0.40	0.26

For SI: 1 inch = 25.4 mm.

TABLE C
SHGC DEFAULT TABLE FOR FENESTRATION

PRODUCT DESCRIPTION	SINGLE GLAZED				DOUBLE GLAZED			
	Clear	Bronze	Green	Gray	Clear + Clear	Bronze + Clear	Green + Clear	Gray + Clear
Metal frames								
Operable	0.75	0.64	0.62	0.61	0.66	0.55	0.53	0.52
Fixed	0.78	0.67	0.65	0.64	0.68	0.57	0.55	0.54
Nonmetal frames								
Operable	0.63	0.54	0.53	0.52	0.55	0.46	0.45	0.44
Fixed	0.75	0.64	0.62	0.61	0.66	0.54	0.53	0.52

SECTION FIVE: Chapter 4, Article 8, Section 4-805, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-805. INTERNATIONAL ENERGY CONSERVATION CODE AMENDED; Section 302.1 Exterior design conditions. Section 302.1 of the International Energy Conservation Code is hereby amended to read as follows: The following design parameters in Table 302.1 shall be used for calculations required under this code:

Condition		Value
(a)	Winter, Design Dry-bulb (°F):	6.
(b)	Summer, Design Dry-bulb (°F):	ASHRAE Handbook of Fundamentals.
(c)	Summer, Design Wet-bulb (°F):	ASHRAE Handbook of Fundamentals.
(d)	Degree days heating:	5,333.
(e)	Degree days cooling:	NOAA and/or ASHRAE Handbook of Fundamentals
(f)	Climate zone:	1B.

SECTION SIX: Chapter 4, Article 8, Section 4-806, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-806. INTERNATIONAL ENERGY CONSERVATION CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 8, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1935C

Publication Fees: $114.30

The Legal Record
213 E. Santa Fe, Suite 2
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CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1935C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$114.30

ORDINANCE NO. 1936C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1936C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 9, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 9, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 9, Section 4-901, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 9. RESIDENTIAL CODE

4-901. INTERNATIONAL RESIDENTIAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Residential Code for One- and Two-Family Dwellings, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices A, B, C, E, G, H and I, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added hereto, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1936C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 9, Section 4-902, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-902. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 9, Section 4-903, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-903. SCOPE. The provisions of this International Residential Code for One- and Two-Family Dwellings shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a seperate means of egress and their accessory structures.

SECTION FOUR: Chapter 4, Article 9, Section 4-904, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-908. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS AMENDED; SECTION R310.1 EMERGENCY ESCAPE AND RESCUE REQUIRED. Section R310.1 is hereby amended to read as follows: Basements and every sleeping room shall have at least one openable emergency escape and rescue window or exterior door opening for emergency escape and rescue. Where openings are provided as a means of escape and rescue they shall have a sill height of not more than 44 inches (1118 mm) above the floor. Where a door opening having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with R310.3. The net clear opening dimensions required by this section shall be obtained by the normal operation of the window or door opening from the inside. Escape and rescue window openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with R310.2.

SECTION NINE: Chapter 4, Article 9, Section 4-909, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-909. INTERNATIONAL RESIDENTIAL CODE, NEW SECTION R310.5, MAXIMUM ACCESS HEIGHT OF SLEEPING ROOM WINDOW SILL, ADDED. Section 310.5 is hereby added as follows: No window from a sleeping area shall have a sill height in excess of 25 feet from grade level, unless

(a) The building is equipped with an approved automatic sprinkler system.

(b) In sleeping rooms, which have two separate and distinct exits, which do not share a common interior atmosphere at any point from the sleeping room to an approved exterior exit.

(c) The sleeping rooms' emergency egress windows are facing the nearest approved point of fire department vehicle access and are within 35 horizontal feet of the approved point of fire department access. Note: Residential driveways are not approved fire department access points.

(d) The sleeping rooms' emergency egress windows with balconies meet the following requirements:
   (1) Balcony floor located not more that 44 inches below windowsill.
   (2) Balcony shall be designed to support a 60 psf live load.
   (3) Balcony shall extend a minimum of 36 inches perpendicular to the exterior wall.
   (4) Balcony shall extend a minimum of 12 inches beyond each side of the emergency egress windows width.
   (5) Balcony is equipped with a guard in accordance with R316.

SECTION TEN: Chapter 4, Article 9, Section 4-910, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-910. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, NEW SECTION R310.28, MAXIMUM HEIGHT OF GROUP R-3 BUILDINGS, ADDED. Section 310.28 is hereby added as follows: The maximum height for Group R-3 buildings may be 50 feet on all sides not facing the street provided the side facing the street shall not exceed 40 feet.

SECTION ELEVEN: Chapter 4, Article 9, Section 4-911, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-911. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, NEW SECTION R310.29, FIRE SPRINKLER SYSTEM, ADDED. Section 310.29 is hereby added as follows: Refer to Article 4-203 for fire sprinkler requirements.

SECTION TWELVE: Chapter 4, Article 9, Section 4-912, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-912. INTERNATIONAL RESIDENTIAL CODE AMENDED; SECTION R315.1. HANDRAILS. Section R315.1 is hereby amended to read as follows: Handrails having minimum and maximum heights of 34 inches and 38 inches (864 mm and 965 mm), respectively, measured vertically from the nosing of the treads, shall be provided on at least one side of stairways. All required handrails shall be continuous the full length of stairs with three or more risers from a point directly above the top riser of a flight to a point directly above the lowest riser of the flight. Ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1.5 inches (38 mm) between the wall and the handrail.

EXCEPTIONS:

1. Handrails shall be permitted to be interrupted by a newel post at a turn.
2. The use of a volute, turnout or starting easing shall be allowed over the lowest tread.

SECTION THIRTEEN: Chapter 4, Article 9, Section 4-913, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-913. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION R902.1, ROOFING COVERING MATERIALS. Section R902.1 is hereby amended to read as follows: Roofs shall be covered with materials authorized under the provisions of Sections R904 and R905, and the Leawood Development Ordinance, as amended. Class A roofing shall be installed in areas designated by law as requiring their use or when the edge of the roof is less than 3 feet (914 mm) from a property line or when less than 20-feet separation exists between structures. Classes A, B and C roofing required to be listed by this section shall be tested in accordance with UL 790 or ASTM E 108. Roof assemblies with coverings of brick, masonry, slate, clay or concrete roof tile, exposed concrete roof deck, ferrous or copper shingles or sheets, and metal sheets and shingles, shall be considered Class A roof covering.

SECTION FOURTEEN: Chapter 4, Article 9, Section 4-914, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-914. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; TABLE N1102.1. MINIMUM REQUIRED THERMAL PERFORMANCE (U-FACTOR AND R-VALUE). TABLE N1102.1 is hereby amended to read as follows: The minimum required U-Factor [Btu / (hr * ft² * °F)] and R-Values [(hr * ft² * °F) / Btu)] shall be as follows:

(a) Maximum Glazing U-Factor: 0.40.
(b) Minimum Ceilings R-Value: R-38.
(c) Minimum Cathedral Ceilings R-Value: R-30.
(d) Minimum Exterior Walls R-Value: R-13.
(e) Minimum Floors R-Value: R-19.
(f) Minimum Basement Walls R-Value: R-9.
(g) Minimum Slab Perimeter R-Value and Depth: R-6, 2 ft.
(h) Minimum Crawl Space Walls R-Value: R-19.

SECTION FIFTEEN: Chapter 4, Article 9, Section 4-915, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-915. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION N1102.1.5, BASEMENT WALLS. Section N1102.1.5 is hereby amended to read as follows: When the basement is a conditioned space, the basement walls shall be insulated in accordance with Table N1102.1. When the basement is not a conditioned space, either the basement walls or the ceilings separating the basement from conditioned space shall be insulated in accordance with Table N1102.1. When insulating basement walls, the required R-value shall be applied from the top of the basement wall to a depth of 10 feet (3048 mm) below grade or to the top of the basement floor, whichever is less.

EXCEPTION: Unfinished basements do not have to comply with this section.

SECTION SIXTEEN: Chapter 4, Article 9, Section 4-916, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-916. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3103.1, ROOF EXTENSION. Section P3103.1 is hereby amended to read as follows: All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where roof or is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

SECTION SEVENTEEN: Chapter 4, Article 9, Section 4-917, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-917. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION P3114.1, GENERAL. Section P3114.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is structurally not feasible to install a hard piped venting system and approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual-and branch-type air admittance valves shall conform to ASSE 1051. Stack type air admittance valves shall conform to ASSE 1050.

SECTION EIGHTEEN: Chapter 4, Article 9, Section 4-918, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-918. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, AMENDED; SECTION E3306.2, CONDUCTOR MATERIAL. Section E3306.2 is hereby amended to read as follows: Conductors normally used to carry current shall be of copper.

SECTION NINETEEN: Chapter 4, Article 9, Section 4-919, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-919. INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TWENTY: Repeal of Existing Article. The existing Chapter 4, Article 9, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION TWENTY-ONE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWENTY-TWO: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY-THREE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1027

First published in The Legal Record, Tuesday, January 29, 2002.

CITY OF MISSION

ORDINANCE NO. 1027

AN ORDINANCE TO REPEAL AND RE-ENACT IN ITS ENTIRETY CHAPTER 1, ARTICLE 2. GOVERNING BODY, SECTION 1-211. COMPENSATION, OF THE CODE OF THE CITY OF MISSION, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS, Chapter 1, Article 2. Governing Body, Section 1-211. Compensation, of the Code of the City of Mission, Kansas is hereby repealed and re-enacted in its entirety as follows:

CHAPTER 1. ADMINISTRATION
ARTICLE 2. GOVERNING BODY

1-211. COMPENSATION. The compensation of the governing body shall be as follows:

(a) There is hereby created a salary for the mayor in the amount of $12,000 per year and each year thereafter, until his or her term of office shall cease, or he or she is removed from office, or for any reason shall leave office and his or her successor shall be qualified and take over the duties of the office;
(b) There is hereby created for each council member a salary in the amount of $4,200 per year, and each year thereafter, until his or her term of office shall cease, or he or she is removed from office, or for any reason shall leave office and his or her successor shall be qualified and take over the duties of the office;
(c) In the event that a council member is appointed to office, he or she shall receive the same salary as an elective council member.
(d) The governing body will review annually the compensation of the mayor and council members at the first regularly scheduled meeting in January.

PASSED AND APPROVED BY THE GOVERNING BODY this 23rd day of January 2002.

PASSED AND APPROVED BY THE MAYOR this 23rd day of January 2002.

Sylvester Powell, Jr., Mayor

ATTEST:

Nancy S. Cookins, City Clerk

ORDINANCE NO. 1935C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1935C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 8, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL ENERGY CONSERVATION CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 8, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 8, Section 4-801, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 8. ENERGY CONSERVATION CODE

4-801. INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Energy Conservation Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., *including appendices* save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. *No fewer than three copies of* said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1935C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or *change and to* which shall be attached a copy of this ordinance, and filed with the City Clerk to *be open to inspection* and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 8, Section 4-802, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-802. INTERNATIONAL ENERGY CONSERVATION CODE CHAPTER OMITTED - AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, *entitled Administration, are hereby deleted.*

SECTION THREE: Chapter 4, Article 8, Section 4-803, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-803. SCOPE. The Leawood Building Code establishes minimum prescriptive and *performance-related regulations* for the design of energy-efficient buildings and structures or portions thereof that provide facilities or shelter for public assembly, educational, business, mercantile, institutional, storage and residential occupancies *designed primarily for human occupancy.* The Leawood Building Code thereby addresses the design of energy-efficient building envelopes and the selection and installation of energy-efficient mechanical, service water-heating, electrical distribution and *illumination systems and* equipment for the effective use of energy in these buildings and structures. The following buildings are exempt from the provisions of this Energy Code, provided however, that *commercial buildings provided with service* water heating and/or electric lighting shall meet the applicable provisions of Chapter 7 or 8 of this Energy Code, regardless of exempt status:

(a) Separated Buildings. Buildings and structures, or portions thereof separated by building envelope assemblies from the remainder of the building, that have a peak design rate of energy usage less *than 3.4 Btu/h* per square foot (10.7 W/m²) or 1.0 watt per square foot (10.7 W/m²) of *floor area for all purposes.*

(b) Unconditioned Buildings. Buildings and structures or portions thereof which are neither heated nor *cooled.*

SECTION FOUR: Chapter 4, Article 8, Section 4-804, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-804. MATERIAL, SYSTEMS AND EQUIPMENT

(a) **General.** Materials, equipment and systems shall be identified in a manner that will allow a determination of their compliance with the applicable provisions of the *Leawood Building Code.*

(b) **Materials, equipment and systems installation.** All insulation materials, caulking and weatherstripping, fenestration assemblies, mechanical equipment and systems components, and water-heating equipment *and* system components shall be installed in accordance with the *manufacturer's* installation instructions.

(c) **Maintenance information.** Required regular maintenance actions shall be clearly stated and incorporated on a readily accessible label. Such label shall include *the title or publication number,* the operation and maintenance manual for that particular model and type of product. Maintenance instructions shall be furnished for equipment that requires preventive maintenance for efficient operation.

(d) **Insulation installation.** Roof/ceiling, floor, wall cavity and duct *distribution* systems insulation shall be installed in a manner that permits inspection of the manufacturer's *R*-value identification mark. Insulation applied to the exterior of foundation walls and around the perimeter of *slab-on-grade floors shall have a rigid,* opaque and weather-resistant protective covering to prevent the degradation of the insulation's thermal performance. The protective covering shall cover the exposed area of the exterior insulation and extend *a minimum of 6 inches* [153mm] below grade.

(e) **Identification.** Materials, equipment and systems shall be identified in accordance with the Leawood Building Code.

(1) **Building envelope insulation.** A thermal resistance (*R*) identification mark *shall be applied by the manufacturer* to each piece of *building envelope insulation* 12 inches [305mm] or greater in width.

Alternatively, the insulation installer shall provide a signed and dated certification for the insulation installed in each element of the building envelope, listing the type of insulation installations in roof/ceilings, the *manufacturer and the R-value.* For blown-in or sprayed insulation, the installer shall also provide the initial installed *thickness,* the settled thickness, the coverage area and the number of bags installed. Where blown-in or sprayed insulation is installed in walls, floors and cathedral ceilings, the installer shall provide a certification of the installed *density and R-value. The* installer shall post the certification in a conspicuous place on the job site.

(2) ***Roof/ceiling insulation.*** The thickness of roof/ceiling insulation that is either blown in or sprayed shall be identified by thickness markers that are labeled in inches or millimeters installed at least one for every 300 square feet (28m²) *throughout the attic space.* The markers shall be affixed to the trusses or joists and marked *with the minimum* initial installed thickness and minimum settled thickness with numbers a minimum of 1 inch (25mm) in height. Each marker shall face the attic access. The thickness of installed insulation shall meet or exceed the *minimum initial installed* thickness shown by the marker and provide the building official a *copy of the certification.*

(3) **Fenestration product rating, certification and labeling.** *U*-factors of fenestration products [windows, doors and skylights] shall be determined in accordance with *NFRC 100 by an accredited,* independent laboratory, and labeled and certified by the *manufacturer. The* solar heat gain coefficient [SHGC] of glazed fenestration products [windows, glazed doors and skylights] shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and *certified by the* manufacturer. Where a shading coefficient for a fenestration *product is used,* it shall be determined by converting the product's SHGC, as determined in accordance with NFRC 200, to a shading coefficient by dividing the SHGC by 0.87. Such certified and labeled *U*-factors and SHGCs *shall be accepted for purposes of* determining compliance with the building envelope requirements of *the Leawood Building Code.*

When a manufacturer has not determined product *U*-factor in accordance with NFRC 100 for a particular product line, compliance with the building envelope requirements *of the Leawood Building* Code shall be determined by assigning such products a default *U-factor* in accordance with Tables A and B. When a SHGC or shading coefficient is used for code compliance and a manufacturer has not determined product SHGC in accordance with NFRC 200 for a particular *product line, compliance* with the building envelope requirements of the Leawood Building Code shall be determined by assigning *such products a* default SHGC in accordance with Table C. Product features must be verifiable for the product to qualify for the *default value associated* with those features. Where the existence of a particular feature cannot be determined with *reasonable certainty, the product* shall not receive credit for that feature. Where a composite of materials from two different product types is used, *the product shall be assigned* the higher *U*-factor.

(4) ***Duct distribution systems insulation.*** A thermal resistance (*R*) identification mark shall be applied by the manufacturer in maximum *intervals of no* greater than 10 feet (3048mm) to insulated flexible duct products showing the thermal performance *R-value for the duct* insulation itself [excluding air films, vapor retarders, or other duct components].

TABLE A
***U*-FACTOR DEFAULT TABLE FOR WINDOWS, GLAZED DOORS AND SKYLIGHTS**

FRAME MATERIAL AND PRODUCT TYPE[a]	SINGLE GLAZED	DOUBLE GLAZED
Metal without thermal break		
Operable (including sliding and swinging glass doors)	1.27	0.87
Fixed	1.13	0.69
Garden window	2.60	1.81
Curtain wall	1.22	0.79
Skylight	1.98	1.31
Site-assembled sloped/overhead glazing	1.36	0.82
Metal with thermal break		
Operable (including sliding and swinging glass doors)	1.08	0.65
Fixed	1.07	0.63
Curtain wall	1.11	0.68
Skylight	1.89	1.11
Site-assembled sloped/overhead glazing	1.25	0.70
Reinforced vinyl/metal clad wood		
Operable (including sliding and swinging glass doors)	0.90	0.57
Fixed	0.98	0.56
Skylight	1.75	1.05
Wood/vinyl/fiberglass		
Operable (including sliding and swinging glass doors)	0.89	0.55
Fixed	0.98	0.56
Garden window	2.31	1.61
Skylight	1.47	0.84

[a] Glass block assemblies with mortar but without reinforcing or framing shall have a *U*-factor of 0.60.

TABLE B
***U*-FACTOR DEFAULT TABLE FOR NONGLAZED DOORS**

DOOR TYPE	WITH FOAM CORE	WITHOUT FOAM CORE
Steel doors (1.75 inches thick)	0.35	0.60
	WITHOUT STORM DOOR	WITH STORM DOOR
Wood doors (1.75 inches thick)		
Panel with 0.438-inch panels	0.54	0.36
Hollow core flush	0.46	0.32
Panel with 1.125-inch panels	0.39	0.28
Solid core flush	0.40	0.26

For SI: 1 inch = 25.4 mm.

TABLE C
SHGC DEFAULT TABLE FOR FENESTRATION

PRODUCT DESCRIPTION	SINGLE GLAZED				DOUBLE GLAZED			
	Clear	Bronze	Green	Gray	Clear + Clear	Bronze + Clear	Green + Clear	Gray + Clear
Metal frames								
Operable	0.75	0.64	0.62	0.61	0.66	0.55	0.53	0.52
Fixed	0.78	0.67	0.65	0.64	0.68	0.57	0.55	0.54
Nonmetal frames	0.63	0.54	0.53	0.52	0.55	0.46	0.45	0.44
Operable	0.75	0.64	0.62	0.61	0.66	0.54	0.53	0.52
Fixed								

SECTION FIVE: Chapter 4, Article 8, Section 4-805, of the Code of the City of Leawood, Kansas, 2000, *is hereby amended to read as follows:*

4-805. INTERNATIONAL ENERGY CONSERVATION CODE AMENDED; Section 302.1 *Exterior design conditions.* Section 302.1 of the International Energy Conservation Code is hereby amended to read as follows: The following design *parameters* in Table 302.1 shall be used for calculations required under this code:

Condition	Value
(a) Winter, Design Dry-bulb (°F):	6.
(b) Summer, Design Dry-bulb (°F):	ASHRAE Handbook of Fundamentals.
(c) Summer, Design Wet-bulb (°F):	ASHRAE Handbook of Fundamentals.
(d) Degree days heating:	5,333.
(e) *Degree days* cooling:	NOAA and/or ASHRAE Handbook of Fundamentals.
(f) Climate zone:	1B.

SECTION SIX: Chapter 4, Article 8, Section 4-806, of the *Code of the City of* Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-806. INTERNATIONAL ENERGY CONSERVATION CODE, PENALTIES. Any *person violating* any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the *Code of the City of* Leawood, 2000, as amended.

SECTION SEVEN: Repeal of Existing Article. The existing Chapter 4, Article 8, of the Code of the *City of Leawood* 2000 is hereby repealed.

SECTION EIGHT: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentance, portion or part of the proposed ordinance set out, or the application thereof to any person or *circumstance* is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINE: Publication. *That said ordinance shall be published once in* the official city newspaper.

SECTION TEN: Effective Date. That said ordinance shall become *effective following publication.*

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1934C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 6, OF THE CODE OF THE CITY OF LEAWOOD 2000, INCORPORATING THE INTERNATIONAL FUEL GAS CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 6, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 6, Section 4-601, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 6. FUEL GAS CODE

4-601. INTERNATIONAL FUEL GAS CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Fuel Gas Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices A, B and C, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1934C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 6, Section 4-602, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-602. INTERNATIONAL FUEL GAS CODE CHAPTER DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1 of the International Fuel Gas Code, 2000, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 6, Section 4-603, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-603. SCOPE. (a) The Leawood Building Code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, and related accessories as follows:

(1) Coverage of piping systems shall extend from the point of delivery to the connections with gas utilization equipment. (See "point of delivery.")

(2) Systems with an operating pressure of 125 psig (862 kPa gauge) or less.

Piping systems for gas-air mixtures within the flammable range with an operating pressure of 10 psig (69 kPa gauge).

LP-Gas piping systems with an operating pressure of 20 psig (140 kPa gauge) or less.

(3) Piping systems requirements shall include design, materials, components, fabrication, assembly, installation, testing, inspection, operation, and maintenance.

(4) Requirements for gas utilization equipment and related accessories shall include installation, combustion and ventilation air and venting.

(b) This code shall not apply to the following:

(1) Portable LP-Gas equipment of all types that are not connected to a fixed fuel piping system.

(2) Installation of farm equipment such as brooders, dehydrators, dryers, and irrigation equipment.

(3) Raw material (feedstock) applications except for piping to special atmosphere generators.

(4) Oxygen-fuel gas cutting and welding systems.

(5) Industrial gas applications using gases such as acetylene and acetylenic compounds, hydrogen, ammonia, carbon monoxide, oxygen, and nitrogen.

(6) Petroleum refineries, pipeline compressor or pumping stations, loading terminals, compounding plants, refinery tank farms, and natural gas processing plants.

(7) Integrated chemical plants or portions of such plants where flammable or combustible liquids or gases are produced by chemical reactions or used in chemical reactions.

(8) LP-Gas installations at utility gas plants.

(9) Liquefied natural gas (LNG) installations.

(10) Fuel gas piping in power and atomic energy plants.

(11) Proprietary items of equipment, apparatus, or instruments such as gas generating sets, compressors, and calorimeters.

(12) LP-Gas equipment for vaporization, gas mixing, and gas manufacturing.

(13) Temporary LP-Gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.

(14) Installation of LP-Gas systems for railroad switch heating.

(15) Installation of LP-Gas and compressed natural gas (CNG) systems on vehicles.

(16) Except as provided in Section 401.1.1, gas piping, meters, gas pressure regulators, and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-Gas.

(17) Building design and construction, except as specified herein.

SECTION FOUR: Chapter 4, Article 6, Section 4-604, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-604. REQUIRED INSPECTIONS AND TESTING. (a) The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.

(2) Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing is in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(3) Final inspection shall be made upon completion of the installation.

The requirements of this section shall not be considered to prohibit the operation of any heating equipment or appliances installed to replace existing heating equipment or appliances serving an occupied portion of a structure provided that a request for inspection of such heating equipment or appliances has been filed with the department not more than 48 hours after such replacement work is completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

(b) Prior to the approval of a prefabricated construction assembly having concealed work and the issuance of a mechanical permit, the building official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the installation, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) Except where ready access is provided to installations, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the installation shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(2) All required test and inspection records shall be available to the building official at all times during the fabrication of the installation and the erection of the building, or such records as the building official designates shall be filed.

(c) Installations shall be tested as required in the Leawood Building Code and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New installations and parts of existing installations, which have been altered, extended, renovated or repaired, shall be tested as prescribed herein to disclose leaks and defects.

(2) Apparatus, instruments, material and labor required for testing an installation or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(d) Whenever, in the enforcement of the Leawood Building Code or another code or ordinance, the responsibility of more than one building official of Leawood is involved, it shall be the duty of the building officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the building official having jurisdiction.

(e) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(f) The building official shall have the authority to authorize the temporary connection of an installation to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 6, Section 4-605, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-605. INTERNATIONAL FUEL GAS CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 6, and all sections of such article, of the Code of the City of Leawood 2000 are hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1934C

Publication Fees: $95.07

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213 E. Santa Fe, Suite 2
Olathe, KS 66061
(913) 780-5790

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1934C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$95.07

Peggy Dunn, Mayor

ATTEST:
Martha Helzer, City Clerk

APPROVED AS TO FORM:
Patricia A. Bennett, City Attorney

ORDINANCE NO. 1934C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1934C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 6, OF THE CODE OF THE CITY OF LEAWOOD 2000, INCORPORATING THE INTERNATIONAL FUEL GAS CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 6, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 6, Section 4-601, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 6. FUEL GAS CODE

4-601. INTERNATIONAL FUEL GAS CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Fuel Gas Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices A, B and C, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. §12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1934C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

SECTION TWO: Chapter 4, Article 6, Section 4-602, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-602. INTERNATIONAL FUEL GAS CODE CHAPTER DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1 of the International Fuel Gas Code, 2000, entitled Administration, are hereby deleted.

SECTION THREE: Chapter 4, Article 6, Section 4-603, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-603. SCOPE. (a) The Leawood Building Code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, and related accessories as follows:

(1) Coverage of piping systems shall extend from the point of delivery to the connections with gas utilization equipment. (See "point of delivery.")

(2) Systems with an operating pressure of 125 psig (862 kPa gauge) or less.

Piping systems for gas-air mixtures within the flammable range with an operating pressure of 10 psig (69 kPa gauge).

LP-Gas piping systems with an operating pressure of 20 psig (140 kPa gauge) or less.

(3) Piping systems requirements shall include design, materials, components, fabrication, assembly, installation, testing, inspection, operation, and maintenance.

(4) Requirements for gas utilization equipment and related accessories shall include installation, combustion and ventilation air and venting.

(b) This code shall not apply to the following:

(1) Portable LP-Gas equipment of all types that are not connected to a fixed fuel piping system.

(2) Installation of farm equipment such as brooders, dehydrators, dryers, and irrigation equipment.

(3) Raw material (feedstock) applications except for piping to special atmosphere generators.

(4) Oxygen-fuel gas cutting and welding systems.

(5) Industrial gas applications using gases such as acetylene and acetylenic compounds, hydrogen, ammonia, carbon monoxide, oxygen, and nitrogen.

(6) Petroleum refineries, pipeline compressor or pumping stations, loading terminals, compounding plants, refinery tank farms, and natural gas processing plants.

(7) Integrated chemical plants or portions of such plants where flammable or combustible liquids or gases are produced by chemical reactions or used in chemical reactions.

(8) LP-Gas installations at utility gas plants.

(9) Liquefied natural gas (LNG) installations.

(10) Fuel gas piping in power and atomic energy plants.

(11) Proprietary items of equipment, apparatus, or instruments such as gas generating sets, compressors, and calorimeters.

(12) LP-Gas equipment for vaporization, gas mixing, and gas manufacturing.

(13) Temporary LP-Gas piping for buildings under construction or renovation that is not to become part of the permanent piping system.

(14) Installation of LP-Gas systems for railroad switch heating.

(15) Installation of LP-Gas and compressed natural gas (CNG) systems on vehicles.

(16) Except as provided in Section 401.1:1, gas piping, meters, gas pressure regulators, and other appurtenances used by the serving gas supplier in the distribution of gas, other than undiluted LP-Gas.

(17) Building design and construction, except as specified herein.

SECTION FOUR: Chapter 4, Article 6, Section 4-604, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-604. REQUIRED INSPECTIONS AND TESTING. (a) The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site.

(2) Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing is in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(3) Final inspection shall be made upon completion of the installation.

The requirements of this section shall not be considered to prohibit the operation of any heating equipment or appliances installed to replace existing heating equipment or appliances serving an occupied portion of a structure provided that a request for inspection of such heating equipment or appliances has been filed with the department not more than 48 hours after such replacement work is completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

(b) Prior to the approval of a prefabricated construction assembly having concealed work and the issuance of a mechanical permit, the building official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the installation, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) Except where ready access is provided to installations, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the installation shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(2) All required test and inspection records shall be available to the building official at all times during the fabrication of the installation and the erection of the building, or such records as the building official designates shall be filed.

(c) Installations shall be tested as required in the Leawood Building Code and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New installations and parts of existing installations, which have been altered, extended, renovated or repaired, shall be tested as prescribed herein to disclose leaks and defects.

(2) Apparatus, instruments, material and labor required for testing an installation or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(d) Whenever, in the enforcement of the Leawood Building Code or another code or ordinance, the responsibility of more than one building official of Leawood is involved, it shall be the duty of the building officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the building official having jurisdiction.

(e) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(f) The building official shall have the authority to authorize the temporary connection of an installation to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 6, Section 4-605, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-605. INTERNATIONAL FUEL GAS CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 6, and all sections of such article, of the Code of the City of Leawood 2000 are hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1933C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 5, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL MECHANICAL CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 5, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 5, Section 4-501, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 5. MECHANICAL CODE

4-501. INTERNATIONAL MECHANICAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Mechanical Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendix A save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1933C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1629C; 11-04-96)
(Code 2000)

SECTION TWO: Chapter 4, Article 5, Section 4-502, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-502. INTERNATIONAL MECHANICAL CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1629C; 11-04-96)
(Code 2000)

SECTION THREE: Chapter 4, Article 5, Section 4-503, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-503. SCOPE. The Leawood Building Code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions

and related processes within buildings. The Leawood Building Code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the *International Fuel Gas Code,* as incorporated in Article 6 of Chapter 4 of the Code of the City of Leawood, 2000.

SECTION FOUR: Chapter 4, Article 5, Section 4-504, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-504. REQUIRED INSPECTIONS AND TESTING. (a) The building code official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site. However, ground-source heat pump loop systems tested in accordance with Section 1208.1.1 shall be permitted to be backfilled prior to inspection.

(2) Rough-in inspection shall be made after the roof, framing, fireblocking, and bracing is in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(3) Final inspection shall be made upon completion of the mechanical system.

The requirements of this section shall not be considered to prohibit the operation of any heating equipment or appliances installed to replace existing heating equipment or appliances serving an occupied portion of a structure provided that a request for inspection of such heating equipment or appliances has been filed with the department not more than 48 hours after such replacement work is completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

(b) Prior to the approval of a prefabricated construction assembly having concealed mechanical work and the issuance of a mechanical permit, the building official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the mechanical system, including a description of the system and its components, the basis upon which the system is being evaluated, test

results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) Except where ready access is provided to mechanical systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate and independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the mechanical system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(2) All required test and inspection records shall be available to the building official at all times during the fabrication of the mechanical system and the erection of the building, or such records as the code official designates shall be filed.

(c) Mechanical systems shall be tested as required in the Leawood Building Code and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New mechanical systems and parts of existing systems, which have been altered, extended, renovated or repaired shall be tested as prescribed herein to disclose leaks and defects.

(2) All apparatus, equipment, material and labor required for testing a mechanical system or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(d) Whenever, in the enforcement of the Leawood Building Code or another code or ordinance, the responsibility of more than one code official of Leawood is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

(e) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(f) The building official shall have the authority to authorize the temporary connection of a mechanical system to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 5, Section 4-505, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-505. INTERNATIONAL MECHANICAL CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 5, the Code of the City of Leawood 2000 is hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1933C

Publication Fees: $74.81

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CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1933C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

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ORDINANCE NO. 1933C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1933C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 5, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL MECHANICAL CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 5, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 5, Section 4-501, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 5. MECHANICAL CODE

4-501. INTERNATIONAL MECHANICAL CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Mechanical Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendix A save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A.§ 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1933C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1629C; 11-04-96)
(Code 2000)

SECTION TWO: Chapter 4, Article 5, Section 4-502, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-502. INTERNATIONAL MECHANICAL CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1629C; 11-04-96)
(Code 2000)

SECTION THREE: Chapter 4, Article 5, Section 4-503, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-503. SCOPE. The Leawood Building Code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. The Leawood Building Code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the *International Fuel Gas Code*, as incorporated in Article 6 of Chapter 4 of the Code of the City of Leawood, 2000.

SECTION FOUR: Chapter 4, Article 5, Section 4-504, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-504. REQUIRED INSPECTIONS AND TESTING. (a) The building code official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place. When excavated soil contains rocks, broken concrete, frozen chunks and other rubble that would damage or break the piping or cause corrosive action, clean backfill shall be on the job site. However, ground-source heat pump loop systems tested in accordance with Section 1208.1.1 shall be permitted to be backfilled prior to inspection.

(2) Rough-in Inspection shall be made after the roof, framing, fireblocking, and bracing is in place and all ducting and other components to be concealed are complete, and prior to the installation of wall or ceiling membranes.

(3) Final inspection shall be made upon completion of the mechanical system.

The requirements of this section shall not be considered to prohibit the operation of any heating equipment or appliances installed to replace existing heating equipment or appliances serving an occupied portion of a structure provided that a request for inspection of such heating equipment or appliances has been filed with the department not more than 48 hours after such replacement work is completed, and before any portion of such equipment or appliances is concealed by any permanent portion of the structure.

(b) Prior to the approval of a prefabricated construction assembly having concealed mechanical work and the issuance of a mechanical permit, the building official shall require the submittal of an evaluation report on each prefabricated construction assembly, indicating the complete details of the mechanical system, including a description of the system and its components, the basis upon which the system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) Except where ready access is provided to mechanical systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate and independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the mechanical system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(2) All required test and inspection records shall be available to the building official at all times during the fabrication of the mechanical system and the erection of the building, or such records as the code official designates shall be filed.

(c) Mechanical systems shall be tested as required in the Leawood Building Code and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New mechanical systems and parts of existing systems, which have been altered, extended, renovated or repaired shall be tested as prescribed herein to disclose leaks and defects.

(2) All apparatus, equipment, material and labor required for testing a mechanical system or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(d) Whenever, in the enforcement of the Leawood Building Code or another code or ordinance, the responsibility of more than one code official of Leawood is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

(e) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(f) The building official shall have the authority to authorize the temporary connection of a mechanical system to the sources of energy for the purpose of testing mechanical systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 5, Section 4-505, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-505. INTERNATIONAL MECHANICAL CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 5, the Code of the City of Leawood 2000 is hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentance, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1932C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 4, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL PLUMBING CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 4 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 4, Section 4-401, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 4. PLUMBING CODE.

4-401. INTERNATIONAL PLUMBING CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Plumbing Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices B, C, D and E, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1932C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 4, Section 4-402, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-402. INTERNATIONAL PLUMBING CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 4, Section 4-403, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-403. SCOPE. The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within the City of Leawood, Kansas. The installation of fuel gas distribution piping and equipment, fuel gas-fired water heaters, and water heater venting systems shall be regulated by the *International Fuel Gas Code,* as incorporated in Article 6 of this Chapter.

SECTION FOUR: Chapter 4, Article 4, Section 4-404, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-404.REQUIRED INSPECTIONS AND TESTING. (a) The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place.
(2) Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and all sanitary, storm and water distribution piping is roughed-in, and prior to the installation of wall or ceiling membranes.
(3) Final inspection shall be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

(b) Prior to the approval of a closed, prefabricated plumbing system and the issuance of a plumbing permit, the building official shall require the submittal of an evaluation report on each prefabricated plumbing system indicating the complete details of the plumbing system, including a description of the system and its components, the basis upon which the plumbing system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) The building official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to the Leawood Building Code.
(2) Except where ready access is provided to all plumbing systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate

an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the plumbing system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(3) All required test and inspection records shall be available to the code official at all times during the fabrication of the plumbing system and the erection of the building, or such records as the building official designates shall be filed.

(c) The following special inspections are allowed:

(1) The registered design professional or designated inspector shall periodically inspect and observe the alternative engineered design to determine that the installation is in accordance with the approved construction documents. All discrepancies shall be brought to the immediate attention of the plumbing contractor for correction. Records shall be kept of all inspections.

(2) The registered design professional shall submit a final report in writing to the code official upon completion of the installation, certifying that the alternative engineered design conforms to the approved construction documents. A notice of approval for the plumbing system shall not be issued until a written certification has been submitted.

(d) Plumbing work and systems shall be tested as required in Section 312 and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New plumbing systems and parts of existing systems that have been altered, extended or repaired shall be tested as prescribed herein to disclose leaks and defects, except that testing is not required in the following cases: (a) in any case that does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping; or (b) in any case where plumbing equipment is set up temporarily for exhibition purposes.

(2) All equipment, material and labor required for testing a plumbing system or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(e) Whenever, in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of Leawood

is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

(f) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(g) The building official shall have the authority to authorize the temporary connection of the building or system to the utility source for the purpose of testing plumbing systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 4, Section 4-405, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-405. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 305.6.1. SEWER DEPTH. Section 305.6.1 is hereby amended to read as follows: Building sewers connected to public and private sewage disposal systems shall be installed in accordance with Johnson County Wastewater District regulations.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 4, Article 4, Section 4-406, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-406. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 312.9.1 INSPECTION AND TESTING OF BACKFLOW PREVENTION ASSEMBLIES, Inspections. Section 312.9.1 is hereby amended to read as follows: A certified tester on initial installation shall test backflow prevention assemblies and a copy of the test report shall be filed, as a part of the inspection, in the permit file. Testing shall be accomplished in accordance with one of the standards listed in Sec. 312.9 of the 2000 International Plumbing Code.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 4, Section 4-407, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-407. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 904.1 ROOF EXTENSION. Section 904.1 is hereby amended to read as follows: All open

vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where the roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 4, Section 4-408, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-408. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 917.1 GENERAL. SECTION 917.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is not structurally feasible to install a hard piped venting system and when approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual- and branch-type air admittance valves shall conform to ASSE 1051.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION NINE: Chapter 4, Article 4, Section 4-409, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-409. INTERNATIONAL PLUMBING CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TEN: Repeal of Existing Article. The existing Chapter 4, Article 4, including all sections of such Article, of the Code of the City of Leawood 2000 are hereby repealed.

SECTION ELEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWELVE: Publication. *That said ordinance shall be published* once in the official city newspaper.

SECTION THIRTEEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1932C

Publication Fees: $97.13

The Legal Record
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CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS:
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1932C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$97.13

(Code 2000)

SECTION SIX: Chapter 4, Article 2, Section 4-206, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-206. **INTERNATIONAL BUILDING CODE AMENDED; SECTION 905.3. REQUIRED INSTALLATIONS.** Section 905.3 is hereby amended to read as follows: Standpipe systems shall be installed where required by the Leawood Building Code. Standpipe systems are permitted to be combined with automatic sprinkler systems. Class I standpipes shall be required in any building exceeding three stories in height from the lowest level of fire department vehicle access or where travel distance from the exterior to any point in the building exceeds 200 feet.

EXCEPTION: Standpipe systems are not required in Group R-3 occupancies as applicable in 101.2.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 2, Section 4-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-207. **INTERNATIONAL BUILDING CODE AMENDED; SECTION 907.8. ZONES.** Section 907.8 is hereby amended to read as follows: Fire Alarm Control Panel. All fire alarm systems shall be addressable such that the activation of any single initiating device is identifiable at the fire alarm control panel. Further, all fire

removal of the building or structure, and shall have sufficient bond as provided by city ordinance, state statutes, or as determined as necessary for the public safety by the chief of police.

(f) Not allow any building or structure or part thereof to be left in the parkway, street, or on the dedicated right-of-way between the curb and the front property line of any lot.

(g) Comply with the building code, fire zone, zoning ordinances and all other applicable traffic ordinances and laws upon relocating the building or structure in the city or move the same through the city.

(h) Remove all rubbish and materials and fill in excavations to existing grade at the original building or structure site so that the premises are left in a safe and sanitary condition within 30 days from the date of the move.

(i) Notify all utilities having service connections within the building or structure and otherwise located within the city limit whose facilities and services to the public may be affected by the movement of the building or structure and provide copies of such notification to the building official.

(j) Comply with the regulations and specifications contained in such permit granted by the building official to such permit holder.

ORDINANCE NO. 1932C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1932C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 4, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL PLUMBING CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 4 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 4, Section 4-401, of the Code of the City of *Leawood, Kansas, 2000, is hereby amended to read as follows:*

ARTICLE 4. PLUMBING CODE.

4-401. INTERNATIONAL PLUMBING CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Plumbing Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices B, C, D and E, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1932C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 4, Section 4-402, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-402. INTERNATIONAL PLUMBING CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 4, Section 4-403, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-403. SCOPE. The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within the City of Leawood, Kansas. The installation of fuel gas distribution piping and equipment, fuel gas-fired water heaters, and water heater venting systems shall be regulated by the *International Fuel Gas Code*, as incorporated in Article 6 of this Chapter.

SECTION FOUR: Chapter 4, Article 4, Section 4-404, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-404. REQUIRED INSPECTIONS AND TESTING. (a) The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place.

(2) Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and *all sanitary, storm and water distribution piping is roughed-in, and* prior to the installation of wall or ceiling membranes.

(3) Final inspection shall be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

(b) Prior to the approval of a closed, prefabricated plumbing system and the issuance of a plumbing permit, the building official shall require the submittal of an evaluation report on each prefabricated plumbing system indicating the complete details of the plumbing system, including a description of the system and its components, the basis upon which the plumbing system is being evaluated, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) The building official shall designate the evaluation service of an approved agency as the evaluation agency, and review such agency's evaluation report for adequacy and conformance to the Leawood Building Code.

(2) Except where ready access is provided to all plumbing systems, service equipment and accessories for complete inspection at the site without disassembly or dismantling, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall furnish the building official with the follow-up inspection manual and a report of inspections upon request, and the plumbing system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(3) All required test and inspection records shall be available to the code official at all times during the fabrication of the plumbing system and the erection of the building, or such records as the building official designates shall be filed.

(c) The following special inspections are allowed:

(1) The registered design professional or designated inspector shall periodically inspect and observe the alternative engineered design to determine that the installation is in accordance with the approved construction documents. All discrepancies shall be brought to the immediate attention of the plumbing contractor for correction. Records shall be kept of all inspections.

(2) The registered design professional shall submit a final report in writing to the code official upon completion of the installation, certifying that the alternative engineered design conforms to the approved construction documents. A notice of approval for the plumbing system shall not be issued until a written certification has been submitted.

(d) Plumbing work and systems shall be tested as required in Section 312 and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) New plumbing systems and parts of existing systems that have been altered, extended or repaired shall be tested as prescribed herein to disclose leaks and defects, except that testing is not required in the following cases: (a) in any case that does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping; or (b) in any case where plumbing equipment is set up temporarily for exhibition purposes.

(2) All equipment, material and labor required for testing a plumbing system or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(e) Whenever, in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of Leawood is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

(f) After the prescribed tests and inspections indicate that the work complies in all respects with the Leawood Building Code, a notice of approval shall be issued by the building official.

(g) The building official shall have the authority to authorize the temporary connection of the building or system to the utility source for the purpose of testing plumbing systems or for use under a temporary certificate of occupancy.

SECTION FIVE: Chapter 4, Article 4, Section 4-405, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-405. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 305.6.1. SEWER DEPTH. Section 305.6.1 is hereby amended to read as follows: Building sewers connected to public and private sewage disposal systems shall be installed in accordance with Johnson County Wastewater District regulations.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 4, Article 4, Section 4-406, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-406. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 312.9.1 INSPECTION AND TESTING OF BACKFLOW PREVENTION ASSEMBLIES, Inspections. Section 312.9.1 is hereby amended to read as follows: A certified tester on initial installation shall test backflow prevention assemblies and a copy of the test report shall be filed, as a part of the inspection, in the permit file. Testing shall be accomplished in accordance with one of the standards listed in Sec. 312.9 of the 2000 International Plumbing Code.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 4, Section 4-407, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-407. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 904.1 ROOF EXTENSION. Section 904.1 is hereby amended to read as follows: All open vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where the roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 4, Section 4-408, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-408. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 917.1 GENERAL. SECTION 917.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is not structurally feasible to install a hard piped venting system and when approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual- and branch-type air admittance valves shall conform to ASSE 1051.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION NINE: Chapter 4, Article 4, Section 4-409, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-409. INTERNATIONAL PLUMBING CODE, PENALTIES. Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TEN: Repeal of Existing Article. The existing Chapter 4, Article 4, including all sections of such Article, of the Code of the City of Leawood 2000 are hereby repealed.

SECTION ELEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWELVE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION THIRTEEN: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bonnett, City Attorney

ORDINANCE NO. 1931C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 3, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE NATIONAL ELECTRICAL CODE, 1999, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 3, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 3, Section 4-301, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. ELECTRICAL CODE

4-301. **NATIONAL ELECTRICAL CODE ADOPTED.** There is hereby incorporated by reference that certain code known as the National Electrical Code, 1999 edition, prepared and published in book form by the National Fire Protection Association (NFPA No. 70-1999), including appendices A, B, C, D and E, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added hereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1931C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION TWO: Chapter 4, Article 3, Section 4-302, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-302. **NATIONAL ELECTRICAL CODE NEW; ARTICLE 90, INTRODUCTION, OMITTED AND DELETED.** All sections of Article 90 entitled Introduction are hereby deleted and omitted.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION THREE: Chapter 4, Article 3, Section 4-303 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-303. NATIONAL ELECTRICAL CODE AMENDED, NEW SECTION 90-2, "SCOPE."

(a) Covered. The Leawood Building Code covers the following:

(1) Installations of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating buildings, and other premises such as yards, carnivals, parking, and other lots, and industrial substations.

(2) Installations of conductors and equipment that connect to the supply of electricity.

(3) Installations of other outside conductors and equipment on the premises.

(4) Installations of optical fiber cables and raceways.

(5) Installations in building used by the electric utility, such as office buildings, warehouses, garages, machine shops, and recreational buildings, that are not an integral part of a generating plant, substation, or control center.

(b) Not Covered. The Leawood Building Code does not cover the following:

(1) Installations in ships, watercraft other than floating buildings, railway rolling stock, aircraft, or automotive vehicles other than mobile homes and recreational vehicles.

(2) Installations underground in mines and self-propelled mobile surface mining machinery and its attendant electrical trailing cable.

(3) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communications purposes.

(4) Installations of communications equipment under the exclusive control of communications utilities located outdoors or in building spaces used exclusively for such installations.

(5) Installations, including associated lighting, under the exclusive control of electric utilities for the purpose of communications, metering, generation, control, transformation, transmission, or distribution of electric energy. Such installations shall be located in buildings used exclusively by utilities for such purposes; outdoors on property owned or leased by the utility; on or along public highways, streets, roads, etc.; or outdoors on private property by established rights such as easements provided that any such installation is otherwise in accordance law with appropriate consent.

SECTION FOUR: Chapter 4, Article 3, Section 3-304, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-304. **NATIONAL ELECTRICAL CODE AMENDED; ARTICLE 110-5. CONDUCTORS.** ARTICLE 110-5 is hereby amended to read as follows: Conductors normally used to carry current shall be of copper unless otherwise provided in the Leawood Building Code. Conductors for residential application shall be copper. Conductors for branch circuits (#6 AWG and smaller) shall be copper on commercial and industrial applications.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION FIVE: Chapter 4, Article 3, Section 4-305, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-305. **NATIONAL ELECTRICAL CODE, PENALTIES.** Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 3, the Code of the City of Leawood 2000 is hereby repealed.

SECTION SEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1931C

Publication Fees: $60.73

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1931C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$60.73

ORDINANCE NO. 1931C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1931C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 3, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE NATIONAL ELECTRICAL CODE, 1999, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 3, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 3, Section 4-301, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. ELECTRICAL CODE

4-301. **NATIONAL ELECTRICAL CODE ADOPTED.** There is hereby incorporated by reference that certain code known as the National Electrical Code, 1999 edition, prepared and published in book form by the National Fire Protection Association (NFPA No. 70-1999), including appendices A, B, C, D and E, *save and* except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added hereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1931C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION TWO: Chapter 4, Article 3, Section 4-302, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-302. **NATIONAL ELECTRICAL CODE NEW; ARTICLE 90, INTRODUCTION, OMITTED AND DELETED.** All sections of Article 90 entitled Introduction are hereby deleted and omitted.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION THREE: Chapter 4, Article 3, Section 4-303 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-303. **NATIONAL ELECTRICAL CODE AMENDED, NEW SECTION 90-2, "SCOPE."**

(a) Covered. The Leawood Building Code covers the following:
- (1) Installations of electric conductors and equipment within or on public and private buildings or other structures, including mobile homes, recreational vehicles, and floating buildings, and other premises such as yards, carnivals, parking, and other lots, and industrial substations.
- (2) Installations of conductors and equipment *that connect* to the supply of electricity.
- (3) Installations of other outside conductors and equipment on the premises.
- (4) Installations of optical fiber cables and raceways.
- (5) Installations in building used by the electric utility, such as office buildings, warehouses, garages, machine shops, and recreational buildings, that are not an integral part of a generating plant, substation, or control center.

(b) Not Covered. The Leawood Building Code does not cover the following:
- (1) Installations in ships, watercraft other than floating buildings, railway rolling stock, aircraft, or automotive vehicles other *than mobile* homes and recreational vehicles.
- (2) Installations underground in mines and *self-propelled mobile* surface mining machinery and its attendant electrical trailing cable.
- (3) Installations of railways for generation, transformation, transmission, or distribution of power used exclusively for operation of rolling stock or installations used exclusively for signaling and communications purposes.
- (4) Installations of communications equipment under the exclusive control of communications utilities located outdoors or in building spaces used exclusively for such installations.
- (5) Installations, including associated lighting, under the exclusive control of electric utilities for the purpose of communications, metering, generation, control, transformation, transmission, or distribution of electric energy. Such installations shall be located in buildings used exclusively by utilities for such purposes; outdoors on property owned or leased by the utility; on or along public highways, streets, roads, etc.; or outdoors on private property by established rights such as easements provided that any such installation is otherwise in accordance law with appropriate consent.

SECTION FOUR: Chapter 4, Article 3, Section 3-304, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-304. **NATIONAL ELECTRICAL CODE AMENDED; ARTICLE 110-5, CONDUCTORS.** ARTICLE 110-5 is hereby amended to read as follows: Conductors normally used to carry current shall be of copper unless otherwise provided in the Leawood Building Code. Conductors for residential application shall be copper. Conductors for branch circuits (#6 AWG and smaller) shall be copper on commercial and industrial applications.

(Ord. 1630C; 11-04-96)
(Code 2000)

SECTION FIVE: Chapter 4, Article 3, Section 4-305, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-305. **NATIONAL ELECTRICAL CODE, PENALTIES.** Any person violating any provision of this Article is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SIX: Repeal of Existing Article. The existing Chapter 4, Article 3, the Code of the City of Leawood 2000 is hereby repealed.

SECTION SEVEN: *This ordinance* shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION EIGHT: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION NINE: Effective Date. That said ordinance shall *become* effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

[redacted]

APPROVED AS TO FORM:

[redacted]

ORDINANCE NO. 1930C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL BUILDING CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 2 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 2, Section 4-201, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. BUILDING CODE

4-201. INTERNATIONAL BUILDING CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Building Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices B, C, G and I save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1930C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 2, Section 4-202, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-202. INTERNATIONAL BUILDING CODE CHAPTER OMITTED AND DELETED; CHAPTER 1 "ADMINISTRATION." All provisions of Chapter 1, entitled Administration, are hereby deleted and omitted.

(Ord. 1711C; 03-23-98)

(Code 2000)

SECTION THREE: Chapter 4, Article 2, Section 4-203, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-203. INTERNATIONAL BUILDING CODE, SECTION ADDED; NEW SECTION 101.1, SCOPE. A new section 101.1 is hereby added to read as follows: **SCOPE.** The provisions of the *International Building Code* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, moving and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

EXCEPTION: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code.*

(Ord. 1711C; 03-23-98)

(Code 2000)

SECTION FOUR: Chapter 4, Article 2, Section 4-204, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-204. INTERNATIONAL BUILDING CODE AMENDED; SECTION 903, "AUTOMATIC SPRINKLER SYSTEMS". All of Section 903 is hereby amended to read as follows: An approved automatic sprinkler system shall be provided and designed and installed in accordance with the latest edition of the NFPA Standards (i.e., 13, 13R or 13D) in all buildings regulated by the Leawood Building Code.

EXCEPTIONS:

(a) New or existing Group R-3 occupancies within 500 feet of an approved fire hydrant.

(b) Group U occupancies.

(c) All new or existing buildings for occupancy Groups other than H with a total area less than 1,000 square feet.

(d) All new or existing Group R-3 occupancies which are architecturally attached in more than two units, which each unit is separated by a two-hour fire resistive assembly or an approved equivalent.

(e) Alternative automatic fire-extinguishing systems complying with Section 904 of the International Building Code shall be permitted in lieu of automatic sprinkler protection where recognized by the applicable standard and approved by the building official and the fire official.

(f) Rooms or areas protected with an approved automatic fire detection system in accordance with Section 907.2 of the International Building Code that will respond to visible or invisible particles of combustion if: (1) application of water, or flame and water, to such room would constitute a serious life or fire hazard; or (2) such rooms or area are of noncombustible construction with wholly noncombustible contents.

(g) Temporary buildings allowed under the Leawood Development Ordinance for a period not to exceed two years.

(h) Renovations or improvements to existing buildings where no occupancy Group classification change occurs and/or no additional building area is being created, and the cost of the sprinkler system installation downstream of the riser would exceed 20% of the total cost of renovation. In such cases, an approved sprinkler or other life safety improvement to the building may be required, provided that the cost of such requirement will not exceed 20% of the cost of the renovation.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 4, Article 2, Section 4-205, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-205. INTERNATIONAL BUILDING CODE AMENDED; SECTION 905.1. GENERAL. Section 905.1 is hereby amended to read as follows: Standpipe systems shall be provided in new buildings and structures in accordance with this section. Fire hose threads used in connection with standpipe systems shall comply with NFPA 1963, or be otherwise approved by the fire official or his or her designee and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved by the fire marshal. In buildings used for high-piled combustible storage, fire protection shall be in accordance with the International Fire Code.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 4, Article 2, Section 4-206, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-206. INTERNATIONAL BUILDING CODE AMENDED; SECTION 905.3. REQUIRED INSTALLATIONS. Section 905.3 is hereby amended to read as follows: Standpipe systems shall be installed where required by the Leawood Building Code. Standpipe systems are permitted to be combined with automatic sprinkler systems. Class I standpipes shall be required in any building exceeding three stories in height from the lowest level of fire department vehicle access or where travel distance from the exterior to any point in the building exceeds 200 feet.

EXCEPTION: Standpipe systems are not required in Group R-3 occupancies as applicable in 101.2.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 2, Section 4-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-207. INTERNATIONAL BUILDING CODE AMENDED; SECTION 907.8. ZONES. Section 907.8 is hereby amended to read as follows: **Fire Alarm Control Panel.** All fire alarm systems shall be addressable such that the activation of any single initiating device is identifiable at the fire alarm control panel. Further, all fire

alarm control panels shall be programmable for cross-zone verification and/or partial activation of notification and control devices.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 2, Section 4-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-208. INTERNATIONAL BUILDING CODE AMENDED; SECTION 1505.1. GENERAL. Section 1505.1 is hereby amended to read as follows: All roof coverings assemblies shall be Class A rated. Class A roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898.

EXCEPTION: Group R-3 occupancies complying with Article 4-906 of the Leawood Building Code do not need to comply with this section.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION NINE: Chapter 4, Article 2, Section 4-209, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-209. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.5, OPERATING CERTIFICATE, ADDED. Section 3001.5 is hereby added to read as follows: All elevator equipment that is in operation or required to be in operation shall have a valid operating certificate issued by the building official. A valid operating certificate shall not be issued until all required inspections and tests have been performed and approved.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TEN: Chapter 4, Article 2, Section 4-210, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-210. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.6, ACCEPTANCE INSPECTIONS, ADDED. Section 3001.6 is hereby added to read as follows: All elevator equipment shall have an acceptance inspection and test performed and approved in accordance with latest version of ASME A17.1 requirements.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION ELEVEN: Chapter 4, Article 2, Section 4-211, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-211. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.7, PERIODIC INSPECTIONS, ADDED. Section 3001.7 is hereby added to read as follows: All elevator equipment shall have a periodic (annual and full load) inspection and test performed and approved in accordance with latest version of ASME A17.1 requirements.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TWELVE: Chapter 4, Article 2, Section 4-212, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-212. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.8, QUALIFIED ELEVATOR INSPECTOR, ADDED. Section 3001.8 is hereby added to read as follows: All required elevator equipment inspections and tests shall be witnessed by a ASME QEI-1 certified inspector in accordance with latest version of ASME A17.1 requirements. The building official may accept other qualified individual(s) to witness elevator equipment inspections and tests.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION THIRTEEN: Chapter 4, Article 2, Section 4-213, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-213. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.9, EXISTING ELEVATOR EQUIPMENT, ADDED. Section 3001.8 is hereby added to read as follows: All existing elevator equipment shall comply with the requirements of the latest version of ASME A17.3.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FOURTEEN: Chapter 4, Article 2, Section 4-214, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-214. INTERNATIONAL BUILDING CODE, NEW SECTION 3407.2, LEAWOOD DEVELOPMENT ORDINANCE CONFORMANCE, ADDED. Structures moved into or within the City of Leawood, Kansas, shall comply with the Leawood Development Ordinance.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FIFTEEN: Chapter 4, Article 2, Section 4-215, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-215. INTERNATIONAL BUILDING CODE, NEW SECTION 3407.3, DUTIES OF STRUCTURE MOVING PERMITTEE, ADDED. Every structure moving permit holder shall abide by the all of the following:

(a) Move a building or structure only over streets designated for such use in the written permit.

(b) Notify the building official within 48 hours of move, in writing, of a desired change in moving date and hour and route of move as proposed in the application and such change must be approved by the building official.

(c) Notify the building official in writing of any and all damages done to property belonging to the public and private property within 24 hours after the damage or injury has occurred.

(d) During the move, display red lanterns or other warning devices used in compliance with city traffic ordinances or state statutes thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise.

(e) At all times erect and maintain barricades across the street in such manner as to protect the public from damage or injury by reason of removal of the building or structure, and shall have sufficient escort as provided by city ordinance, state statutes, or as determined as necessary for the public safety by the chief of police.

(f) Not allow any building or structure or part thereof to be left in the parkway, street, or on the dedicated right-of-way between the curb and the front property line of any lot.

(g) Comply with the building code, fire zone, zoning ordinances and all other applicable traffic ordinances and laws upon relocating the building or structure in the city or move the same through the city.

(h) Remove all rubbish and materials and fill in excavations to existing grade at the original building or structure site so that the premises are left in a safe and sanitary condition within 30 days from the date of the move.

(i) Notify all utilities having service connections within the building or structure and otherwise located within the city limit whose facilities and services to the public may be affected by the movement of the building or structure and provide copies of such notification to the building official.

(j) Comply with the regulations and specifications contained in such permit granted by the building official to such permit holder.

(k) The permit holder shall be liable for any expenses, damages, costs in excess of deposited amounts of securities, and the city attorney shall prosecute an action against the permit holder in a court of competent jurisdiction for the recovery of such excessive amounts.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SIXTEEN: Chapter 4, Article 2, Section 4-216, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-216. INTERNATIONAL BUILDING CODE, PENALTIES. Any person violating any provision of this Article, is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVENTEEN: Repeal of Existing Article. The existing Chapter 4, Article 2 and all sections thereof, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHTEEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINETEEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1930C

Publication Fees: $126.32

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1930C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$126.32

ORDINANCE NO. 1930C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1930C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL BUILDING CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH ARE OMITTED, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 2 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 2, Section 4-201, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. BUILDING CODE

4-201. INTERNATIONAL BUILDING CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Building Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices B, C, G and I save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1930C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 2, Section 4-202, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-202. INTERNATIONAL BUILDING CODE CHAPTER OMITTED AND DELETED; CHAPTER 1 "ADMINISTRATION." All provisions of Chapter 1, entitled Administration, are hereby deleted and omitted.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 2, Section 4-203, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-203. INTERNATIONAL BUILDING CODE, SECTION ADDED; NEW SECTION 101.1, SCOPE. A new section 101.1 is hereby added to read as follows: **SCOPE.** The provisions of the *International Building Code* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal, moving and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

EXCEPTION: Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FOUR: Chapter 4, Article 2, Section 4-204, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-204. INTERNATIONAL BUILDING CODE AMENDED; SECTION 903, "AUTOMATIC SPRINKLER SYSTEMS". All of Section 903 is hereby amended to read as follows: An approved automatic sprinkler system shall be provided and designed and installed in accordance with the latest edition of the NFPA Standards (i.e., 13, 13R or 13D) in all buildings regulated by the Leawood Building Code.

EXCEPTIONS:

(a) New or existing Group R-3 occupancies within 500 feet of an approved fire hydrant.
(b) Group U occupancies.
(c) All new or existing buildings for occupancy Groups other than H with a total area less than 1,000 square feet.
(d) All new or existing Group R-3 occupancies which are architecturally attached in more than two units, which each unit is separated by a two-hour fire resistive assembly or an approved equivalent.
(e) Alternative automatic fire-extinguishing systems complying with Section 904 of the International Building Code shall be permitted in lieu of automatic sprinkler protection where recognized by the applicable standard and approved by the building official and the fire official.
(f) Rooms or areas protected with an approved automatic fire detection system in accordance with Section 907.2 of the International Building Code that will respond to visible or invisible particles of combustion if: (1) application of water, or flame and water, to such room would constitute a serious life or fire hazard; or (2) such rooms or area are of noncombustible construction with wholly noncombustible contents.
(g) Temporary buildings allowed under the Leawood Development Ordinance for a period not to exceed two years.
(h) Renovations or improvements to existing buildings where no occupancy Group classification change occurs and/or no additional building area is being created, and the cost of the sprinkler system installation downstream of the riser would exceed 20% of the total cost of renovation. In such cases, an approved sprinkler or other life safety improvement to the building may be required, provided that the cost of such requirement will not exceed 20% of the cost of the renovation.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FIVE: Chapter 4, Article 2, Section 4-205, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-205. INTERNATIONAL BUILDING CODE AMENDED; SECTION 905.1. GENERAL. Section 905.1 is hereby amended to read as follows: Standpipe systems shall be provided in new buildings and structures in accordance with this section. Fire hose threads used in connection with standpipe systems shall comply with NFPA 1963, or be otherwise approved by the fire official or his or her designee and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved by the fire marshal. In buildings used for high-piled combustible storage, fire protection shall be in accordance with the International Fire Code.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 4, Article 2, Section 4-206, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-206. INTERNATIONAL BUILDING CODE AMENDED; SECTION 905.3. REQUIRED INSTALLATIONS. Section 905.3 is hereby amended to read as follows: Standpipe systems shall be installed where required by the Leawood Building Code. Standpipe systems are permitted to be combined with automatic sprinkler systems. Class I standpipes shall be required in any building exceeding three stories in height from the lowest level of fire department vehicle access or where travel distance from the exterior to any point in the building exceeds 200 feet.

EXCEPTION: Standpipe systems are not required in Group R-3 occupancies as applicable in 101.2.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 2, Section 4-207, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-207. INTERNATIONAL BUILDING CODE AMENDED; SECTION 907.8. ZONES. Section 907.8 is hereby amended to read as follows: **Fire Alarm Control Panel.** All fire alarm systems shall be addressable such that the activation of any single initiating device is identifiable at the fire alarm control panel. Further, all fire alarm control panels shall be programmable for cross-zone verification and/or partial activation of notification and control devices.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 2, Section 4-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-208. INTERNATIONAL BUILDING CODE AMENDED; SECTION 1505.1. GENERAL. Section 1505.1 is hereby amended to read as follows: All roof coverings assemblies shall be Class A rated. Class A roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898.

EXCEPTION: Group R-3 occupancies complying with Article 4-906 of the Leawood Building Code do not need to comply with this section.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION NINE: Chapter 4, Article 2, Section 4-209, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-209. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.5, OPERATING CERTIFICATE, ADDED. Section 3001.5 is hereby added to read as follows: All elevator equipment that is in operation or required to be in operation shall have a valid operating certificate issued by the building official. A valid operating certificate shall not be issued until all required inspections and tests have been performed and approved.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TEN: Chapter 4, Article 2, Section 4-210, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-210. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.6, ACCEPTANCE INSPECTIONS, ADDED. Section 3001.6 is hereby added to read as follows: All elevator equipment shall have an acceptance inspection and test performed and approved in accordance with latest version of ASME A17.1 requirements.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION ELEVEN: Chapter 4, Article 2, Section 4-211, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-211. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.7, PERIODIC INSPECTIONS, ADDED. Section 3001.7 is hereby added to read as follows: All elevator equipment shall have a periodic (annual and full load) inspection and test performed and approved in accordance with latest version of ASME A17.1 requirements.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION TWELVE: Chapter 4, Article 2, Section 4-212, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-212. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.8, QUALIFIED ELEVATOR INSPECTOR, ADDED. Section 3001.8 is hereby added to read as follows: All required elevator equipment inspections and tests shall be witnessed by a ASME QEI-1 certified inspector in accordance with latest version of ASME A17.1 requirements. The building official may accept other qualified individual(s) to witness elevator equipment inspections and tests.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION THIRTEEN: Chapter 4, Article 2, Section 4-213, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-213. INTERNATIONAL BUILDING CODE, NEW SECTION 3001.8, EXISTING ELEVATOR EQUIPMENT, ADDED. Section 3001.8 is hereby added to read as follows: All existing elevator equipment shall comply with the requirements of the latest version of ASME A17.3.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FOURTEEN: Chapter 4, Article 2, Section 4-214, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-214. INTERNATIONAL BUILDING CODE, NEW SECTION 3407.2, LEAWOOD DEVELOPMENT ORDINANCE CONFORMANCE, ADDED. Structures moved into or within the City of Leawood, Kansas, shall comply with the Leawood Development Ordinance.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION FIFTEEN: Chapter 4, Article 2, Section 4-215, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-215. INTERNATIONAL BUILDING CODE, NEW SECTION 3407.3, DUTIES OF STRUCTURE MOVING PERMITTEE, ADDED. Every structure moving permit holder shall abide by the all of the following:

(a) Move a building or structure only over streets designated for such use in the written permit.
(b) Notify the building official within 48 hours of move, in writing, of a desired change in moving date and hour and route of move as proposed in the application and such change must be approved by the building official.
(c) Notify the building official in writing of any and all damages done to property belonging to the public and private property within 24 hours after the damage or injury has occurred.
(d) During the move, display red lanterns or other warning devices used in compliance with city traffic ordinances or state statutes thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise.
(e) At all times erect and maintain barricades across the street in such manner as to protect the public from damage or injury by reason of removal of the building or structure, and shall have sufficient escort as provided by city ordinance, state statutes, or as determined as necessary for the public safety by the chief of police.
(f) Not allow any building or structure or part thereof to be left in the parkway, street, or on the dedicated right-of-way between the curb and the front property line of any lot.
(g) Comply with the building code, fire zone, zoning ordinances and all other applicable traffic ordinances and laws upon relocating the building or structure in the city or move the same through the city.
(h) Remove all rubbish and materials and fill in excavations to existing grade at the original building or structure site so that the premises are left in a safe and sanitary condition within 30 days from the date of the move.
(i) Notify all utilities having service connections within the building or structure and otherwise located within the city limit whose facilities and services to the public may be affected by the movement of the building or structure and provide copies of such notification to the building official.
(j) Comply with the regulations and specifications contained in such permit granted by the building official to such permit holder.
(k) The permit holder shall be liable for any expenses, damages, costs in excess of deposited amounts of securities, and the city attorney shall prosecute an action against the permit holder in a court of competent jurisdiction for the recovery of such excessive amounts.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SIXTEEN: Chapter 4, Article 2, Section 4-216, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-216. INTERNATIONAL BUILDING CODE, PENALTIES. Any person violating any provision of this Article, is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVENTEEN: Repeal of Existing Article. The existing Chapter 4, Article 2 and all sections thereof, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHTEEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINETEEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

4-168. AUTHORITY TO DISCONNECT SERVICE UTILITIES. The building official shall have the authority to authorize disconnection of utility service to the building, *structure or system regulated by the Leawood Building Code, Fire Protection* Code (Chapter VII), or Property Maintenance Code (Chapter VIII), or in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect before taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

4-169. BUILDING AND FIRE CODE BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the Leawood Building Code, there shall be and is hereby created a Building and Fire Board of Code Appeals. The Building and Fire Board of Code Appeals shall be appointed by *the governing body and shall hold office at its pleasure.* The board shall adopt rules of procedure for conducting its business.

4-170. LIMITATIONS ON AUTHORITY. An application for appeal shall be based on a claim that the true intent of the Leawood Building Code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the Leawood Building Code do not fully apply, or an equally good or better form of construction is proposed. The Building and Fire Board of Code Appeals shall have no authority to waive requirements of the Leawood Building Code.

4-171. QUALIFICATIONS. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

4-172. UNLAWFUL ACTS. It shall be unlawful for any person, firm, corporation, partnership, association, organization, or governmental agency properly *regulated by this city* to erect, construct, alter, extend, repair, enlarge, move, improve, remove, demolish, convert, occupy, maintain, own, or cause land disturbance activities for any building, structure or equipment regulated by the Leawood Building Code, or cause same to be done, in conflict with or in violation of any of the provisions of the Leawood Building Code, fail to perform the duties of the permit or certificate holder, or fail to obey any order issued under the authority of the building official, or fail to maintain a valid operating certificate for elevator equipment.

4-173. NOTICE OF VIOLATION. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of the Leawood Building Code, or in violation of a permit or certificate issued under the provisions of the Leawood Building Code. Such order shall direct *the discontinuance of the illegal* action or condition and the abatement of the violation.

4-174. PROSECUTION OF VIOLATION. If the notice of violation is not complied with promptly, the building official is authorized to request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the Leawood Building Code or of the order or direction made pursuant thereto.

4-175. *VIOLATION, PENALTIES.* *Any person who violates a provision of the Leawood Building Code or fails to comply with any of the requirements thereof is guilty of a* public offense, punishable by a fine of not more than $500 or by imprisonment not exceeding 30 days or both such fine and imprisonment. Each day that the violation continues shall be deemed a separate offense.

4-176. CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1932C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1932C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 4, OF THE CODE OF THE CITY OF LEAWOOD 2000, ADOPTING THE INTERNATIONAL PLUMBING CODE, 2000, SAVE AND EXCEPT SUCH ARTICLES, SECTIONS, PARTS OR PORTIONS WHICH *ARE OMITTED*, DELETED, MODIFIED OR CHANGED, AND MAKING ADDITIONS THERETO, AND REPEALING EXISTING ARTICLE 4 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 4, Section 4-401, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 4. PLUMBING CODE.

4-401. INTERNATIONAL PLUMBING CODE ADOPTED. There is hereby incorporated by reference that certain code known as the International Plumbing Code, 2000 edition, prepared and published in book form by the International Code Council, Inc., including appendices B, C, D and E, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed or added thereto, such incorporation being authorized by K.S.A. § 12-3009 through 12-3012, as amended. No fewer than three copies of said Code shall be marked or stamped "Official copy as incorporated by Ordinance No. 1932C," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and *available to the public at all reasonable hours.*

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION TWO: Chapter 4, Article 4, Section 4-402, of the Code of the City of Leawood, Kansas, 2000, *is hereby amended to read as follows:*

4-402. INTERNATIONAL PLUMBING CODE CHAPTER OMITTED AND DELETED; CHAPTER 1. ADMINISTRATION. All sections of Chapter 1, entitled Administration, are hereby deleted.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION THREE: Chapter 4, Article 4, Section 4-403, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-403. SCOPE. The provisions of the Leawood Building Code shall apply to the erection, installation, alteration, repairs, relocation, replacement, addition to, use or maintenance of plumbing systems within the City of Leawood, Kansas. The installation of fuel gas distribution piping and equipment, fuel gas-fired water heaters, and water heater venting systems shall be regulated *by the International Fuel Gas Code*, as incorporated in Article 6 of this Chapter.

SECTION FOUR: Chapter 4, Article 4, Section 4-404, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-404. REQUIRED INSPECTIONS AND TESTING. (a) The building official, upon notification from the permit holder or the permit holder's agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or an agent of any violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections.

(1) Underground inspection shall be made after trenches or ditches are excavated and bedded, piping installed, and before any backfill is put in place.

(2) Rough-in inspection shall be made after the roof, framing, fireblocking, firestopping, draftstopping and bracing is in place and all sanitary, storm and water distribution piping is roughed-in, and *prior* to the installation of wall or ceiling membranes.

(3) Final inspection shall be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

(b) *Prior to the approval of a closed*, prefabricated plumbing system and the issuance of a plumbing permit, the building official shall require the submittal of an evaluation report on each prefabricated plumbing system indicating the complete details of the plumbing system, including a description of the system and its components, the basis upon which the *plumbing system is being evaluated*, test results and similar information, and other data as necessary for the building official to determine conformance to the Leawood Building Code.

(1) The building official shall designate the evaluation service of an *approved agency as the evaluation agency*, and review such agency's evaluation report for adequacy and conformance to the Leawood Building Code.

(2) Except where ready access is provided to all plumbing systems, service equipment and accessories for complete inspection at the *site without disassembly or dismantling*, the building official shall conduct the frequency of in-plant inspections necessary to ensure conformance to the approved evaluation report or shall designate an independent, approved inspection agency to conduct such inspections. The inspection agency shall *furnish the building official* with the follow-up inspection manual and a report of inspections upon request, and the plumbing system shall have an identifying label permanently affixed to the system indicating that factory inspections have been performed.

(3) All required test and inspection records shall be available to the code official at all times during the fabrication of the plumbing system and the erection of the building, or such records as the building official designates shall be filed.

(c) The following special inspections are allowed:

(1) The registered design professional or designated inspector shall periodically inspect and observe the alternative engineered design to determine that the installation is in accordance with the approved construction documents. All discrepancies shall be brought to the immediate attention of the plumbing contractor for correction. Records shall be kept of all inspections.

(2) *The registered design professional shall submit a final report in* writing to the code official upon completion of the installation, certifying that the alternative engineered design conforms to the approved construction documents. A notice of approval for the plumbing system shall not be issued until a written certification has been submitted.

(d) Plumbing work and systems shall be tested as required in Section 312 and as follows. Tests shall be made by the permit holder and observed by the building official.

(1) *New plumbing systems and parts of existing systems* that have been altered, extended or repaired shall be tested as prescribed herein to disclose leaks and defects, except that testing is not required in the following cases: (a) in any case that does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping; or (b) in any case where plumbing equipment is set up temporarily for exhibition purposes.

(2) All equipment, material and labor required for testing a plumbing system or part thereof shall be furnished by the permit holder.

(3) Where any work or installation does not pass any initial test or inspection, the necessary corrections shall be made to comply with the Leawood Building Code. The work or installation shall then be resubmitted to the building official for inspection and testing.

(e) Whenever, in the enforcement of this code or *another code or* ordinance, the responsibility of more than one code official of Leawood is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practical so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some *law, ordinance or code not* within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

(f) After the prescribed tests and inspections indicate that the work complies *in all respects with the Leawood Building Code, a notice of approval shall* be issued by the building official.

(g) The building official shall have the authority to authorize the temporary connection of the building or system to the utility source for the purpose of testing plumbing systems or for use under a *temporary certificate of* occupancy.

SECTION FIVE: Chapter 4, Article 4, Section 4-405, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

4-405. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 305.6.1. SEWER DEPTH. Section 305.6.1 is hereby amended to read as follows: Building sewers connected to public and private sewage disposal systems shall be installed in accordance with Johnson County *Wastewater District regulations.*

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SIX: Chapter 4, Article 4, Section 4-406, of the Code of the City of Leawood, Kansas, 2000, is hereby amended *to read as follows:*

4-406. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 312.9.1 INSPECTION AND TESTING OF BACKFLOW PREVENTION ASSEMBLIES, Inspections. Section 312.9.1 is hereby amended to read as follows: A certified *tester on initial* installation shall test backflow prevention assemblies and a copy of the test report shall be filed, as a part of the inspection, in the permit file. Testing shall be accomplished in accordance with one of the standards listed in Sec. 312.9 of the 2000 International Plumbing Code.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION SEVEN: Chapter 4, Article 4, Section 4-407, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-407. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 904.1 ROOF EXTENSION. Section 904.1 is hereby amended to read as follows: *All open* vent pipes that extend through a roof shall be terminated at least 12 inches above the roof, except that where the roof is to be used for any purpose other than weather protection, the vent extensions shall be run at least 7 feet above the roof.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 4, Section 4-408, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-408. INTERNATIONAL PLUMBING CODE AMENDED; SECTION 917.1 GENERAL. SECTION 917.1 is hereby amended to read as follows: Air admittance valves are allowed only when it is not structurally feasible to install a hard piped venting system and when approved by the building official. Vent systems utilizing air admittance valves shall comply with this section. Individual and branch-type air admittance valves shall conform to ASSE 1051.

(Ord. 1713C; 03-23-98)
(Code 2000)

SECTION NINE: *Chapter 4, Article 4, Section 4-409*, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-409. INTERNATIONAL PLUMBING CODE, PENALTIES. Any person violating any *provision of this Article is guilty of a public offense*, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION TEN: Repeal of Existing Article. The existing Chapter 4, Article 4, including all sections of such Article, of the Code of the City of Leawood 2000 are hereby repealed.

SECTION ELEVEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TWELVE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION THIRTEEN: Effective Date. *That said ordinance shall become* effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1929C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 1, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO THE ADMINISTRATION OF THE LEAWOOD BUILDING CODE, AND REPEALING EXISTING ARTICLE 1 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended so that the following sections read as follows:

ARTICLE 1. ADMINISTRATION

4-101. TITLE. These regulations, found in Chapter IV, shall be known as the Building Code of the City of Leawood, Kansas, hereinafter ["Leawood Building Code"].

4-102. SCOPE. Article 1 of the Leawood Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, as regulated by Articles 2 through 12 of the Leawood Building Code and shall be used to administer each such article.

4-103. INTENT. The purpose of the Leawood Building Code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

4-104. APPLICABILITY. Where, in any specific case, different sections of the Leawood Building Code, Leawood Municipal Code, or Leawood Development Ordinance specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement of the Leawood Building Code and a specific requirement of the Leawood Building Code, the specific requirement shall be applicable.

4-105. OTHER LAWS. The provisions of the Leawood Building Code shall not be deemed to nullify any other provisions of local, state, or federal law.

4-106. APPLICATION OF REFERENCES. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section, or provision of the Leawood Building Code.

4-107. REFERENCED CODES AND STANDARDS. The codes and standards referenced in the Leawood Building Code shall be considered part of the requirements of the Leawood Building Code to the prescribed extent of each such reference. Where differences occur between provisions of the Leawood

Building Code and referenced codes and standards, the provisions of the Leawood Building Code shall apply.

4-108. PARTIAL INVALIDITY. In the event any part or provision of the Leawood Building Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

4-109. EXISTING STRUCTURES. The legal occupancy of any structure existing on the date of adoption of the Leawood Building Code shall be permitted to continue without change, except as is specifically covered in the Leawood Building Code, Fire Protection Code (Chapter VII) or Property Maintenance Code (Chapter VIII), or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

4-110. DUTIES AND POWERS OF BUILDING OFFICIAL. The building official is hereby authorized and directed to enforce the provisions of the Leawood Building Code. The building official shall have the authority to render interpretations of the Leawood Building Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall comply with the intent and purpose of the Leawood Building Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the Leawood Building Code. The building official shall be known as the codes administrator, and such term shall include his/her authorized representatives. Further, whenever the term or title "administrative authority," "code enforcement officer," "responsible official," "codes administrator," "director" or other similar designation is used in any of the codes adopted by reference by the Leawood Building Code, it shall be construed to mean the building official, except in matters rightfully under the jurisdiction of the Fire Protection Code (Chapter VII). In addition, the fire official shall have the above-mentioned duties and powers where fire apparatus emergency access drives, fire suppression and fire alarm systems are concerned. Except as expressly set forth herein, the building official does not have the authority to waive any requirement of law.

4-111. APPLICATIONS AND PERMITS. The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the Leawood Building Code.

4-112. NOTICES AND ORDERS. The building official shall issue all necessary notices or orders to ensure compliance with the Leawood Building Code.

4-113. INSPECTIONS. The building official and/or the fire official (as appropriate) shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual.

4-114. RIGHT OF ENTRY. Where it is necessary to make an inspection to enforce the provisions of the Leawood Building Code, or where the building official has reasonable cause to believe that there exists in a structure or upon premises, a condition which is contrary to or in violation of the Leawood Building Code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the Leawood Building Code, provided that, if such structure or premises be occupied, credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

4-115. RECORDS. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

4-116. APPROVED MATERIALS AND EQUIPMENT. Materials, equipment, and devices approved by the building official shall be constructed and installed in accordance with such approval.

4-117. USED MATERIALS AND EQUIPMENT. The use of used materials, which meet the requirements of the Leawood Building Code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the building official.

4-118. MODIFICATIONS. Wherever there are practical difficulties involved in carrying out the provisions of the Leawood Building Code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of the Leawood Building Code impractical and the modification is in compliance with the intent and purpose of the Leawood Building Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. If such requested modification involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the modification must also be approved by the fire official. The details of action granting modifications shall be recorded and entered in the files of codes administration.

4-119. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT. The provisions of the Leawood Building Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the Leawood Building Code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of the Leawood Building Code, and that the material, method or work

offered is, for the purpose intended, at least the equivalent of that prescribed in the Leawood Building Code in quality, strength, effectiveness, fire resistance, durability and safety. If such requested alternative material, design and/or method or equipment involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the alternative must also be approved by the fire official.

4-120. TESTS. Whenever there is insufficient evidence of compliance with the provisions of the Leawood Building Code, or evidence that a material or method does not conform to the requirements of the Leawood Building Code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in the Leawood Building Code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

4-121. PERMITS. Any owner or authorized agent who intends to do work subject to the Leawood Building Code or to otherwise construct, enlarge, alter, repair, move, shore, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, or elevator system, the installation of which is regulated by the Leawood Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

4-122. WORK EXEMPT FROM PERMIT. Exemptions from permit requirements of the Leawood Building Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the Leawood Building Code or any other laws or ordinances of this jurisdiction. Such permits shall not be required for the following:

(a) BUILDING:

1. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
2. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route
3. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
4. Temporary motion picture, television, and theater stage sets and scenery.
5. Swings and other playground equipment accessory to one- and two-family dwellings.
6. Window awnings supported by an exterior wall of Group R-3 and Group U occupancies.

7. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

(b) ELECTRICAL:

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Radio and television transmitting stations: The provisions of the Leawood Building Code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, and the installations of towers and antennas.
3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) GAS:

1. Installation or placement of a portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

(d) MECHANICAL:

1. Installation or placement of a portable heating appliance.
2. Installation or placement of portable ventilation equipment.
3. Installation or placement of a portable cooling unit.
4. Installation or placement of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Leawood Building Code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Installation or placement of a portable evaporative cooler.
7. Installation or placement of a self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

(e) PLUMBING:

1. The stopping of leaks in drains, water, soil, waste or vent pipes; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in the Leawood Building Code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water

closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

(f) EMERGENCY REPAIRS: Where equipment replacements and repairs must be performed in an emergency, the permit application shall be submitted within the next working business day to the building official.

(g) MINOR REPAIRS: Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

(h) PUBLIC UTILITIES: A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public utilities by established right.

4-123. APPLICATION FOR PERMIT. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall:

(a) Identify and describe the work to be covered by the permit for which application is made.
(b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
(c) Indicate the use and occupancy for which the proposed work is intended.
(d) Be accompanied by construction documents and other information as required by building official.
(e) State the valuation of the proposed work.
(f) Be signed by the applicant, or the applicant's authorized agent.
(g) Give such other data and information as required by the building official.

4-124. APPLICATION FOR MOVING OR SHORING PERMIT. To obtain a 5-day moving or shoring permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such

application shall indicate and include all of the following items unless otherwise indicated:

(a) The dimensions of the building or structure as to length, height at its highest point when loaded for moving, and its width.

(b) The definite description of the building or structure proposed to be moved giving street number, construction materials, dimensions in square feet, number of rooms and condition of exterior and interior.

(c) The plot plan to scale with legal description of the lot from which the building is to be moved, giving the lot number, block number and subdivision, if located within the city.

(d) The plot plan to scale with the legal description of the lot to which it is proposed such building be moved, giving lot number, block number and subdivision, if located within the city.

(e) The date and hour when the moving is to commence and length of time of the move. In no event will moving of buildings or structures be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the building official.

(f) The highways, streets, alleys or sidewalks over, along or across which the building or structure is proposed to be moved.

(g) The application shall be made not less than seven calendar days prior to the commencement of the moving and shall be accompanied by a fee as set forth in the City of Leawood Fee Schedule.

(h) The application must include copies of written notice that has been given by the applicant to the owners of adjacent lots and to the owners of wired or other facilities, whenever same will affect the public utilities located within the city limits, should a permit be granted for the removal of building or structure.

(i) The applicant of the building or structure to be moved, shall file with the application sufficient evidence that the building or structure and lot from which it is to be moved are free of any entanglements and that all taxes and any city charges against the owner are paid in full.

(j) Applicant should furnish a certificate of liability insurance for personal and property damage exempting and saving harmless the city in a minimum amount of $100,000 injury each person, $300,000 each occurrence, and $50,000 property damage.

(k) The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence that he or she is entitled to move the building or structure.

(l) Evidence that all public utilities have been properly disconnected.

(m) A satisfactory pre-move inspection report from the building official on general code conformance of the structure to be moved.

(n) A satisfactory foundation inspection report from the building official for the proposed location. A satisfactory pre-move inspection report

from the building official is required to obtain a foundation permit for the proposed location.

(o) Approval by the director of public works and chief of police of the moving route plan.

(p) If the site is in the City, a brief description of proposed condition the present site is to be left in upon completion of removal of the structure.

(q) Provide a good and sufficient bond to the city in the sum of $10,000, with good and sufficient security, conditioned, among other things, that the principal shall pay any and all damages which may be caused to any property, public or private, within the city when such injury or damage shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor, or subcontractor, and such bond shall be conditioned also that the principal will serve, indemnify and protect the city from any and all liability, and that he or she will, in all respects, comply with all ordinances of the city, and comply with the terms of the permit and be conditional upon faithful performance of the move. The city attorney must approve the form of such bond.

4-125. APPLICATION FOR STRUCTURE DEMOLITION PERMIT. To obtain a 15-day structure demolition permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall provide:

(a) A site plan showing the location of the building or structure to be demolished and of all existing buildings on the property. The plan shall additionally show any necessary means of pedestrian protection as required by the Leawood Building Code.

(b) The location where the demolition debris will be deposited.

(c) The height and the total square footage of the building.

(d) Evidence of required street closure permit.

(e) The length of time required to complete the proposed work.

(f) The name and address of the owner of the building.

(g) The type of equipment or method used to demolish the building.

(h) Evidence that all public utilities have been disconnected.

(i) Proof of rat-abating of any building at least ten days before the demolition may be required.

(j) Proof of permission from the owner to demolish the building.

4-126. ISSUANCE OF PERMITS TO LICENSED OR REGISTERED CRAFTSMEN.

(a) Permits shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits. Certification of at least one employee of the respective company as a master tradesman shall be a requisite for licensing a plumbing, electrical or HVAC contractor.

A master technician certification must have been obtained via a governmental program where both a written examination and experience were pre-requisites. The city licensing technician shall be responsible for verifying the certification status of contractor applicants for a license. The certification of the technician and the city occupation license must remain current throughout the period of construction. Occupation licenses are required for all contractors doing business in Leawood. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. In addition, each contractor and sub-contractor must show proof of comprehensive general liability insurance coverage with minimum limits of $100,000 per person and $300,000 per occurrence for personal injuries and/or property damage that arises from work the contractor performed during the term of the building permit or during actual construction, whichever date is later. Proof of insurance will be a copy of the "Certificate of Insurance" naming the City of Leawood as a certificate holder.

EXCEPTION: Permits may be issued to homeowners doing construction work at their own residence who do not possess a valid license, insurance, or registration. Homeowners, however, must certify that they are capable and will personally participate in the "permitted" work.

(b) Effective February 1, 2002, permits shall be issued only to individuals or persons responsible to a company or organization that possesses a valid contractor's license issued by Johnson County, Kansas and a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits provided that such sub-contractors are also appropriately licensed. All licenses must remain current throughout the period of construction. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. All permit holders must maintain general liability insurance coverage as required by Johnson County, Kansas.

EXCEPTIONS:

(1) Permits may be issued to a homeowner who will occupy or who is personally occupying and undertaking construction, alteration, repair or maintenance of such homeowner's single-family residence or an accessory structure thereto who does not possess a valid contractor's license and required insurance. Homeowners, however, must certify that they are capable and will personally participate in the permitted work. Further, any contractor or sub-contractor hired by the homeowner must meet all requirements and maintain all licenses required by this section prior to commencing any permitted work. Notwithstanding the foregoing,

any homeowner who undertakes the construction of a new residence for his/her personal occupancy more than three times in any five year period must have the required licenses for the third residential construction project and for any future construction projects.

For purposes of this exception, the terms "contractor" and "sub-contractor" shall be defined to mean "one who performs for and takes from the homeowner a specific part of the labor or material requirements of the permitted work."

(2) Permits may be issued for fence construction to persons who do not possess a valid contractor's license or the required insurance.

(3) Employees or agents working for and under the supervision of a licensed contractor firm as set forth in the Johnson County Contractor Licensing Regulations need not be individually licensed or insured to participate in the permitted work.

(Ord. 1711C; 3-23-98)
(Code 2000)

4-127. SANITARY SEWER CONSTRUCTION AND CONNECTION, PERMIT/APPROVALS REQUIRED. No building permit for any building to be located within a legally created sewer district in the City of Leawood, in which sanitary sewage will, or may originate, shall be issued until and unless the applicant, or his or her agent, has previously applied for and received from the sewer district an outside sanitary sewer construction and connection permit or a waiver letter as required by the rules and regulations of the Wastewater District. The building official may waive this requirement when the project is (a) a residential remodel not including the addition of new plumbing fixtures; (b) a tenant finish project that does not include alterations to existing plumbing; (c) a residential remodel not encroaching on a platted sewer easement and not impacting the capacity of sewage lines; or (d) footing or foundation work as a part of a phased approval process otherwise authorized under the Leawood Building Code. Provided, however, all private sewage disposal systems shall be approved by the Johnson County Wastewater District and the Governing Body of the City of Leawood, Kansas.

4-128. ACTION ON APPLICATION. The building official shall examine or cause to be examined applications for permits and amendments thereto. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of the Leawood Building Code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

4-129. TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the

date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

4-130. VALIDITY OF PERMIT. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the Leawood Building Code or of any other ordinance, regulation or law. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure, which is in violation of the Leawood Building Code or of any other ordinances of this jurisdiction.

EXPIRATION. Permits shall expire under the following circumstances:

(a) Permits for residential room additions, remodels and re-roofing or for exterior work, i.e., grading, walls, fences, decks, patios, patio covers and similar types of work, will expire in 180 days.

(b) Permits for other new construction will expire in 365 days unless the work authorized by the permit is not commenced within 180 days after issuance, in which case, the permit will expire in 180 days. If the work is at any time during the permitting period, suspended or abandoned, then the permit shall expire on the earlier of its one year term, or 180 days after the suspension or abandonment.

(c) Moving permits shall expire five days after issuance.

(d) Demolition permits shall expire 15 days after issuance.

(e) Every other type of permit, not otherwise listed above, shall expire 180 days after issuance.

(f) For all permits other than moving or demolition permits, the building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing prior to expiration of the term of the permit and justifiable cause demonstrated. The building official may only grant an extension upon finding that substantial progress has been made toward completion. Substantial progress means that the project is over 50% complete and, in the opinion of the building official, the project applicant has the capability to finish the work permitted within one time period extension.

Failure to complete a project in the time limits stated above or failure to maintain a valid permit constitutes a violation of the Leawood Building Code.

4-131. SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of the Leawood Building Code wherever the permit is issued in error or based on incorrect, inaccurate, or

incomplete information, or in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-132. PLACEMENT OF PERMIT. All permits shall be posted to be visible from the street and kept on the site of the work until the completion of the project.

4-133. SUBMITTAL DOCUMENTS. Construction documents, special inspection and structural observation programs, and other data shall be submitted in two or more sets with each application for a permit. Six sets are required for new commercial projects, four sets are required for commercial tenant improvement projects, and two sets are required for Group R-3 occupancies. A registered design professional licensed by the State of Kansas shall prepare the construction documents. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional licensed by the State of Kansas.

> **EXCEPTION**: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with the Leawood Building Code.

4-134. INFORMATION ON CONSTRUCTION DOCUMENTS. Construction documents shall be dimensioned and drawn upon suitable material. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the Leawood Building Code and relevant laws, ordinances, rules and regulations, as determined by the building official. The construction documents shall show in sufficient detail the location, construction, size, and character of all portions of the means of egress in compliance with the provisions of the Leawood Building Code. Other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with the Leawood Building Code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings. The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which, where applicable, was tested, as well as the test procedure used.

4-135. CERTIFICATION OF COMPLIANCE WITH LAW. The registered design professional of record licensed by the State of Kansas shall sign a certificate that the plans and specifications have been prepared in accordance with the adopted

codes and that all requirements of law, including the requirements of the Americans with Disabilities Act have been satisfied.

4-136. FIRE PROTECTION SYSTEM SHOP DRAWINGS. Fire Protection shop drawings shall be submitted to the fire official and shall indicate conformance with the Leawood Building Code and Fire Protection Code (Chapter VII). The construction documents shall be approved before the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in the Leawood Building Code.

4-137. SITE PLAN. There shall be a site plan showing, to scale, the size and location of all the new construction and all existing structures on the site including easements, sewers, drains, utilities, etc., distances from lot lines, established street grades, and the proposed finished grades, and it shall be drawn in accordance with an accurate boundary line survey. All decks, balconies, overhangs, or other building protrusions shall be indicated and dimensioned. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site of the plot. Fire apparatus access roads provided and fire hydrant coverage as approved by the fire official shall be indicated as such on the site plan. The property owner or his or her agent shall certify to the building official that the top of the foundation for a building will be in conformance with the approved site plan, including building elevations, site grading, erosion control devices, and building setbacks. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair and does not affect the exterior features of the building.

4-138. EXAMINATION OF DOCUMENTS. The building official and fire official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the Leawood Building Code and other pertinent laws or ordinances.

4-139. APPROVAL OF CONSTRUCTION DOCUMENTS. When the building official issues a permit, the construction documents shall be approved in writing or by stamp, as "Reviewed for Code Compliance." The building official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his or her authorized representative.

4-140. PREVIOUS APPROVALS. The Leawood Building Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued and otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of the Leawood Building Code and has not been abandoned.

4-141. PHASED APPROVAL. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been

submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of the Leawood Building Code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

4-142. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE. When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The owner shall notify the building official in writing if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Where the Leawood Building Code requires structural observation, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

4-143. DEFERRED SUBMITTALS. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the Leawood Building Code and with the design of the building. The deferred submittal items shall not be installed until the building official has approved their design and submittal documents.

4-144. AMENDED CONSTRUCTION DOCUMENTS. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

4-145. TEMPORARY STRUCTURES AND USES GENERAL. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service and are only allowed if authorized under the Leawood Development Ordinance and the provisions of the Leawood

Building Code, the building official may grant extensions for these uses for demonstrated cause.

4-146. CONFORMANCE. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the Leawood Building Code as necessary to ensure the public health, safety and general welfare.

4-147. TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat, or power in the National Electrical Code.

4-148. TERMINATION OF APPROVAL. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

4-149. PAYMENT OF FEES. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

4-150. SCHEDULE OF PERMIT FEES. On buildings, structures, electrical, gas, mechanical, elevator equipment, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the City of Leawood Fee Schedule.

4-151. BUILDING PERMIT VALUATIONS. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. The building official shall set final building permit valuation.

4-152. WORK COMMENCING BEFORE PERMIT ISSUANCE. Any person who commences any work subject to the requirements of permitting under the Leawood Building Code before obtaining the necessary permits shall be subject to an additional fee established by the City of Leawood Fee Schedule that shall be in addition to the required permit fees. Work that has commenced on a building, structure, electrical, gas, mechanical, elevator equipment, or plumbing system before obtaining the necessary permits constitutes a violation of the Leawood Building Code.

4-153. RELATED FEES. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees established by the City of Leawood Fee Schedule.

4-154. REFUNDS. Unless specifically set forth herein, all fees paid are non-refundable. The building official may authorize refunding of any fee paid hereunder, which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with the Leawood Building Code. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permit holder not later than 180 days after the date of fee payment.

4-155. INSPECTIONS, GENERAL. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval because of an inspection shall not be construed to be an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of the Leawood Building Code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

4-156. PRELIMINARY INSPECTION. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

4-157. REQUIRED INSPECTIONS. The building official, upon notification, shall make the inspections set forth in the Leawood Building Code and the policies and procedures for required inspections.

(a) *FOOTING AND FOUNDATION INSPECTIONS.* Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place before inspection. Materials for the foundation shall be on the job, except if concrete is ready mixed in accordance with ASTM C 94, then the concrete need not be on the job.

(b) *CONCRETE SLAB OR UNDER-FLOOR INSPECTION.* Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.

(c) *LOWEST FLOOR ELEVATION.* The elevation certification required in the Leawood Building Code shall be submitted to the building official.

(d) *FRAME INSPECTION.* Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

(e) *LATH OR GYPSUM BOARD INSPECTION.* Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

EXCEPTION: Gypsum board that is not part of a fire-resistive assembly or a shear assembly is not subject to inspection.

(f) *FIRE-RESISTANT PENETRATIONS.* Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

(g) *ENERGY EFFICIENCY INSPECTIONS.* Inspections shall be made to determine compliance with the Leawood Building Code and shall include, but not be limited to, inspections for: envelope insulation R and U value, fenestration U value, duct system R value, and HVAC and water heating equipment efficiency.

(h) *ROOFING INSPECTIONS.* Roofing inspections shall be made at the mid-point of roofing installation and after roofing installation is complete.

(i) *OTHER INSPECTIONS.* In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the Leawood Building Code and other laws that are enforced by the building official.

(j) *SPECIAL INSPECTIONS.* Special inspections as set forth in Section 1704 of the International Building Code, 2000, as adopted by Article 2 of this Chapter.

(k) *FIRE PROTECTION INSPECTIONS.* Inspection of all fire protection systems. The fire official or his or her designee shall make this inspection.

(l) *FINAL INSPECTION.* The final inspection shall be made after all work required by the building permit is completed.

4-158. INSPECTION AGENCIES. The building official is authorized to accept reports of approved, qualified and reliable inspection agencies.

4-159. INSPECTION REQUESTS. It shall be the duty of the holder of the permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the holder of any temporary certificate of occupancy or their duly authorized agent to notify the building official when work

is ready for inspection prior to the expiration of the temporary certificate of occupancy. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by the Leawood Building Code.

4-160. APPROVAL REQUIRED. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the Leawood Building Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

4-161. USE AND OCCUPANCY. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the City of Leawood.

4-162. CHANGE IN USE. Changes in the character or use of an existing structure shall not be made except as specified in the Leawood Building Code.

4-163. CERTIFICATE ISSUED. After the building official inspects the building or structure and finds no violations of the provisions of the Leawood Building Code, Leawood Development Ordinance, Fire Protection Code (Chapter VII), Property Maintenance Code (Chapter VIII), or other laws that are enforced by the building official, the building official shall issue a certificate of occupancy.

4-164. TEMPORARY OCCUPANCY. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

4-165. REVOCATION. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of the Leawood Building Code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-166. CONNECTION OF SERVICE UTILITIES. No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by the Leawood Building Code for which a permit is required, until released by the building official.

4-167. TEMPORARY CONNECTION. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

4-168. AUTHORITY TO DISCONNECT SERVICE UTILITIES. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the Leawood Building Code, Fire Protection Code (Chapter VII), or Property Maintenance Code (Chapter VIII), or in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect before taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

4-169. BUILDING AND FIRE CODE BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the Leawood Building Code, there shall be and is hereby created a Building and Fire Board of Code Appeals. The Building and Fire Board of Code Appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

4-170. LIMITATIONS ON AUTHORITY. An application for appeal shall be based on a claim that the true intent of the Leawood Building Code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the Leawood Building Code do not fully apply, or an equally good or better form of construction is proposed. The Building and Fire Board of Code Appeals shall have no authority to waive requirements of the Leawood Building Code.

4-171. QUALIFICATIONS. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

4-172. UNLAWFUL ACTS. It shall be unlawful for any person, firm, corporation, partnership, association, organization, or governmental agency properly regulated by this city to erect, construct, alter, extend, repair, enlarge, move, improve, remove, demolish, convert, occupy, maintain, own, or cause land disturbance activities for any building, structure or equipment regulated by the Leawood Building Code, or cause same to be done, in conflict with or in violation of any of the provisions of the Leawood Building Code, fail to perform the duties of the permit or certificate holder, or fail to obey any order issued under the authority of the building official, or fail to maintain a valid operating certificate for elevator equipment.

4-173. NOTICE OF VIOLATION. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of the Leawood Building Code, or in violation of a permit or certificate issued under the provisions of the Leawood Building Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

4-174. PROSECUTION OF VIOLATION. If the notice of violation is not complied with promptly, the building official is authorized to request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the Leawood Building Code or of the order or direction made pursuant thereto.

4-175. VIOLATION, PENALTIES. Any person who violates a provision of the Leawood Building Code or fails to comply with any of the requirements thereof is guilty of a public offense, punishable by a fine of not more than $500 or by imprisonment not exceeding 30 days or both such fine and imprisonment. Each day that the violation continues shall be deemed a separate offense.

4-176. CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of the code of the City of Leawood, Kansas.

4-177. STOP WORK ORDER. Whenever the building official finds any work regulated by the Leawood Building Code or any other City of Leawood Ordinances being performed in a manner contrary to the provisions of the Leawood Building Code or any other City of Leawood Ordinances or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

4-178. ISSUANCE OF STOP WORK ORDER. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Any violation of a stop work order will constitute a violation of the Leawood Building Code.

4-179. UNLAWFUL CONTINUANCE. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by the Leawood Building Code.

4-180. UNSAFE STRUCTURES AND EQUIPMENT CONDITIONS. Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be declared to be unsafe. Unsafe structures and/or equipment shall be taken down and removed or made safe, as the building official deems necessary and as set forth in Article 11 of this Code. A vacant structure that is not secured against entry shall be deemed unsafe.

4-181. RECORD. The building official shall cause a report to be filed within the City of Leawood's business records on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

4-182. NOTICE. If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

4-183. METHOD OF SERVICE. All written inspection reports, notices, or orders shall be deemed properly served if a copy thereof is (a) posted at the concerned property; (b) delivered to the owner personally; (c) sent by certified or registered mail addressed to the owner at the last known address, return receipt requested; or (d) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

4-184. RESTORATION. The structure or equipment determined to be unsafe by the building official may be restored to a safe condition. To the extent that repairs, alterations, or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of the Leawood Building Code.

SECTION TWO: Repeal of Existing Article. The existing Chapter 4, Article 1, and all sections in such Article 1 of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1929C

Publication Fees: $373.91

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1929C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$373.91

alarm control panels shall be programmable for cross-zone verification and/or partial activation of notification and control devices.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION EIGHT: Chapter 4, Article 2, Section 4-208, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-208. INTERNATIONAL BUILDING CODE AMENDED; SECTION 1505.1. GENERAL. Section 1505.1 is hereby amended to read as follows: All roof coverings assemblies shall be Class A rated. Class A roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898.

EXCEPTION: Group R-3 occupancies complying with Article 4-906 of the Leawood Building Code do not need to comply with this section.

(Ord. 1711C; 03-23-98)
(Code 2000)

(k) The permit holder shall be liable for any expenses, damages, costs in excess of deposited amounts of securities, and the city attorney shall prosecute an action against the permit holder in a court of competent jurisdiction for the recovery of such excessive amounts.

(Ord. 1711C; 03-23-98)
(Code 2000)

SECTION SIXTEEN: Chapter 4, Article 2, Section 4-216, of the Code of the City of Leawood, Kansas, 2000, is hereby added and amended to read as follows:

4-216. INTERNATIONAL BUILDING CODE, PENALTIES. Any person violating any provision of this Article, is guilty of a public offense, punishable by penalties as set forth in section 4-175 of the Code of the City of Leawood, 2000, as amended.

SECTION SEVENTEEN: Repeal of Existing Article. The existing Chapter 4, Article 2 and all sections thereof, of the Code of the City of Leawood 2000 is hereby repealed.

SECTION EIGHTEEN: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION NINETEEN: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION TWENTY: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1928C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1928C

ORDINANCE REPEALING CHAPTER 1, ARTICLE 4, SECTION 1-411, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO THE POSITION OF THE ASSISTANT CITY CLERK, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 4, Section 1-411, of the Code of the City of Leawood, Kansas, 2000, is hereby repealed.

(Ord. 1162C; 05-07-90)
(Code 2000)

SECTION TWO: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FOUR: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

CONTINUED FROM PRECEDING PAGE

4-168. AUTHORITY TO DISCONNECT SERVICE UTILITIES. The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by the Leawood Building Code, Fire Protection Code (Chapter VII), or Property Maintenance Code (Chapter VIII), or in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect before taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

4-169. BUILDING AND FIRE CODE BOARD OF APPEALS. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the Leawood Building Code, there shall be and is hereby created a Building and Fire Board of Code Appeals. The Building and Fire Board of Code Appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business.

4-170. LIMITATIONS ON AUTHORITY. An application for appeal shall be based on a claim that the true intent of the Leawood Building Code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of the Leawood Building Code do not fully apply, or an equally good or better form of construction is proposed. The Building and Fire Board of Code Appeals shall have no authority to waive requirements of the Leawood Building Code.

4-171. QUALIFICATIONS. The board of appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of the jurisdiction.

4-172. UNLAWFUL ACTS. It shall be unlawful for any person, firm, corporation, partnership, association, organization, or governmental agency properly regulated by this city to erect, construct, alter, extend, repair, enlarge, move, improve, remove, demolish, convert, occupy, maintain, own, or cause land disturbance activities for any building, structure or equipment regulated by the Leawood Building Code, or cause same to be done, in conflict with or in violation of any of the provisions of the Leawood Building Code, fail to perform the duties of the permit or certificate holder, or fail to obey any order issued under the authority of the building official, or fail to maintain a valid operating certificate for elevator equipment.

4-173. NOTICE OF VIOLATION. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of the Leawood Building Code, or in violation of a permit or certificate issued under the provisions of the Leawood Building Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

4-174. PROSECUTION OF VIOLATION. If the notice of violation is not complied with promptly, the building official is authorized to request the City Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of the Leawood Building Code or of the order or direction made pursuant thereto.

4-175. VIOLATION, PENALTIES. Any person who violates a provision of the Leawood Building Code or fails to comply with any of the requirements thereof is guilty of a public offense, punishable by a fine of not more than $500 or by imprisonment not exceeding 30 days or both such fine and imprisonment. Each day that the violation continues shall be deemed a separate offense.

4-176. CIVIL ACTIONS. Notwithstanding any other provisions of this chapter, decisions of the building official, or such assistant or assistants as he or she may appoint, or decisions by the board of appeals reviewing decisions of the building official or his or her assistants shall be enforceable in the District Court of Johnson County, Kansas or any other court of competent territorial jurisdiction upon action brought by the city attorney, assistant city attorney, special attorney, or other legal counsel authorized to maintain such action for the enforcement of the provisions of the code of the City of Leawood, Kansas."

4-177. STOP WORK ORDER. Whenever the building official finds any work regulated by the Leawood Building Code or any other City of Leawood Ordinances being performed in a manner contrary to the provisions of the Leawood Building Code or any other City of Leawood Ordinances or in a dangerous or unsafe manner, the building official is authorized to issue a stop work order.

4-178. ISSUANCE OF STOP WORK ORDER. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume. Any violation of a stop work order will constitute a violation of the Leawood Building Code.

4-179. UNLAWFUL CONTINUANCE. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by the Leawood Building Code.

4-180. UNSAFE STRUCTURES AND EQUIPMENT CONDITIONS. Structures or existing equipment that are or hereafter become unsafe, unsanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be declared to be unsafe. Unsafe structures and/or equipment shall be taken down and removed or made safe, as the building official deems necessary and as set forth in Article 11 of this Code. A vacant structure that is not secured against entry shall be deemed unsafe.

4-181. RECORD. The building official shall cause a report to be filed within the City of Leawood's business records on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

4-182. NOTICE. If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

4-183. METHOD OF SERVICE. All written inspection reports, notices, or orders shall be deemed properly served if a copy thereof is (a) posted at the concerned property; (b) delivered to the owner personally; (c) sent by certified or registered mail addressed to the owner at the last known address, return receipt requested; or (d) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

4-184. RESTORATION. The structure or equipment determined to be unsafe by the building official may be restored to a safe condition. To the extent that repairs, alterations, or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions, or change of occupancy shall comply with the requirements of the Leawood Building Code.

SECTION TWO: Repeal of Existing Article. The existing Chapter 4, Article 1, and all sections in such Article 1 of the Code of the City of Leawood 2000 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1929C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1929C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 1, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO THE ADMINISTRATION OF THE LEAWOOD BUILDING CODE, AND REPEALING EXISTING ARTICLE 1 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended so that the following sections read as follows:

ARTICLE 1. ADMINISTRATION

4-101. TITLE. These regulations, found in Chapter IV, shall be known as the Building Code of the City of Leawood, Kansas, hereinafter ["Leawood Building Code"].

4-102. SCOPE. Article 1 of the Leawood Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, as regulated by Articles 2 through 12 of the Leawood Building Code and shall be used to administer each such article.

4-103. INTENT. The purpose of the Leawood Building Code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

4-104. APPLICABILITY. Where, in any specific case, different sections of the Leawood Building Code, Leawood Municipal Code, or Leawood Development Ordinance specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement of the Leawood Building Code and a specific requirement of the Leawood Building Code, the specific requirement shall be applicable.

4-105. OTHER LAWS. The provisions of the Leawood Building Code shall not be deemed to nullify any other provisions of local, state, or federal law.

4-106. APPLICATION OF REFERENCES. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section, or provision of the Leawood Building Code.

4-107. REFERENCED CODES AND STANDARDS. The codes and standards referenced in the Leawood Building Code shall be considered part of the requirements of the Leawood Building Code to the prescribed extent of each such reference. Where differences occur between provisions of the Leawood Building Code and referenced codes and standards, the provisions of the Leawood Building Code shall apply.

4-108. PARTIAL INVALIDITY. In the event any part or provision of the Leawood Building Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

4-109. EXISTING STRUCTURES. The legal occupancy of any structure existing on the date of adoption of the Leawood Building Code shall be permitted to continue without change, except as is specifically covered in the Leawood Building Code, Fire Protection Code (Chapter VII) or Property Maintenance Code (Chapter VIII), or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

4-110. DUTIES AND POWERS OF BUILDING OFFICIAL. The building official is hereby authorized and directed to enforce the provisions of the Leawood Building Code. The building official shall have the authority to render interpretations of the Leawood Building Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall comply with the intent and purpose of the Leawood Building Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the Leawood Building Code. The building official shall be known as the codes administrator, and such term shall include his/her authorized representatives. Further, whenever the term or title "administrative authority," "code enforcement officer," "responsible official," "codes administrator," "director" or other similar designation is used in any of the codes adopted by reference by the Leawood Building Code, it shall be construed to mean the building official, except in matters rightfully under the jurisdiction of the Fire Protection Code (Chapter VII). In addition, the fire official shall have the above-mentioned duties and powers where fire apparatus emergency access drives, fire suppression and fire alarm systems are concerned. Except as expressly set forth herein, the building official does not have the authority to waive any requirement of law.

4-111. APPLICATIONS AND PERMITS. The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the Leawood Building Code.

4-112. NOTICES AND ORDERS. The building official shall issue all necessary notices or orders to ensure compliance with the Leawood Building Code.

4-113. INSPECTIONS. The building official and/or the fire official (as appropriate) shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual.

4-114. RIGHT OF ENTRY. Where it is necessary to make an inspection to enforce the provisions of the Leawood Building Code, or where the building official has reasonable cause to believe that there exists in a structure or upon premises, a condition which is contrary to or in violation of the Leawood Building Code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the Leawood Building Code, provided that, if such structure or premises be occupied, credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

4-115. RECORDS. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

4-116. APPROVED MATERIALS AND EQUIPMENT. Materials, equipment, and devices approved by the building official shall be constructed and installed in accordance with such approval.

4-117. USED MATERIALS AND EQUIPMENT. The use of used materials, which meet the requirements of the Leawood Building Code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the building official.

4-118. MODIFICATIONS. Wherever there are practical difficulties involved in carrying out the provisions of the Leawood Building Code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of the Leawood Building Code impractical and the modification is in compliance with the intent and purpose of the Leawood Building Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. If such requested modification involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the modification must also be approved by the fire official. The details of action granting modifications shall be recorded and entered in the files of codes administration.

4-119. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT. The provisions of the Leawood Building Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the Leawood Building Code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of the Leawood Building Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Leawood Building Code in quality, strength, effectiveness, fire resistance, durability and safety. If such requested alternative material, design and/or method or equipment involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the alternative must also be approved by the fire official.

4-120. TESTS. Whenever there is insufficient evidence of compliance with the provisions of the Leawood Building Code, or evidence that a material or method does not conform to the requirements of the Leawood Building Code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in the Leawood Building Code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

4-121. PERMITS. Any owner or authorized agent who intends to do work subject to the Leawood Building Code or to otherwise construct, enlarge, alter, repair, move, shore, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, or elevator system, the installation of which is regulated by the Leawood Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

4-122. WORK EXEMPT FROM PERMIT. Exemptions from permit requirements of the Leawood Building Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the Leawood Building Code or any other laws or ordinances of this jurisdiction. Such permits shall not be required for the following:

(a) BUILDING:

1. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
2. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route
3. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
4. Temporary motion picture, television, and theater stage sets and scenery.
5. Swings and other playground equipment accessory to one- and two-family dwellings.
6. Window awnings supported by an exterior wall of Group R-3 and Group U occupancies.
7. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

(b) ELECTRICAL:

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Radio and television transmitting stations: The provisions of the Leawood Building Code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, and the installations of towers and antennas.
3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) GAS:

1. Installation or placement of a portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

(d) MECHANICAL:

1. Installation or placement of a portable heating appliance.
2. Installation or placement of portable ventilation equipment.
3. Installation or placement of a portable cooling unit.
4. Installation or placement of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Leawood Building Code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Installation or placement of a portable evaporative cooler.
7. Installation or placement of a self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

(e) PLUMBING:

1. The stopping of leaks in drains, water, soil, waste or vent pipes; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in the Leawood Building Code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

(f) EMERGENCY REPAIRS: Where equipment replacements and repairs must be performed in an emergency, the permit application shall be submitted within the next working business day to the building official.

(g) MINOR REPAIRS: Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

(h) PUBLIC UTILITIES: A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public utilities by established right.

4-123. APPLICATION FOR PERMIT. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall:

(a) Identify and describe the work to be covered by the permit for which application is made.
(b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
(c) Indicate the use and occupancy for which the proposed work is intended.
(d) Be accompanied by construction documents and other information as required by building official.
(e) State the valuation of the proposed work.
(f) Be signed by the applicant, or the applicant's authorized agent.
(g) Give such other data and information as required by the building official.

4-124. APPLICATION FOR MOVING OR SHORING PERMIT. To obtain a 5-day moving or shoring permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall indicate and include all of the following items unless otherwise indicated:

(a) The dimensions of the building or structure as to length, height at its highest point when loaded for moving, and its width.
(b) The definite description of the building or structure proposed to be moved giving street number, construction materials, dimensions in square feet, number of rooms and condition of exterior and interior.
(c) The plot plan to scale with legal description of the lot from which the building is to be moved, giving the lot number, block number and subdivision, if located within the city.
(d) The plot plan to scale with the legal description of the lot to which it is proposed such building be moved, giving lot number, block number and subdivision, if located within the city.
(e) The date and hour when the moving is to commence and length of time of the move. In no event will moving of buildings or structures be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the building official.
(f) The highways, streets, alleys or sidewalks over, along or across which the building or structure is proposed to be moved.
(g) The application shall be made not less than seven calendar days prior to the commencement of the moving and shall be accompanied by a fee as set forth in the City of Leawood Fee Schedule.
(h) The application must include copies of written notice that has been given by the applicant to the owners of adjacent lots and to the owners of wired or other facilities, whenever same will affect the public utilities located within the city limits, should a permit be granted for the removal of building or structure.
(i) The applicant of the building or structure to be moved, shall file with the application sufficient evidence that the building or structure and lot from which it is to be moved are free of any entanglements and that all taxes and any city charges against the owner are paid in full.
(j) Applicant should furnish a certificate of liability insurance for personal and property damage exempting and saving harmless the city in a minimum amount of $100,000 injury each person, $300,000 each occurrence, and $50,000 property damage.
(k) The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence that he or she is entitled to move the building or structure.
(l) Evidence that all public utilities have been properly disconnected.
(m) A satisfactory pre-move inspection report from the building official on general code conformance of the structure to be moved.
(n) A satisfactory foundation inspection report from the building official for the proposed location. A satisfactory pre-move inspection report from the building official is required to obtain a foundation permit for the proposed location.
(o) Approval by the director of public works and chief of police of the moving route plan.
(p) If the site is in the City, a brief description of proposed condition the present site is to be left in upon completion of removal of the structure.
(q) Provide a good and sufficient bond to the city in the sum of $10,000, with good and sufficient security, conditioned, among other things, that the principal shall pay any and all damages which may be caused to any property, public or private, within the city when such injury or damage shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor or subcontractor, and such bond shall be conditioned also that the principal will serve, indemnify and protect the city from any and all liability, and that he or she will, in all respects, comply with all ordinances of the city, and comply with the terms of the permit and be conditional upon faithful performance of the move. The city attorney must approve the form of such bond.

4-125. APPLICATION FOR STRUCTURE DEMOLITION PERMIT. To obtain a 15-day structure demolition permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall provide:

(a) A site plan showing the location of the building or structure to be demolished and of all existing buildings on the property. The plan shall additionally show any necessary means of pedestrian protection as required by the Leawood Building Code.
(b) The location where the demolition debris will be deposited.
(c) The height and the total square footage of the building.
(d) Evidence of required street closure permit.
(e) The length of time required to complete the proposed work.
(f) The name and address of the owner of the building.
(g) The type of equipment or method used to demolish the building.
(h) Evidence that all public utilities have been disconnected.
(i) Proof of rat-abating of any building at least ten days before the demolition may be required.
(j) Proof of permission from the owner to demolish the building.

4-126. ISSUANCE OF PERMITS TO LICENSED OR REGISTERED CRAFTSMEN.

(a) Permits shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits. Certification of at least one employee of the respective company as a master tradesman shall be a requisite for licensing a plumbing, electrical or HVAC contractor.

A master technician certification must have been obtained via a governmental program where both a written examination and experience were pre-requisites. The city licensing technician shall be responsible for verifying the certification status of contractor applicants for a license. The certification of the technician and the city occupation license must remain current throughout the period of construction. Occupation licenses are required for all contractors doing business in Leawood. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. In addition, each contractor and sub-contractor must show proof of comprehensive general liability insurance coverage with minimum limits of $100,000 per person and $300,000 per occurrence for personal injuries and/or property damage that arises from work the contractor performed during the term of the building permit or during actual construction, whichever date is later. Proof of insurance will be a copy of the "Certificate of Insurance" naming the City of Leawood as a certificate holder.

EXCEPTION: Permits may be issued to homeowners doing construction work at their own residence who do not possess a valid license, insurance, or registration. Homeowners, however, must certify that they are capable and will personally participate in the "permitted" work.

(b) Effective February 1, 2002, permits shall be issued only to individuals or persons responsible to a company or organization that possesses a valid contractor's license issued by Johnson County, Kansas and a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits provided that such sub-contractors are also appropriately licensed. All licenses must remain current throughout the period of construction. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. All permit holders must maintain general liability insurance coverage as required by Johnson County, Kansas.

EXCEPTIONS:

(1) Permits may be issued to a homeowner who will occupy or who is personally occupying and undertaking construction, alteration, repair or maintenance of such homeowner's single-family residence or an accessory structure thereto who does not possess a valid contractor's license and required insurance. Homeowners, however, must certify that they are capable and will personally participate in the permitted work. Further, any contractor or sub-contractor hired by the homeowner must meet all requirements and maintain all licenses required by this section prior to commencing any permitted work. Notwithstanding the foregoing,

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any homeowner who undertakes the construction of a new residence for his/her personal occupancy more than three times in any five year period must have the required licenses for the third residential construction project and for any future construction projects.

For purposes of this exception, the terms "contractor" and "subcontractor" shall be defined to mean "one who performs for and takes from the homeowner a specific part of the labor or material requirements of the permitted work."

(2) Permits may be issued for fence construction to persons who do not possess a valid contractor's license or the required insurance.

(3) Employees or agents working for and under the supervision of a licensed contractor firm as set forth in the Johnson County Contractor Licensing Regulations need not be individually licensed or insured to participate in the permitted work.

(Ord. 1711C; 3-23-98)
(Code 2000)

4-127. SANITARY SEWER CONSTRUCTION AND CONNECTION, PERMIT/APPROVALS REQUIRED. No building permit for any building to be located within a legally created sewer district in the City of Leawood, in which *sanitary sewage will, or may originate, shall be* issued until and unless the applicant, or his or her agent, has previously applied for and received from the sewer district an outside sanitary sewer construction and connection permit or a waiver letter as required by the rules and regulations of the Wastewater District. The building official may waive this requirement when the project is (a) a residential remodel not including the addition of new plumbing fixtures; (b) a tenant finish project that does not include alterations to existing plumbing; (c) a residential remodel not encroaching on a platted sewer easement and not impacting the capacity of sewage lines; or (d) footing or foundation work as a part of a phased approval process otherwise authorized under the Leawood Building Code. Provided, however, all private sewage disposal systems shall be approved by the Johnson County Wastewater District and the Governing Body of the City of Leawood, Kansas.

4-128. *ACTION ON APPLICATION.* The building official shall examine or cause to be examined applications for permits and amendments thereto. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of the Leawood Building Code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

4-129. TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

4-130. VALIDITY OF PERMIT. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the Leawood Building Code or of any other ordinance, regulation or law. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure, which is in violation of the Leawood Building Code or of any other ordinances of this jurisdiction.

EXPIRATION. Permits shall expire under the following circumstances:

(a) Permits for residential room additions, remodels and re-roofing or for exterior work, i.e., grading, walls, fences, decks, patios, patio covers and similar types of work, will expire in 180 days.

(b) Permits for other new construction will expire in 365 days unless the work authorized by the permit is not commenced within 180 days after issuance, in which case, the permit will expire in 180 days. If the work is at any time during the permitting period, suspended or abandoned, then the permit shall expire on the earlier of its one year term, or 180 days after the suspension or abandonment.

(c) Moving permits shall expire five days after issuance.

(d) Demolition permits shall expire 15 days after issuance.

(e) Every other type of permit, not otherwise listed above, shall expire 180 days after issuance.

(f) For all permits other than moving or demolition permits, the building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing prior to expiration of the term of the permit and justifiable cause demonstrated. The building official may only grant an extension upon finding that substantial progress has been made toward completion. Substantial progress means that the project is over 50% complete and, in the opinion of the building official, the project applicant has the capability to finish the work permitted within one time period extension.

Failure to complete a project in the time limits stated above or failure to maintain a valid permit constitutes a violation of the Leawood Building Code.

4-131. SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of the Leawood Building Code wherever the permit is issued in error or based on incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-132. PLACEMENT OF PERMIT. All permits shall be posted to be visible from the street and kept on the site of the work until the completion of the project.

4-133. SUBMITTAL DOCUMENTS. Construction documents, special inspection and structural observation programs, and other data shall be submitted in two or more sets with each application for a permit. Six sets are required for new commercial projects, four sets are required for commercial tenant improvement projects, and two sets are required for Group R-3 occupancies. A registered *design professional licensed by the State of Kansas shall* prepare the construction documents. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional licensed by the State of Kansas.

EXCEPTION: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with the Leawood Building Code.

4-134. INFORMATION ON CONSTRUCTION DOCUMENTS. Construction documents shall be dimensioned and drawn upon suitable material. Construction documents shall be of sufficient clarity to indicate the location, nature and extent *of the work proposed and show in detail that it will* conform to the provisions of the Leawood Building Code and relevant laws, ordinances, rules and regulations, as determined by the building official. The construction documents shall show in sufficient detail the location, construction, size, and character of all portions of the means of egress in compliance with the provisions of the Leawood Building Code. Other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with the Leawood Building Code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive *membrane, and details* around openings. The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which, where applicable, was tested, as well as the test procedure used.

4-135. CERTIFICATION OF COMPLIANCE WITH LAW. The registered design professional of record licensed by the State of Kansas shall sign a certificate that the plans and specifications have been prepared in accordance with the adopted codes and that all requirements of law, including the requirements of the Americans with Disabilities Act have been satisfied.

4-136. FIRE PROTECTION SYSTEM SHOP DRAWINGS. Fire Protection shop drawings shall be submitted to the fire official and shall indicate conformance with the Leawood Building Code and Fire Protection Code (Chapter VII). The construction documents shall be approved before the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in the Leawood Building Code.

4-137. SITE PLAN. There shall be a site plan showing, to scale, the size and location of all the new construction and all existing structures on the site including easements, sewers, drains, utilities, etc., distances from lot lines, established street grades, and the proposed finished grades, and it shall be drawn in accordance with an accurate boundary line survey. All decks, balconies, overhangs, or other building protrusions shall be indicated and dimensioned. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site of the plot. Fire apparatus access roads provided and fire hydrant coverage as approved by the fire official shall be indicated as such on the site plan. The property owner or his or her agent shall certify to the building official that the top of the foundation for a building will be in conformance with the approved site plan, including building elevations, site grading, erosion control devices, and building setbacks. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for *alteration or repair and does not affect the exterior features of the building.*

4-138. EXAMINATION OF DOCUMENTS. The building official and fire official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the Leawood Building Code and other pertinent laws or ordinances.

4-139. APPROVAL OF CONSTRUCTION DOCUMENTS. When the building official issues a permit, the construction documents shall be approved in writing or by stamp, as "Reviewed for Code Compliance." The building official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his or her authorized representative.

4-140. PREVIOUS APPROVALS. The Leawood Building Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued and otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of the Leawood Building Code and has not been abandoned.

4-141. PHASED APPROVAL. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of the Leawood Building Code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

4-142. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE. When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The owner shall notify the building official in writing if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Where the Leawood Building Code requires structural observation, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

4-143. DEFERRED SUBMITTALS. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the Leawood Building Code and with the design of the building. The deferred submittal items shall not be installed until the building official has approved their design and submittal documents.

4-144. AMENDED CONSTRUCTION DOCUMENTS. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

4-145. TEMPORARY STRUCTURES AND USES GENERAL. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service and are only allowed if authorized under the Leawood Development Ordinance and the provisions of the Leawood Building Code, the building official may grant extensions for these uses for demonstrated cause.

4-146. CONFORMANCE. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the Leawood Building Code as necessary to ensure the public health, safety and general welfare.

4-147. TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has *been issued. The part covered by the temporary certificate shall comply with the* requirements specified for temporary lighting, heat, or power in the National Electrical Code.

4-148. TERMINATION OF APPROVAL. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

4-149. PAYMENT OF FEES. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

4-150. SCHEDULE OF PERMIT FEES. On buildings, structures, electrical, gas, mechanical, elevator equipment, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the City of Leawood Fee Schedule.

4-151. BUILDING PERMIT VALUATIONS. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. The building official shall set final building permit valuation.

4-152. WORK COMMENCING BEFORE PERMIT ISSUANCE. Any person who commences any work subject to the requirements of permitting under the Leawood Building Code before obtaining the necessary permits shall be subject *to an additional fee established by the City of Leawood Fee Schedule that shall* be in addition to the required permit fees. Work that has commenced on a building, structure, electrical, gas, mechanical, elevator equipment, or plumbing system before obtaining the necessary permits constitutes a violation of the Leawood Building Code.

4-153. RELATED FEES. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees established by the City of Leawood Fee Schedule.

4-154. REFUNDS. Unless specifically set forth herein, all fees paid are non-refundable. The building official may authorize refunding of any fee paid hereunder, which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with the Leawood Building Code. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permit holder not later than 180 days after the date of fee payment.

4-155. INSPECTIONS, GENERAL. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval because of an inspection shall not be construed to be an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of the Leawood Building Code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

4-156. PRELIMINARY INSPECTION. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

4-157. REQUIRED INSPECTIONS. The building official, upon notification, shall make the inspections set forth in the Leawood Building Code and the policies and procedures for required inspections.

(a) *FOOTING AND FOUNDATION INSPECTIONS.* Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place before inspection. Materials for the foundation shall be on the job, except if concrete is ready mixed in accordance with ASTM C 94, then the concrete need not be on the job.

(b) *CONCRETE SLAB OR UNDER-FLOOR-INSPECTION.* Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.

(c) *LOWEST FLOOR ELEVATION.* The elevation certification required in the Leawood Building Code shall be submitted to the building official.

(d) *FRAME INSPECTION.* Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are *in place and pipes, chimneys and vents to be concealed* are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

(e) *LATH OR GYPSUM BOARD INSPECTION.* Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

EXCEPTION: Gypsum board that is not part of a fire-resistive assembly or a shear assembly is not subject to inspection.

(f) *FIRE-RESISTANT PENETRATIONS.* Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

(g) *ENERGY EFFICIENCY INSPECTIONS.* Inspections shall be made to determine compliance with the Leawood Building Code and shall include, but not be limited to, inspections for: envelope insulation R and U value, fenestration U value, duct system R value, and HVAC and water heating equipment efficiency.

(h) *ROOFING INSPECTIONS.* Roofing inspections shall be made at the mid-point of roofing installation and after roofing installation is complete.

(i) *OTHER INSPECTIONS.* In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the Leawood Building Code and other laws that *are enforced by the building official.*

(j) *SPECIAL INSPECTIONS.* Special inspections as set forth in Section 1704 of the International Building Code, 2000, as adopted by Article 2 of this Chapter.

(k) *FIRE PROTECTION INSPECTIONS.* Inspection of all fire protection systems. The fire official or his or her designee shall make this inspection.

(l) *FINAL INSPECTION.* The final inspection shall be made after all work required by the building permit is completed.

4-158. INSPECTION AGENCIES. The building official is authorized to accept reports of approved, qualified and reliable inspection agencies.

4-159. INSPECTION REQUESTS. It shall be the duty of the holder of the permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the holder of any temporary certificate of occupancy or their duly authorized agent to notify the building official when work is ready for inspection prior to the expiration of the temporary certificate of occupancy. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by the Leawood Building Code.

4-160. APPROVAL REQUIRED. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the Leawood Building Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

4-161. USE AND OCCUPANCY. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the City of Leawood.

4-162. CHANGE IN USE. Changes in the character or use of an existing structure shall not be made except as specified in the Leawood Building Code.

4-163. CERTIFICATE ISSUED. After the building official inspects the building or structure and finds no violations of the provisions of the Leawood Building Code, *Leawood Development Ordinance, Fire Protection Code (Chapter VII), Property* Maintenance Code (Chapter VIII), or other laws that are enforced by the building official, the building official shall issue a certificate of occupancy.

4-164. TEMPORARY OCCUPANCY. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

4-165. REVOCATION. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of the Leawood Building Code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-166. CONNECTION OF SERVICE UTILITIES. No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by the Leawood Building Code for which a permit is required, until released by the building official.

4-167. TEMPORARY CONNECTION. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

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ORDINANCE NO. 1929C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1929C

ORDINANCE AMENDING CHAPTER 4, ARTICLE 1, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO THE ADMINISTRATION OF THE LEAWOOD BUILDING CODE, AND REPEALING EXISTING ARTICLE 1 OF CHAPTER 4, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended so that the following sections read as follows:

ARTICLE 1. ADMINISTRATION

4-101. TITLE. These regulations, found in Chapter IV, shall be known as the Building Code of the City of Leawood, Kansas, hereinafter ["Leawood Building Code"].

4-102. SCOPE. Article 1 of the Leawood Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures, as regulated by Articles 2 through 12 of the Leawood Building Code and shall be used to administer each such article.

4-103. INTENT. The purpose of the Leawood Building Code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment.

4-104. APPLICABILITY. Where, in any specific case, different sections of the Leawood Building Code, Leawood Municipal Code, or Leawood Development Ordinance specify different materials, methods of construction, or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement of the Leawood Building Code and a specific requirement of the Leawood Building Code, the specific requirement shall be applicable.

4-105. OTHER LAWS. The provisions of the Leawood Building Code shall not be deemed to nullify any other provisions of local, state, or federal law.

4-106. APPLICATION OF REFERENCES. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section, or provision of the Leawood Building Code.

4-107. REFERENCED CODES AND STANDARDS. The codes and standards referenced in the Leawood Building Code shall be considered part of the requirements of the Leawood Building Code to the prescribed extent of each such reference. Where differences occur between provisions of the Leawood Building Code and referenced codes and standards, the provisions of the Leawood Building Code shall apply.

4-108. PARTIAL INVALIDITY. In the event any part or provision of the Leawood Building Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions.

4-109. EXISTING STRUCTURES. The legal occupancy of any structure existing on the date of adoption of the Leawood Building Code shall be permitted to continue without change, except as is specifically covered in the Leawood Building Code, Fire Protection Code (Chapter VII) or Property Maintenance Code (Chapter VIII), or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

4-110. DUTIES AND POWERS OF BUILDING OFFICIAL. The building official is hereby authorized and directed to enforce the provisions of the Leawood Building Code. The building official shall have the authority to render interpretations of the Leawood Building Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall comply with the intent and purpose of the Leawood Building Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in the Leawood Building Code. The building official shall be known as the codes administrator, and such term shall include his/her authorized representatives. Further, whenever the term or title "administrative authority," "code enforcement officer," "responsible official," "codes administrator," "director" or other similar designation is used in any of the codes adopted by reference by the Leawood Building Code, it shall be construed to mean the building official, except in matters rightfully under the jurisdiction of the Fire Protection Code (Chapter VII). In addition, the fire official shall have the above-mentioned duties and powers where fire apparatus emergency access drives, fire suppression and fire alarm systems are concerned. Except as expressly set forth herein, the building official does not have the authority to waive any requirement of law.

4-111. APPLICATIONS AND PERMITS. The building official shall receive applications, review construction documents and issue permits for the erection, alteration, demolition and moving of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of the Leawood Building Code.

4-112. NOTICES AND ORDERS. The building official shall issue all necessary notices or orders to ensure compliance with the Leawood Building Code.

4-113. INSPECTIONS. The building official and/or the fire official (as appropriate) shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual.

4-114. RIGHT OF ENTRY. Where it is necessary to make an inspection to enforce the provisions of the Leawood Building Code, or where the building official has reasonable cause to believe that there exists in a structure or upon premises, a condition which is contrary to or in violation of the Leawood Building Code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by the Leawood Building Code, provided that, if such structure or premises be occupied, credentials be presented to the occupant and entry requested. If such structure or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

4-115. RECORDS. The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for the retention of public records.

4-116. APPROVED MATERIALS AND EQUIPMENT. Materials, equipment, and devices approved by the building official shall be constructed and installed in accordance with such approval.

4-117. USED MATERIALS AND EQUIPMENT. The use of used materials, which meet the requirements of the Leawood Building Code for new materials, is permitted. Used equipment and devices shall not be reused unless approved by the building official.

4-118. MODIFICATIONS. Wherever there are practical difficulties involved in carrying out the provisions of the Leawood Building Code, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of the Leawood Building Code impractical and the modification is in compliance with the intent and purpose of the Leawood Building Code and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. If such requested modification involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the modification must also be approved by the fire official. The details of action granting modifications shall be recorded and entered in the files of codes administration.

4-119. ALTERNATIVE MATERIALS, DESIGN, AND METHODS OF CONSTRUCTION AND EQUIPMENT. The provisions of the Leawood Building Code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by the Leawood Building Code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of the Leawood Building Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the Leawood Building Code in quality, strength, effectiveness, fire resistance, durability and safety. If such requested alternative material, design and/or method or equipment involves fire apparatus emergency access drives, fire suppression and/or fire alarm systems then the alternative must also be approved by the fire official.

4-120. TESTS. Whenever there is insufficient evidence of compliance with the provisions of the Leawood Building Code, or evidence that a material or method does not conform to the requirements of the Leawood Building Code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in the Leawood Building Code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records.

4-121. PERMITS. Any owner or authorized agent who intends to do work subject to the Leawood Building Code or to otherwise construct, enlarge, alter, repair, move, shore, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, or elevator system, the installation of which is regulated by the Leawood Building Code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

4-122. WORK EXEMPT FROM PERMIT. Exemptions from permit requirements of the Leawood Building Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the Leawood Building Code or any other laws or ordinances of this jurisdiction. Such permits shall not be required for the following:

(a) BUILDING:
1. Retaining walls which are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III-A liquids.
2. Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route
3. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
4. Temporary motion picture, television, and theater stage sets and scenery.
5. Swings and other playground equipment accessory to one- and two-family dwellings.
6. Window awnings supported by an exterior wall of Group R-3 and Group U occupancies.
7. Movable cases, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

(b) ELECTRICAL:
1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
2. Radio and television transmitting stations: The provisions of the Leawood Building Code shall not apply to electrical equipment used for radio and television transmissions, but does apply to equipment and wiring for power supply, and the installations of towers and antennas.
3. Temporary testing systems: A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

(c) GAS:
1. Installation or placement of a portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

(d) MECHANICAL:
1. Installation or placement of a portable heating appliance.
2. Installation or placement of portable ventilation equipment.
3. Installation or placement of a portable cooling unit.
4. Installation or placement of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Leawood Building Code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Installation or placement of a portable evaporative cooler.
7. Installation or placement of a self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

(e) PLUMBING:
1. The stopping of leaks in drains, water, soil, waste or vent pipes; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in the Leawood Building Code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

(f) EMERGENCY REPAIRS: Where equipment replacements and repairs must be performed in an emergency, the permit application shall be submitted within the next working business day to the building official.

(g) MINOR REPAIRS: Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

(h) PUBLIC UTILITIES: A permit shall not be required for the installation, alteration, or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public utilities by established right.

4-123. APPLICATION FOR PERMIT. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall:

(a) Identify and describe the work to be covered by the permit for which application is made.
(b) Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
(c) Indicate the use and occupancy for which the proposed work is intended.
(d) Be accompanied by construction documents and other information as required by building official.
(e) State the valuation of the proposed work.
(f) Be signed by the applicant, or the applicant's authorized agent.
(g) Give such other data and information as required by the building official.

4-124. APPLICATION FOR MOVING OR SHORING PERMIT. To obtain a 5-day moving or shoring permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall indicate and include all of the following items unless otherwise indicated:

(a) The dimensions of the building or structure as to length, height at its highest point when loaded for moving, and its width.
(b) The definite description of the building or structure proposed to be moved giving street number, construction materials, dimensions in square feet, number of rooms and condition of exterior and interior.
(c) The plot plan to scale with legal description of the lot from which the building is to be moved, giving the lot number, block number and subdivision, if located within the city.
(d) The plot plan to scale with the legal description of the lot to which it is proposed such building be moved, giving lot number, block number and subdivision, if located within the city.
(e) The date and hour when the moving is to commence and length of time of the move. In no event will moving of buildings or structures be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the building official.
(f) The highways, streets, alleys or sidewalks over, along or across which the building or structure is proposed to be moved.
(g) The application shall be made not less than seven calendar days prior to the commencement of the moving and shall be accompanied by a fee as set forth in the City of Leawood Fee Schedule.
(h) The application must include copies of written notice that has been given by the applicant to the owners of adjacent lots and to the owners of wired or other facilities, whenever same will affect the public utilities located within the city limits, should a permit be granted for the removal of building or structure.
(i) The applicant of the building or structure to be moved, shall file with the application sufficient evidence that the building or structure and lot from which it is to be moved are free of any entanglements and that all taxes and any city charges against the owner are paid in full.
(j) Applicant should furnish a certificate of liability insurance for personal and property damage exempting and saving harmless the city in a minimum amount of $100,000 injury each person, $300,000 each occurrence, and $50,000 property damage.
(k) The applicant, if other than the owner, shall file with the application a written statement or bill of sale signed by the owner, or other sufficient evidence that he or she is entitled to move the building or structure.
(l) Evidence that all public utilities have been properly disconnected.
(m) A satisfactory pre-move inspection report from the building official on general code conformance of the structure to be moved.
(n) A satisfactory foundation inspection report from the building official for the proposed location. A satisfactory pre-move inspection report from the building official is required to obtain a foundation permit for the proposed location.
(o) Approval by the director of public works and chief of police of the moving route plan.
(p) If the site is in the City, a brief description of proposed condition the present site is to be left in upon completion of removal of the structure.
(q) Provide a good and sufficient bond to the city in the sum of $10,000, with good and sufficient security, conditioned, among other things, that the principal shall pay any and all damages which may be caused to any property, public or private, within the city when such injury or damage shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor, or subcontractor, and such bond shall be conditioned also that the principal will serve, indemnify and protect the city from any and all liability, and that he or she will, in all respects, comply with all ordinances of the city, and comply with the terms of the permit and be conditional upon faithful performance of the move. The city attorney must approve the form of such bond.

4-125. APPLICATION FOR STRUCTURE DEMOLITION PERMIT. To obtain a 15-day structure demolition permit, the applicant shall first file an application therefor in writing on a form furnished by the building official for that purpose. Such application shall provide:

(a) A site plan showing the location of the building or structure to be demolished and of all existing buildings on the property. The plan shall additionally show any necessary means of pedestrian protection as required by the Leawood Building Code.
(b) The location where the demolition debris will be deposited.
(c) The height and the total square footage of the building.
(d) Evidence of required street closure permit.
(e) The length of time required to complete the proposed work.
(f) The name and address of the owner of the building.
(g) The type of equipment or method used to demolish the building.
(h) Evidence that all public utilities have been disconnected.
(i) Proof of rat-abating of any building at least ten days before the demolition may be required.
(j) Proof of permission from the owner to demolish the building.

4-126. ISSUANCE OF PERMITS TO LICENSED OR REGISTERED CRAFTSMEN.

(a) Permits shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits. Certification of at least one employee of the respective company as a master tradesman shall be a requisite for licensing a plumbing, electrical or HVAC contractor.

A master technician certification must have been obtained via a governmental program where both a written examination and experience were pre-requisites. The city licensing technician shall be responsible for verifying the certification status of contractor applicants for a license. The certification of the technician and the city occupation license must remain current throughout the period of construction. Occupation licenses are required for all contractors doing business in Leawood. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. In addition, each contractor and sub-contractor must show proof of comprehensive general liability insurance coverage with minimum limits of $100,000 per person and $300,000 per occurrence for personal injuries and/or property damage that arises from work the contractor performed during the term of the building permit or during actual construction, whichever date is later. Proof of insurance will be a copy of the "Certificate of Insurance" naming the City of Leawood as a certificate holder.

EXCEPTION: Permits may be issued to homeowners doing construction work at their own residence who do not possess a valid license, insurance, or registration. Homeowners, however, must certify that they are capable and will personally participate in the "permitted" work.

(b) Effective February 1, 2002, permits shall be issued only to individuals or persons responsible to a company or organization that possesses a valid contractor's license issued by Johnson County, Kansas and a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits provided that such sub-contractors are also appropriately licensed. All licenses must remain current throughout the period of construction. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. All permit holders must maintain general liability insurance coverage as required by Johnson County, Kansas.

EXCEPTIONS:

(1) Permits may be issued to a homeowner who will occupy or who is personally occupying and undertaking construction, alteration, repair or maintenance of such homeowner's single-family residence or an accessory structure thereto who does not possess a valid contractor's license and required insurance. Homeowners, however, must certify that they are capable and will personally participate in the permitted work. Further, any contractor or sub-contractor hired by the homeowner must meet all requirements and maintain all licenses required by this section prior to commencing any permitted work. Notwithstanding the foregoing,

CONTINUED ON NEXT PAGE

any homeowner who undertakes the construction of a new residence for his/her personal occupancy more than three times in any five year period must have the required licenses for the third residential construction project and for any future construction projects.

For purposes of this exception, the terms "contractor" and "subcontractor" shall be defined to mean "one who performs for and takes from the homeowner a specific part of the labor or material requirements of the permitted work."

(2) Permits may be issued for fence construction to persons who do not possess a valid contractor's license or the required insurance.

(3) Employees or agents working for and under the supervision of a licensed contractor firm as set forth in the Johnson County Contractor Licensing Regulations need not be individually licensed or insured to participate in the permitted work.

(Ord. 1711C; 3-23-98)
(Code 2000)

4-127. SANITARY SEWER CONSTRUCTION AND CONNECTION, PERMIT/APPROVALS REQUIRED. No building permit for any building to be located within a legally created sewer district in the City of Leawood, in which sanitary sewage will, or may originate, shall be issued until and unless the applicant, or his or her agent, has previously applied for and received from the sewer district an outside sanitary sewer construction and connection permit or a waiver letter as required by the rules and regulations of the Wastewater District. The building official may waive this requirement when the project is (a) a residential remodel not including the addition of new plumbing fixtures; (b) a tenant finish project that does not include alterations to existing plumbing; (c) a residential remodel not encroaching on a platted sewer easement and not impacting the capacity of sewage lines; or (d) footing or foundation work as a part of a phased approval process otherwise authorized under the Leawood Building Code. Provided, however, all private sewage disposal systems shall be approved by the Johnson County Wastewater District and the Governing Body of the City of Leawood, Kansas.

4-128. ACTION ON APPLICATION. The building official shall examine or cause to be examined applications for permits and amendments thereto. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of the Leawood Building Code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable.

4-129. TIME LIMITATION OF APPLICATION. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

4-130. VALIDITY OF PERMIT. The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the Leawood Building Code or of any other ordinance, regulation or law. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure, which is in violation of the Leawood Building Code or of any other ordinances of this jurisdiction.

EXPIRATION. Permits shall expire under the following circumstances:

(a) Permits for residential room additions, remodels and re-roofing or for exterior work, i.e., grading, walls, fences, decks, patios, patio covers and similar types of work, will expire in 180 days.

(b) Permits for other new construction will expire in 365 days unless the work authorized by the permit is not commenced within 180 days after issuance, in which case, the permit will expire in 180 days. If the work is at any time during the permitting period, suspended or abandoned, then the permit shall expire on the earlier of its one year term, or 180 days after the suspension or abandonment.

(c) Moving permits shall expire five days after issuance.

(d) Demolition permits shall expire 15 days after issuance.

(e) Every other type of permit, not otherwise listed above, shall expire 180 days after issuance.

(f) For all permits other than moving or demolition permits, the building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing prior to expiration of the term of the permit and justifiable cause demonstrated. The building official may only grant an extension upon finding that substantial progress has been made toward completion. Substantial progress means that the project is over 50% complete and, in the opinion of the building official, the project applicant has the capability to finish the work permitted within one time period extension.

Failure to complete a project in the time limits stated above or failure to maintain a valid permit constitutes a violation of the Leawood Building Code.

4-131. SUSPENSION OR REVOCATION. The building official is authorized to suspend or revoke a permit issued under the provisions of the Leawood Building Code wherever the permit is issued in error or based on incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-132. PLACEMENT OF PERMIT. All permits shall be posted to be visible from the street and kept on the site of the work until the completion of the project.

4-133. SUBMITTAL DOCUMENTS. Construction documents, special inspection and structural observation programs, and other data shall be submitted in two or more sets with each application for a permit. Six sets are required for new commercial projects, four sets are required for commercial tenant improvement projects, and two sets are required for Group R-3 occupancies. A registered design professional licensed by the State of Kansas shall prepare the construction documents. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional licensed by the State of Kansas.

EXCEPTION: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that reviewing of construction documents is not necessary to obtain compliance with the Leawood Building Code.

4-134. INFORMATION ON CONSTRUCTION DOCUMENTS. Construction documents shall be dimensioned and drawn upon suitable material. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the Leawood Building Code and relevant laws, ordinances, rules and regulations, as determined by the building official. The construction documents shall show in sufficient detail the location, construction, size, and character of all portions of the means of egress in compliance with the provisions of the Leawood Building Code. Other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces. Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with the Leawood Building Code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings. The construction documents shall include manufacturing installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which, where applicable, was tested, as well as the test procedure used.

4-135. CERTIFICATION OF COMPLIANCE WITH LAW. The registered design professional of record licensed by the State of Kansas shall sign a certificate that the plans and specifications have been prepared in accordance with the adopted codes and that all requirements of law, including the requirements of the Americans with Disabilities Act have been satisfied.

4-136. FIRE PROTECTION SYSTEM SHOP DRAWINGS. Fire Protection shop drawings shall be submitted to the fire official and shall indicate conformance with the Leawood Building Code and Fire Protection Code (Chapter VII). The construction documents shall be approved before the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in the Leawood Building Code.

4-137. SITE PLAN. There shall be a site plan showing, to scale, the size and location of all the new construction and all existing structures on the site including easements, sewers, drains, utilities, etc., distances from lot lines, established street grades, and the proposed finished grades, and it shall be drawn in accordance with an accurate boundary line survey. All decks, balconies, overhangs, or other building protrusions shall be indicated and dimensioned. In the case of demolition, the plot plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site of the plot. Fire apparatus access roads provided and fire hydrant coverage as approved by the fire official shall be indicated as such on the site plan. The property owner or his or her agent shall certify to the building official that the top of the foundation for a building will be in conformance with the approved site plan, including building elevations, site grading, erosion control devices, and building setbacks. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair and does not affect the exterior features of the building.

4-138. EXAMINATION OF DOCUMENTS. The building official and fire official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of the Leawood Building Code and other pertinent laws or ordinances.

4-139. APPROVAL OF CONSTRUCTION DOCUMENTS. When the building official issues a permit, the construction documents shall be approved in writing or by stamp, as "Reviewed for Code Compliance." The building official shall retain one set of construction documents so reviewed. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or his or her authorized representative.

4-140. PREVIOUS APPROVALS. The Leawood Building Code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued and otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of the Leawood Building Code and has not been abandoned.

4-141. PHASED APPROVAL. The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of the Leawood Building Code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

4-142. DESIGN PROFESSIONAL IN RESPONSIBLE CHARGE. When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The owner shall notify the building official in writing if the registered design professional in responsible charge is changed or is unable to continue to perform the duties. The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. Where the Leawood Building Code requires structural observation, the inspection program shall name the individual or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur.

4-143. DEFERRED SUBMITTALS. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official. Submittal documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the Leawood Building Code and with the design of the building. The deferred submittal items shall not be installed until the building official has approved their design and submittal documents.

4-144. AMENDED CONSTRUCTION DOCUMENTS. Work shall be installed in accordance with the reviewed construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

4-145. TEMPORARY STRUCTURES AND USES GENERAL. The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service and are only allowed if authorized under the Leawood Development Ordinance and the provisions of the Leawood Building Code, the building official may grant extensions for these uses for demonstrated cause.

4-146. CONFORMANCE. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the Leawood Building Code as necessary to ensure the public health, safety and general welfare.

4-147. TEMPORARY POWER. The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat, or power in the National Electrical Code.

4-148. TERMINATION OF APPROVAL. The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.

4-149. PAYMENT OF FEES. A permit shall not be valid until the fees prescribed by law have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

4-150. SCHEDULE OF PERMIT FEES. On buildings, structures, electrical, gas, mechanical, elevator equipment, and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid as required, in accordance with the City of Leawood Fee Schedule.

4-151. BUILDING PERMIT VALUATIONS. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment, and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. The building official shall set final building permit valuation.

4-152. WORK COMMENCING BEFORE PERMIT ISSUANCE. Any person who commences any work subject to the requirements of permitting under the Leawood Building Code before obtaining the necessary permits shall be subject to an additional fee established by the City of Leawood Fee Schedule that shall be in addition to the required permit fees. Work that has commenced on a building, structure, electrical, gas, mechanical, elevator equipment, or plumbing system before obtaining the necessary permits constitutes a violation of the Leawood Building Code.

4-153. RELATED FEES. The payment of the fee for the construction, alteration, removal or demolition for work done in connection with or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees established by the City of Leawood Fee Schedule.

4-154. REFUNDS. Unless specifically set forth herein, all fees paid are non-refundable. The building official may authorize refunding of any fee paid hereunder, which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with the Leawood Building Code. The building official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done. The building official shall not authorize refunding of any fee paid except on written application filed by the original permit holder not later than 180 days after the date of fee payment.

4-155. INSPECTIONS, GENERAL. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval because of an inspection shall not be construed to be an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of the Leawood Building Code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

4-156. PRELIMINARY INSPECTION. Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

4-157. REQUIRED INSPECTIONS. The building official, upon notification, shall make the inspections set forth in the Leawood Building Code and the policies and procedures for required inspections.

(a) *FOOTING AND FOUNDATION INSPECTIONS.* Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place before inspection. Materials for the foundation shall be on the job, except if concrete is ready mixed in accordance with ASTM C 94, then the concrete need not be on the job.

(b) *CONCRETE SLAB OR UNDER-FLOOR INSPECTION.* Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the sub floor.

(c) *LOWEST FLOOR ELEVATION.* The elevation certification required in the Leawood Building Code shall be submitted to the building official.

(d) *FRAME INSPECTION.* Framing inspections shall be made after the roof deck or sheathing, all framing, fire blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

(e) *LATH OR GYPSUM BOARD INSPECTION.* Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or before gypsum board joints and fasteners are taped and finished.

EXCEPTION: Gypsum board that is not part of a fire-resistive assembly or a shear assembly is not subject to inspection.

(f) *FIRE-RESISTANT PENETRATIONS.* Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

(g) *ENERGY EFFICIENCY INSPECTIONS.* Inspections shall be made to determine compliance with the Leawood Building Code and shall include, but not be limited to, inspections for: envelope insulation R and U value, fenestration U value, duct system R value, and HVAC and water heating equipment efficiency.

(h) *ROOFING INSPECTIONS.* Roofing inspections shall be made at the mid-point of roofing installation and after roofing installation is complete.

(i) *OTHER INSPECTIONS.* In addition to the inspections specified above, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the Leawood Building Code and other laws that are enforced by the building official.

(j) *SPECIAL INSPECTIONS.* Special inspections as set forth in Section 1704 of the International Building Code, 2000, as adopted by Article 2 of this Chapter.

(k) *FIRE PROTECTION INSPECTIONS.* Inspection of all fire protection systems. The fire official or his or her designee shall make this inspection.

(l) *FINAL INSPECTION.* The final inspection shall be made after all work required by the building permit is completed.

4-158. INSPECTION AGENCIES. The building official is authorized to accept reports of approved, qualified and reliable inspection agencies.

4-159. INSPECTION REQUESTS. It shall be the duty of the holder of the permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the holder of any temporary certificate of occupancy or their duly authorized agent to notify the building official when work is ready for inspection prior to the expiration of the temporary certificate of occupancy. It shall be the duty of the permit holder to provide access to and means for inspection of such work for any inspections that are required by the Leawood Building Code.

4-160. APPROVAL REQUIRED. Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or shall notify the permit holder or an agent of the permit holder wherein the same fails to comply with the Leawood Building Code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.

4-161. USE AND OCCUPANCY. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of the Leawood Building Code or of other ordinances of the City of Leawood.

4-162. CHANGE IN USE. Changes in the character or use of an existing structure shall not be made except as specified in the Leawood Building Code.

4-163. CERTIFICATE ISSUED. After the building official inspects the building or structure and finds no violations of the provisions of the Leawood Building Code, Leawood Development Ordinance, Fire Protection Code (Chapter VII), Property Maintenance Code (Chapter VIII), or other laws that are enforced by the building official, the building official shall issue a certificate of occupancy.

4-164. TEMPORARY OCCUPANCY. The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

4-165. REVOCATION. The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of the Leawood Building Code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of the Leawood Building Code.

4-166. CONNECTION OF SERVICE UTILITIES. No person shall make connections from a utility, source of energy, fuel, or power to any building or system that is regulated by the Leawood Building Code for which a permit is required, until released by the building official.

4-167. TEMPORARY CONNECTION. The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel, or power.

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1928C

ORDINANCE REPEALING CHAPTER 1, ARTICLE 4, SECTION 1-411, OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO THE POSITION OF THE ASSISTANT CITY CLERK, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 4, Section 1-411, of the Code of the City of Leawood, Kansas, 2000, is hereby repealed.

(Ord. 1162C; 05-07-90)
(Code 2000)

SECTION TWO: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FOUR: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1928C

Publication Fees: $26.39

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Autumn Sanders, of lawful age, being first duly sworn, deposes and says that she is a Reporter for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1928C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

ORDINANCE NO. 1928C

First published in The Legal Record, Tuesday, January 29, 2002.

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SECTION FOUR: Effective Date. That said ordinance shall become effective following publication.

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APPROVED by the Mayor this 22nd day of January, 2002.

Peggy Dunn
Peggy Dunn, Mayor

ATTEST:

Martha Heizer
Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

$26.39

ORDINANCE NO. 1927C

ORDINANCE AMENDING § 1-502 OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO ICMA-RC § 401a, PROFIT SHARING PLAN AND ICMA-RC, § 401a, MONEY PURCHASE PLAN AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2002, AND REPEALING EXISTING § 1-502, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 5, Section 1-502, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-502. DEFERRED COMPENSATION.

(a) To enable the city to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the city adopts the 457 Deferred Compensation Plan, as amended and restated, effective January 1, 2002, known as Appendix 'A,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation to serve as administrator thereunder.

(b) The city hereby executes the ICMA Retirement Trust, known as Appendix 'B,' and it is hereby incorporated by reference.

(c) The city hereby adopts the trust agreement known as Appendix 'C,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable.

(d) The city hereby adopts the ICMA-RC § 401a, Profit Sharing Plan and Trust, as amended and restated, effective January 1, 2002, known as Appendix 'D,' and it is hereby incorporated by reference.

(e) The City hereby adopts the ICMA-RC § 401a, Money Purchase Plan and Trust, as amended and restated, effective January 1, 2002, known as Appendix 'E,' and it is hereby incorporated by reference.

(f) The City Administrator shall be the coordinator for this program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation as administrator, and shall cast, on behalf of the employer, any required votes under the program. Administrative duties to carry out the plan may be assigned to the appropriate departments.

(Ord. 798; 01-03-84)
(Code 2000)
(Ord. 1925C; 12-17-01)

SECTION TWO: Repeal of Existing Sections. The existing Code § 1-502 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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Publication Fees: $35.49

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for 1 consecutive week(s), as follows:

ORDINANCE NO. 1927C--1/29/02

Autumn Sanders
Reporter

Subscribed and sworn to before me on this date:
JANUARY 30, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$35.49

ORDINANCE NO. 1927C

First published in The Legal Record, Tuesday, January 29, 2002.

ORDINANCE NO. 1927C

ORDINANCE AMENDING § 1-502 OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO ICMA-RC § 401a, PROFIT SHARING PLAN AND ICMA-RC, § 401a, MONEY PURCHASE PLAN AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2002, AND REPEALING EXISTING § 1-502, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 5, Section 1-502, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-502. **DEFERRED COMPENSATION.**

(a) To enable the city to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the city adopts the 457 Deferred Compensation Plan, as amended and restated, effective January 1, 2002, known as Appendix 'A,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation to serve as administrator thereunder.

(b) The city hereby executes the ICMA Retirement Trust, known as Appendix 'B,' and it is hereby incorporated by reference.

(c) The city hereby adopts the trust agreement known as Appendix 'C,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable.

(d) The city hereby adopts the ICMA-RC § 401a, Profit Sharing Plan and Trust, as amended and restated, effective January 1, 2002, known as Appendix 'D,' and it is hereby incorporated by reference.

(e) The City hereby adopts the ICMA-RC § 401a, Money Purchase Plan and Trust, as amended and restated, effective January 1, 2002, known as Appendix 'E,' and it is hereby incorporated by reference.

(f) The City Administrator shall be the coordinator for this program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation, as administrator, and shall cast, on behalf of the employer, any required votes under the program. Administrative duties to carry out the plan may be assigned to the appropriate departments.

(Ord. 798, [illegible] 2000)
(Ord. 1925C, 12-17-01)

SECTION TWO: Repeal of Existing Sections. The existing Code § 1-502 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FIVE: Effective Date. That said ordinance shall become effective following publication.

PASSED by the Governing Body this 22nd day of January, 2002.

APPROVED by the Mayor this 22nd day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patrick A. Bennett, City Attorney

Eff. Date- 1-16-2002
15

ORDINANCE NO. 1926C

AN ORDINANCE AMENDING SECTION 4-207 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ISSUANCE OF PERMITS, REPEALING EXISTING SECTION 4-207, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 2, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-207. **SAME; SEC. 106.4. PERMITS ISSUANCE.** Sec. 106.4.6 *Issuance of Permits to Licensed or Registered Craftsmen* is hereby added and shall read as follows:

(A) Permits shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits. Certification of at least one employee of the respective company as a master tradesman shall be a requisite for licensing a plumbing, electrical or HVAC contractor. A master technician certification must have been obtained via a governmental program where both a written examination and experience were pre-requisites. The city licensing technician shall be responsible for verifying the certification status of contractor applicants for a license. The certification of the technician and the city occupation license must remain current throughout the period of construction. Occupation licenses are required for all contractors doing business in Leawood. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. In addition, each contractor and sub-contractor must show proof of comprehensive general liability insurance coverage with minimum limits of $100,000 per person and $300,000 per occurrence for personal injuries and/or property damage that arises from work the contractor performed during the term of the building permit or during actual construction, whichever date is later. Proof of insurance will be a copy of the "Certificate of Insurance" naming the City of Leawood as a certificate holder.

EXCEPTION:
Permits may be issued to homeowners doing construction work at their own residence who do not possess a valid license, insurance, or registration. Homeowners, however, must certify that they are capable and will personally participate in the "permitted" work.

(B) Effective February 1, 2002, permits shall be issued only to individuals or persons responsible to a company or organization that possesses a valid contractor's license issued by Johnson County, Kansas and a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits provided that such sub-contractors are also appropriately licensed. All licenses must remain current throughout the period of construction. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. All permit holders must maintain general liability insurance coverage as required by Johnson County, Kansas.

EXCEPTIONS:

(1) Permits may be issued to a homeowner who will occupy or who is personally occupying and undertaking construction, alteration, repair or maintenance of such homeowner's single-family residence or an accessory structure thereto who does not possess a valid contractor's license and required insurance. Homeowners, however, must certify that they are capable and will personally participate in the permitted work. Further, any contractor or sub-contractor hired by the homeowner must meet all requirements and maintain all licenses required by this section prior to commencing any permitted work. Notwithstanding the foregoing, any homeowner who undertakes the construction of a new residence for his/her personal occupancy more than three times in any five year period must have the required licenses for the third residential construction project and for any future construction projects.

For purposes of this exception, the terms "contractor" and "sub-contractor" shall be defined to mean "one who performs for and takes from the homeowner a specific part of the labor or material requirements of the permitted work."

(2) Permits may be issued for fence construction to persons who do not possess a valid contractor's license or the required insurance.

(3) Employees or agents working for and under the supervision of a licensed contractor firm as set forth in the Johnson County Contractor Licensing Regulations need not be individually licensed or insured to participate in the permitted work.

(Ord. 1711C; 3-23-98)
(Code 2000)

SECTION TWO: Repeal of Existing Section: The existing Code § 4-207 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Effective Date: This ordinance shall become effective upon adoption and publication once in the official city newspaper.

PASSED by the Governing Body this 7th day of January, 2002.

APPROVED by the Mayor this 7th day of January, 2002.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer by DAH

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

AGREEMENT BETWEEN THE CITY OF LEAWOOD, KANSAS AND THE BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS

This Agreement made and entered into this ___ day of _____, 2002, ("Agreement") by and between the **CITY OF LEAWOOD**, KANSAS ("City") and the **BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS** ("County").

RECITALS

A. The County and City each have the separate authority under K.S.A. §§ 12-1510, 12-1527, 12-1543 and 12-1558, to adopt and enforce such codes, standards and regulations as each deems appropriate for the regulation of (i) plumbers, (ii) electricians, (iii) mechanical heating, ventilation and air conditioning ("HVAC") contractors, and (iv) general contractors, building contractors and residential contractors ("Construction Contractors"). For purposes of this Agreement, all of the foregoing are referred to as "Contractors".

B. The County on August 9, 2001 adopted the "Contractor Licensing Regulations" by Resolution 058-01 to provide for the licensing and regulation of Contractors ("Contractor Licensing Program").

C. The City, on 1-7-2002, adopted Ordinance No. 1926C requiring Contractor's seeking permits or occupational licenses with the City to be licensed by the County pursuant to the Contractor Licensing Program.

D. The City and the County desire to enter into an agreement pursuant to K.S.A. §12-2908 to provide for the County's administration and enforcement of the Contractor Licensing Regulations adopted by the County ("Regulations").

E. In furtherance of their desire for mutual cooperation, the jurisdictions find it necessary and advisable to enter into this Agreement regarding the implementation and administration of the Regulations.

F. K.S.A. §12-2908 authorizes any city or county to contract with any other city or county to perform any governmental service, activity or undertaking with each contracting city or county is authorized by law to perform.

NOW, THEREFORE, pursuant to, and in accordance with, the statutory authority invested in the parties to this Agreement, and in consideration of the mutual advantage received by each party, the parties hereto enter into this Agreement upon, and subject to, the following terms and conditions:

I. PURPOSE AND INTENT.

The purpose and intent of this Agreement is to (i) establish a uniform, countywide, Contractor licensing procedure; (ii) establish a Contractor Licensing Review Board; (iii) reduce administrative costs by consolidating Contractor licensing functions and (iv) provide for the continuing education of Contractors.

II. EFFECTIVE DATE AND TERM.

This Agreement shall become effective upon its adoption by each participating jurisdiction and shall remain in effect unless terminated by either party as provided herein.

III. ADMINISTRATION.

The City shall require all Contractors seeking permits or occupational licenses in the City to provide evidence of a County license pursuant to the Contractor Licensing Program, unless expressly exempted by ordinance. The County shall administer the Regulations on behalf of the City through the Johnson County Department of Planning and Codes Enforcement. The County shall provide all support necessary to operate the Contractor Licensing Program, including but not limited to, the appropriate staff, office space and operating supplies.

IV. REGULATIONS.

The County shall not amend the Contractor Licensing Regulations adopted on August 9, 2001 by County Resolution No. 058-01 without providing thirty (30) days advance notice to the City.

V. FUNDING.

It is the parties' intent that the County shall use all funds generated by Contractor licensing, including contractor licensing fees and any proceeds from Contractor education activities, to support Contractor licensing activities and expenses. The County shall account for all receipts and expenditures attributable to Contractor licensing activities and provide an annual income and expense statement to the City. All of the County's expenditures arising out of the administration of its Contractor licensing duties, including employee costs, equipment expense, a reasonable administrative overhead factor, Contractor Licensing Review Board expenses, and Contractor continuing education costs shall be paid from a separate fund established by the County for that purpose and funded by the licensing fees and other monies collected by the County in administering Contractor licensing activities.

If it appears that the County's Contractor licensing fund shall, in any fiscal year, produce a year-end fund balance of $100,000.00 or more, the County shall implement an appropriate budget amendment or implement a temporary reduction in the Contractor licensing fee structure, or both, to reduce the surplus to less than $100,000.00 during the following fiscal year.

At no time shall the City be obligated to contribute any sums to establish, operate or maintain the County's Contractor Licensing Program or licensing fund, including no obligation to fund any budget shortfall that may result in the licensing fund.

VI. PROPERTY.

Assets, including any real or personal property, acquired by the County in connection with its administration of contractor licensing shall be deemed County-owned property and the County shall be responsible for its acquisition, care and disposal.

VII. CONTRACTOR LICENSING BOARD NOTIFICATION.

The County agrees to provide the City of notice of all contractors brought before the Contractor Licensing Board; the nature of the allegations; and the disposition of the same.

VIII. MODIFICATION.

It is understood and agreed between the parties that there shall be no waiver or modification of this Agreement unless such waiver or modification is first reduced to writing and signed by all parties hereto.

IX. INDEMNIFICATION.

The County hereby agrees to hold harmless and defend the City from any loss, damage, or claim arising out of the County's licensing or failure to license any Contractor and for any action or inaction taken by the Contractor Licensing Review Board. County further agrees to indemnify, defend and hold harmless the City for any claims, damages or causes of action brought against the City for its participation in the County's Contractor Licensing Program.

X. TERMINATION.

Either party may terminate this Agreement for any reason or no reason, by providing thirty (30) days written notice.

XI. NO PREEMPTION.

This Agreement does not preempt the City's authority to adopt other ordinances and regulations regarding Contractor licensing or operations provided such ordinances and regulations do not conflict with the County's regulations and do not require any County action with respect to enforcement, unless otherwise agreed to in writing by both parties.

XII. SEVERABILITY.

If any clause or provision of this Agreement is illegal, invalid or unenforceable under the present or future laws effective during the term of this Agreement then it is the intention of the parties that the remainder of this Agreement shall not be affected thereby and it is also the intention of the parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid or unenforceable, there will be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

XIII. GOVERNING LAW.

This Agreement shall be governed by and construed under the laws of the state of Kansas.

XIV. EXECUTION.

The City and County shall cause this Agreement to be executed in duplicate originals and each party hereto shall receive a duly executed original of this Agreement for their official records.

XV. APPROVAL AND AUTHORIZATION.

This Agreement is approved and authorized by official action of the governing body on the date specified and officially executed.

CITY OF LEAWOOD, KANSAS

[SEAL]

Attest:

Marta Heizer, by DAH

Marta Heizer, City Clerk

By: Peggy Dunn

Peggy Dunn, Mayor

Approved As To Form:

Patricia A. Bennett, City Attorney

BOARD OF COUNTY COMMISSIONERS OF JOHNSON COUNTY, KANSAS

Attest:

John A. Bartolac, County Clerk

By:

Douglas E. Wood, Chairman

Approved As To Form:

Robert A. Ford
Assistant County Counselor

ORD1926C

Publication Fees: $52.66

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Billing Clerk of The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any)

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1926C--1/15/02

Maureen Gillespie
Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:
JANUARY 16, 2002

Penny Knight
Notary Public

PENNY KNIGHT
Notary Public - State of Kansas

My appointment expires: January 31, 2005.

$52.66

This ordinance proposal was filed by the City of Lenexa, Kansas.

LENEXA PLANNING COMMISSION
Don Oppliger, Chairman

Publication Date: January 15, 2002

Planning Commission Meeting Date: February 4, 2002

ORDINANCE NO. 1926C

First published in The Legal Record, Tuesday, January 15, 2002.

ORDINANCE NO. 1926C

AN ORDINANCE AMENDING SECTION 4-207 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ISSUANCE OF PERMITS, REPEALING EXISTING SECTION 4-207, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 4, Article 2, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

4-207. **SAME; SEC. 106.4. PERMITS ISSUANCE.** Sec. 106.4.6 *Issuance of Permits to Licensed or Registered Craftsmen* is hereby added and shall read as follows:

(A) Permits shall be issued only to individuals or persons responsible to a company or organization who are the legal possessors of a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits. Certification of at least one employee of the respective company as a master tradesman shall be a requisite for licensing a plumbing, electrical or HVAC contractor: A master technician certification must have been obtained via a governmental program where both a written examination and experience were pre-requisites. The city licensing technician shall be responsible for verifying the certification status of contractor applicants for a license. The certification of the technician and the city occupation license must remain current throughout the period of construction. Occupation licenses are required for all contractors doing business in Leawood. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. In addition, each contractor and sub-contractor must show proof of comprehensive general liability insurance coverage with minimum limits of $100,000 per person and $300,000 per occurrence for personal injuries and/or property damage that arises from work the contractor performed during the term of the building permit or during actual construction, whichever date is later. Proof of insurance will be a copy of the "Certificate of Insurance" naming the City of Leawood as a certificate holder.

EXCEPTION:
Permits may be issued to homeowners doing construction work at their own residence who do not possess a valid license, insurance, or registration. Homeowners, however, must certify that they are capable and will personally participate in the "permitted" work.

(B) Effective February 1, 2002, permits shall be issued only to individuals or persons responsible to a company or organization that possesses a valid contractor's license issued by Johnson County, Kansas and a valid occupation license in the City of Leawood. Sub-contractor permits will normally be issued as part of general contractor permits, provided that such sub-contractors are also appropriately licensed. All licenses must remain current throughout the period of construction. Questionable certification documents or licensing questions shall be referred to the Codes Administrator for review and resolution. All permit holders must maintain general liability insurance coverage as required by Johnson County, Kansas.

EXCEPTIONS:

(1) Permits may be issued to a homeowner who will occupy or who is personally occupying and undertaking construction, alteration, repair or maintenance of such homeowner's single-family residence or an accessory structure thereto who does not possess a valid contractor's license and required insurance. Homeowners, however, must certify that they are capable and will personally participate in the permitted work. Further, any contractor or sub-contractor hired by the homeowner must meet all requirements and maintain all licenses required by this section prior to commencing any permitted work. Notwithstanding the foregoing, any homeowner who undertakes the construction of a new residence for his/her personal occupancy more than three times in any five year period must have the required licenses for the third residential construction project and for any future construction projects.

For purposes of this exception, the terms "contractor" and "sub-contractor" shall be defined to mean "one who performs for and takes from the homeowner a specific part of the labor or material requirements of the permitted work."

(2) Permits may be issued for fence construction to persons who do not possess a valid contractor's license or the required insurance.

(3) Employees or agents working for and under the supervision of a licensed contractor firm as set forth in the Johnson County Contractor Licensing Regulations need not be individually licensed or insured to participate in the permitted work.

(Ord. 1711C; 3-23-98)
(Code 2000)

ORDINANCE NO. 1925 C

ORDINANCE AMENDING § 1-502 OF THE CODE OF THE CITY OF LEAWOOD 2000, PERTAINING TO DEFERRED COMPENSATION ICMA-RC § 457 PLAN [DEFERRED COMPENSATION] AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2002, AND REPEALING EXISTING SECTION 1-502, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 5, Section 2, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-502. DEFERRED COMPENSATION.

(a) To enable the city to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the city adopts the 457 Deferred Compensation Plan, as amended and restated, effective January 1, 2002, known as Appendix 'A,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation to serve as administrator thereunder.

(b) The city hereby executes the ICMA Retirement Trust, known as Appendix 'B,' and it is hereby incorporated by reference.

(c) The city hereby adopts the trust agreement known as Appendix 'C,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable.

(d) The City Administrator shall be the coordinator for this program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation as administrator, and shall cast, on behalf of the employer, any required votes under the program. Administrative duties to carry out the plan may be assigned to the appropriate departments.

(Ord. 798; 01-03-84)
(Code 2000)

SECTION TWO: Repeal of Existing Sections. The existing Code § 1-502 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FOUR: Effective Date. That said ordinance shall become effective January 1, 2002.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1925C

Publication Fees: $35.49

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1925C--12/18/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 19, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$35.49

You are hereby notified that a petition dated November 30, 2001, has been filed in this Court by *Faith A. Richardson*, as an heir at law, legatee and devisee of Lorraine Ann Richardson, Deceased, praying that the instrument attached to the petition dated November 19, 1990, be admitted to probate, and for her appointment as Executor of the estate without bond.

You are further advised that ministration will be given except for notice of final settlement of the Decedent's estate. Should written objections to simplified administration be filed with the Court, the Court may order supervised administration, to ensue.

You are hereby required to file your written defenses to the petition for administration of decedent's will to probate on or before December 31, 2001, at

All creditors are notified to exhibit their demands against the estate within four (4) months from the date of the first publication of this notice as provided by law, and if their demands are not thus exhibited, they shall be forever barred.

Faith A. Richardson,
Petitioner
INA KAY ZIMMERMAN
KSC#11591
500 E. Santa Fe, Suite B,
Olathe, KS 66061

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Johnson Cou
THOMAS W.

ORDINANCE NO. 1925C

First published in The Legal Record, Tuesday, December 18, 2001.

ORDINANCE NO. 1925C

ORDINANCE AMENDING § 1-502 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO DEFERRED COMPENSATION ICMA-RC § 457 PLAN (DEFERRED COMPENSATION) AS AMENDED AND RESTATED, EFFECTIVE JANUARY 1, 2002, AND REPEALING EXISTING SECTION 1-502, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 1, Article 5, Section 2, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

1-502. DEFERRED COMPENSATION.

(a) To enable the city to attract to and retain in its employment persons of competence and to provide a means for supplementing the retirement benefits of city employees, the city adopts the 457 Deferred Compensation Plan, as amended and restated, effective January 1, 2002, known as Appendix 'A,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation to serve as administrator thereunder.

(b) The city hereby executes the ICMA Retirement Trust, known as Appendix 'B,' and it is hereby incorporated by reference.

(c) The city hereby adopts the trust agreement known as Appendix 'C,' and it is hereby incorporated by reference, and appoints the ICMA Retirement Corporation as Trustee, to invest all funds held under the deferred compensation plan through the ICMA Retirement Trust as soon as is practicable.

(d) The City Administrator shall be the coordinator for this program and shall receive necessary reports, notices, etc., from the ICMA Retirement Corporation as administrator, and shall cast, on behalf of the employer, any required votes under the program. Administrative duties to carry out the plan may be assigned to the appropriate departments.

(Ord. 798; 01-03-84)
(Code 2000)

SECTION TWO: Repeal of Existing Sections. The existing Code § 1-502 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: Publication. That said ordinance shall be published once in the official city newspaper.

SECTION FOUR: Effective Date: That said ordinance shall become effective January 1, 2002.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

(SEAL)

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1924

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO RP-1, PLANNED SINGLE FAMILY RESIDENTIAL, FOR PROPERTY LOCATED SOUTH OF 137TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE RESIDENTIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to RP-1, Planned Single Family Residential.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet; thence S 0°19'56" W, a distance of 342.42 feet; thence S 90°00'00" W, a distance of 208.71 feet; thence S 0°19'56" W, a distance of 245.42; thence S 89°40'04" E, a distance of 87.77 feet; thence Easterly and Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 198.93 feet; thence S 61°10'25" E, a distance of 438.45 feet; thence Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 174.00 feet; thence S 51°12'14" E, a distance of 237.42 feet to the Point of Beginning; thence S 38%%d47'46" W, a distance of 197.33 feet; thence Northwesterly, Westerly, Southwesterly, Southerly and Southeasterly along a curve to the left, said curve having an initial tangent bearing of N 81°12'14" W and a radius of 75.00 feet, an arc distance of 174.80 feet; thence Southwesterly along a curve to the left, said curve having an initial tangent bearing S 29°19'53" W and a radius of 275.00 feet, an arc distance of 56.63 feet; thence N 82°40'39" W, a distance of 104.35 feet; thence N 41°16'25" W, a distance of 162.07 feet; thence N 59°00'48" W, a distance of 48.47 feet; thence N 61°45'10" W, a distance of 52.45 feet; thence N 77°18'54" W, a distance of 134.17 feet; thence N 72°54'26" W, a distance of 90.13 feet; thence N 67°18'27" W, a distance of 66.20 feet; thence N 84°05'44" W, a distance of 200.56 feet; thence S 0°19'56" W, a distance of 1447.15 feet; thence S 89°57'46" E, a distance of 1325.25 feet; thence N 0°21'24" E, a distance of 1366.69 feet; thence N 89°38'36" W, a distance of 47.02 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described line and having a radius of 400.00 feet, an arc distance of 268.36 feet; thence N 51°12'14" W, a distance of 45.17 feet to the point of beginning, containing 41.318 acres, more or less.

ORD1924

Publication Fees: $31.37

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1924--12/18/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 19, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$31.37

ORDINANCE NO. 1924

First published in The Legal Record, Tuesday, December 18, 2001.

ORDINANCE NO. 1924

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO RP-1, PLANNED SINGLE FAMILY RESIDENTIAL, FOR PROPERTY LOCATED SOUTH OF 137TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE RESIDENTIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A" attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to RP-1, Planned Single Family Residential.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

(SEAL)

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet; thence S 0°19'56" W, a distance of 342.42 feet; thence S 90°00'00" W, a distance of 208.71 feet; thence S 0°19'56" W, a distance of 245.42; thence S 89°40'04" E, a distance of 87.77 feet; thence Easterly and Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 198.93 feet; thence S 61°10'25" E, a distance of 438.45 feet; thence Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 174.00 feet; thence S 51°12'14" E, a distance of 237.42 feet to the Point of Beginning; thence S 38%%d47'46" W, a distance of 197.33 feet; thence Northwesterly, Westerly, Southwesterly, Southerly and Southeasterly along a curve to the left, said curve having an initial tangent bearing of N 81°12'14" W and a radius of 75.00 feet, an arc distance of 174.80 feet; thence Southwesterly along a curve to the left, said curve having an initial tangent bearing S 29°19'53" W and a radius of 275.00 feet, an arc distance of 56.63 feet; thence N 82°40'39" W, a distance of 104.35 feet; thence N 41°16'25" W, a distance of 162.07 feet; thence N 59°00'48" W, a distance of 48.47 feet; thence N 61°45'10" W, a distance of 52.45 feet; thence N 77°18'54" W, a distance of 134.17 feet; thence N 72°54'26" W, a distance of 90.13 feet; thence N 67°18'27" W, a distance of 66.20 feet; thence N 84°05'44" W, a distance of 200.56 feet; thence S 0°19'56" W, a distance of 1447.15 feet; thence S 89°57'46" E, a distance of 1325.25 feet; thence N 0°21'24" E, a distance of 1366.69 feet; thence N 89°38'36" W, a distance of 47.02 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described line and having a radius of 400.00 feet, an arc distance of 268.36 feet; thence N 51°12'14" W, a distance of 45.17 feet to the point of beginning, containing 41.316 acres more or less.

ORDINANCE NO. 1923

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO RP-4, PLANNED CLUSTER RESIDENTIAL, FOR PROPERTY LOCATED SOUTH OF 137TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE RESIDENTIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to RP-4, Planned Cluster Residential.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

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ORD1923

Publication Fees: $29.48

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1923--12/18/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 19, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$29.48

ORDINANCE NO. 1923

First published in The Legal Record, Tuesday, December 18, 2001.

ORDINANCE NO. 1923

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO RP-4, PLANNED CLUSTER RESIDENTIAL, FOR PROPERTY LOCATED SOUTH OF 137TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE RESIDENTIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to RP-4, Planned Cluster Residential.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet; thence S 0°19'56" W, a distance of 342.42 feet; thence S 90°00'00" W, a distance of 208.71 feet; thence S 0°19'56" W, a distance of 245.42 feet to the Point of Beginning; thence S 89°40'04" E, a distance of 87.77 feet; thence Easterly and Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 198.93 feet; thence S 61°10'25" E, a distance of 438.45 feet; thence Southeasterly along a curve to the right, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 174.00 feet; thence S 51°12'14" E, a distance of 237.42 feet; thence S 38°47'46" W, a distance of 197.33 feet; thence Northwesterly, Westerly, Southwesterly, Southerly and Southeasterly along a curve to the left, said curve having an initial tangent bearing of N 81°12'14" W and a radius of 75.00 feet, an arc distance of 174.80 feet; thence Southwesterly along a curve to the left, said curve having an initial tangent bearing S 29°19'53" W and a radius of 275.00 feet, an arc distance of 56.63 feet; thence N 82°40'39" W, a distance of 104.35 feet; thence N 41°16'25" W, a distance of 162.07 feet; thence N 59°00'48" W, a distance of 48.47 feet; thence N 61°45'10" W, a distance of 52.45 feet; thence N 77°18'54" W, a distance of 134.17 feet; thence N 72°54'26" W, a distance of 90.13 feet; thence N 67°18'27" W, a distance of 66.20 feet; thence N 84°05'44" W, a distance of 200.56 feet; thence N 0°19'56" E, a distance of 502.45 feet to the point of beginning, containing 10.431 acres, more or less.

ORDINANCE NO. 1922

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO SD [NCR], SPECIAL DEVELOPMENT DISTRICT NEIGHBORHOOD COMMERCIAL RETAIL, FOR PROPERTY LOCATED SOUTH OF 135TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE COMMERCIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to SD [NCR] Special Development District Neighborhood Commercial Retail.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

> Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet to the Point of Beginning; thence N 90°00'00" E, a distance of 270.07 feet; S 0°00'00" W, a distance of 624.51 feet; thence Southerly and Southwesterly along a curve to the right, said curve being tangent to the last described course and having a radius of 200.00 feet, an arc distance of 100.62 feet; thence S 28°49'35" W, a distance of 13.60 feet; thence N 61°10'25" W, a distance of 196.94 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 198.93 feet; thence N 89°40'04" W, a distance of 87.77 feet; thence N 0°19'56" E, a distance of 245.42 feet; thence N 90°00'00" E, a distance of 208.71 feet; thence N 0°19'56" E, a distance of 342.42 feet to the point of beginning, containing 5.38 acres, more or less.

ORD1922

Publication Fees: $26.39

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1922--12/18/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 19, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$26.39

ORDINANCE NO. 1922

First published in The Legal Record, Tuesday, December 18, 2001.

ORDINANCE NO. 1922

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO SD [NCR], SPECIAL DEVELOPMENT DISTRICT NEIGHBORHOOD COMMERCIAL RETAIL, FOR PROPERTY LOCATED SOUTH OF 135TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE COMMERCIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to SD [NCR] Special Development District Neighborhood Commercial Retail.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet to the Point of *Beginning; thence N 90°00'00" E, a distance of 270.07 feet; S 0°00'00" W, a distance of* 624.51 feet; thence Southerly and Southwesterly along a curve to the right, said curve being tangent to the last described course and having a radius of 200.00 feet, an arc distance of 100.62 feet; thence S 28°49'35" W, a distance of 13.60 feet; thence N 61°10'25" W, a distance of 196.94 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described course [illegible] an arc distance of 198.93 feet; thence N 89°40'04" W, a distance of [illegible] feet; thence N 0°19'56" E, a distance of 245.42 feet; thence N 90°00'00" E, a distance of 208.71 feet; thence N 0°19'56" E, a distance of 342.42 feet to the point of beginning, containing 5.38 acres, more or less.

ORDINANCE NO. 1921

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO SD [O], SPECIAL DEVELOPMENT DISTRICT OFFICE, FOR PROPERTY LOCATED SOUTH OF 135TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE COMMERCIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to SD [O] Special Development District Office.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet; thence N 90°00'00" E, a distance of 270.07 feet to the Point of Beginning; thence continuing N 90°00'00" E, a distance of 297.57 feet to a point on the West plat line of LORD OF LIFE, FIRST PLAT, a platted subdivision of land now in the City of Leawood, Johnson County, Kansas, as recorded in the Office of the Register of Deeds, in plat book 74, at page 15; thence S 0°21'24" W (measured) (S 0°20'52" W plat)), along the West plat line of said LORD OF LIFE, FIRST PLAT, a distance of 856.24 (measured) (871.22 plat) feet to the Southwest plat corner of said LORD OF LIFE, FIRST PLAT; thence N 90°00'00" E, along the South plat line of said LORD OF LIFE, FIRST PLAT, a distance of 550.00 feet to a point on the East line of the Northwest Quarter of said Section 34; thence S 0°21'24" W, along the East line of the Northwest Quarter of said Section 34, a distance of 355.38 feet; thence N 89°38'36" W, a distance of 47.02 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 268.36 feet; thence N 51°12'14" W, a distance of 282.59 feet; thence Northwesterly along a curve to the left, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 174.00 feet; thence N 61°10'25" W, a distance of 241.51 feet; thence N 28°49'35" E, a distance of 13.60 feet; thence Northeasterly and Northerly along a curve to the left, said curve being tangent to the last described course and having a radius of 200.00 feet, an arc distance of 100.62 feet; thence N 0°00'00" E, a distance of 624.51 feet to the point of beginning, containing 8.88 acres, more or less.

ORD1921

Publication Fees: $30.51

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1921--12/18/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

DECEMBER 19, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$30.51

ORDINANCE NO. 1921

First published in The Legal Record, Tuesday, December 18, 2001.

ORDINANCE NO. 1921

ORDINANCE REZONING FROM AG, AGRICULTURAL, TO SD [O], SPECIAL DEVELOPMENT DISTRICT OFFICE, FOR PROPERTY LOCATED SOUTH OF 135TH STREET AND WEST OF CHADWICK, LEAWOOD, JOHNSON COUNTY, KANSAS [TUSCANY RESERVE COMMERCIAL].

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

SECTION ONE: Rezoning. That the real estate described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to SD [O] Special Development District Office.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 17th day of December, 2001.

APPROVED by the Mayor this 17th day of December, 2001.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT 'A'

All that part of the East One-half of the Northwest Quarter of Section 34, Township 13, Range 25, in the City of Leawood, Johnson County, Kansas, being more particularly described as follows:

Commencing at the Northeast corner of the Northwest Quarter of said Section 34; thence S 90°00'00" W, along the North line of the Northwest Quarter of said Section 34, a distance of 1118.11 feet; thence S 0°00'00" W, a distance of 75.00 feet; thence N 90°00'00" E, a distance of 270.07 feet to the Point of Beginning; thence continuing N 90°00'00" E, a distance of 297.57 feet to a point on the West plat line of LORD OF LIFE, FIRST PLAT, a platted subdivision of land now in the City of Leawood, Johnson County, Kansas, as recorded in the Office of the Register of Deeds, in plat book 74, at page 15; thence S 0°21'24" W (measured) (S 0°20'52" W plat)), along the West plat line of said LORD OF LIFE, FIRST PLAT, a distance of 856.24 (measured) (871.22 plat) feet to the Southwest plat corner of said LORD OF LIFE, FIRST PLAT; thence N 90°00'00" E, along the South plat line of said LORD OF LIFE, FIRST PLAT, a distance of 550.00 feet to a point on the East line of the Northwest Quarter of said Section 34; thence S 0°21'24" W, along the East line of the Northwest Quarter of said Section 34, a distance of 355.38 feet; thence N 89°38'36" W, a distance of 47.02 feet; thence Northwesterly along a curve to the right, said curve being tangent to the last described course and having a radius of 400.00 feet, an arc distance of 268.36 feet; thence N 51°12'14" W, a distance of 282.59 feet; thence Northwesterly along a curve to the left, said curve being tangent to the last described course and having a radius of 1000.00 feet, an arc distance of 174.00 feet; thence N 61°10'25" W, a distance of 241.51 feet; thence N 28°49'35" E, a distance of 13.60 feet; thence Northeasterly and Northerly along a curve to the left, said curve being tangent to the last described course and having a radius of 200.00 feet, an arc distance of 100.62 feet; thence N 0°00'00" E, a distance of 624.51 feet to the point of beginning, containing 8.88 acres, more or less.

ORDINANCE NO. 1920

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $6,100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD.

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement of State Line Road between 103rd Street and Carondelet within the City pursuant to K.S.A. 12-685, *et seq.* and Ordinance No. 1372;

(b) Acquisition, construction and installation of a new public works facility within the City pursuant to 12-1736 *et seq.* and Resolution No. 1532;

(c) Improvement and reimprovement of 119th Street and Mission Road in the area of the intersection thereof pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(d) Improvement of Lee Boulevard between 103rd Street and 105th Street within the City pursuant to K.S.A. 12-685 *et seq.* and Ordinance No. 1886;

(e) Construction of 133rd Street from the intersection of said street and State Line Road to the intersection of said street with Mission Road within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended by Resolution No. 1638; and

(f) Construction of 133rd Street from the intersection of said street with Mission Road to the intersection of said street with Roe Avenue within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended by Resolution No. 1639;

(collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued certain Temporary Notes dated April 1, 2001, in the principal amount of $4,000,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $2,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

Section 1. Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Six Million One Hundred Thousand Dollars ($6,100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the respective City Improvement Projects which remain outstanding does not exceed the total estimated cost of each of such City Improvement Projects.

Section 2. Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing

Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

Section 3. Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $4,000,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

Section 6. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 7. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

Section 8. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or

advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 9. Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

Section 10. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 5th day of November, 2001.

APPROVED by the Mayor the 5th day of November, 2001.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1920

Publication Fees: $103.31

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1920--11/6/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

NOVEMBER 7, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$103.31

ORDINANCE NO. 1920

First published in The Legal Record, Tuesday, November 6, 2001.

ORDINANCE NO. 1920

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $6,100,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD.

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Improvement of State Line Road between 103rd Street and Carondelet within the City pursuant to K.S.A. 12-685, *et seq.* and Ordinance No. 1372;

(b) Acquisition, construction and installation of a new public works facility within the City pursuant to 12-1736 *et seq.* and Resolution No. 1532;

(c) Improvement and reimprovement of 119th Street and Mission Road in the area of the intersection thereof pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(d) Improvement of Lee Boulevard between 103rd Street and 105th Street within the City pursuant to K.S.A. 12-685 *et seq.* and Ordinance No. 1886;

(e) Construction of 133rd Street from the intersection of said street and State Line Road to the intersection of said street with Mission Road within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525, as amended by Resolution No. 1638; and

(f) Construction of 133rd Street from the intersection of said street with Mission Road to the intersection of said street with Roe Avenue within the City and related appurtenances pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1524, as amended by Resolution No. 1639;

(collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued certain Temporary Notes dated April 1, 2001, in the principal amount of $4,000,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $2,100,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

Section 1. Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Six Million One Hundred Thousand Dollars ($6,100,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the respective City Improvement Projects which remain outstanding does not exceed the total estimated cost of each of such City Improvement Projects.

Section 2. Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

Section 3. Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $4,000,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

Section 6. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 7. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

Section 8. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or

CONTINUED ON NEXT PAGE

CONTINUED FROM PRECEDING PAGE

advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 9. Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

Section 10. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Council the 5th day of November, 2001.

APPROVED by the Mayor the 5th day of November, 2001.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1919

AN ORDINANCE AMENDING SECTIONS 8-10 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ARCHITECTURALLY ATTACHED DEFINITION; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 8-10 of the Leawood Development Ordinance, is hereby amended to read as follows:

8-10 Architecturally Attached

A structure between the primary or principal structure and accessory structure that is permanently physically attached or joined so as to create a usable member constructed of similar materials to which it will be attached.

Section 2. Existing Section Repealed. The existing Section 8-10 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October, 2001.

(SEAL)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORD1919

Publication Fees: $18.32

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1919--10/23/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 24, 2001

Patricia A. Monahan

Notary Public

NOTARY PUBLIC - State of Kansas
PATRICIA A. MONAHAN
My Appt. Exp. 2/9/2005

$18.32

ORDINANCE NO. 1919

First published in The Legal Record, Tuesday, October 23, 2001.

ORDINANCE NO. 1919

AN ORDINANCE AMENDING SECTIONS 8-10 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ARCHITECTURALLY ATTACHED DEFINITION; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 8-10 of the Leawood Development Ordinance, is hereby amended to read as follows:

8-10 Architecturally Attached

A structure between the primary or principal structure and accessory structure that is permanently physically attached or joined so as to create a usable member constructed of similar materials to which it will be attached.

Section 2. Existing Section Repealed. The existing Section 8-10 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October, 2001.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1918

AN ORDINANCE AMENDING SECTIONS 4-2 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE PROHIBITED USES; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 4-2 of the Leawood Development Ordinance, is hereby amended to read as follows:

4-2 PROHIBITED USES

4-2.1 Buildings in Residentially Zoned Area

No business building shall be erected in a residentially zoned district, nor shall any dwelling be converted to or used for any business purpose or character in a residentially zoned district except as specifically authorized in Section 4-7 Home Occupations.

4-2.2 Detached Structures

No detached structure shall be permitted, including garage, barn, shed, greenhouse, above ground pool (type sold to be placed above ground), outbuilding or any other detached structure, unless otherwise allowed by ordinance.

4-2.3 Ceasing or Abandonment of Construction

No building, structure or appurtenance shall be permitted or maintained upon which construction has ceased for a period longer than 6 months.

4-2.4 No Damaged Building Left Unrepaired Over Three Months

No building, structure or appurtenance damaged by fire, windstorm, hail, water, tree or any other means shall be permitted to remain in such damaged condition for a period longer than 3 months, except with permission of the Governing Body of the City of Leawood.

4-2.5 No Building Material Stored, Etc.

No building material, inoperable vehicle, construction equipment, machinery, trailer, construction trailer or refuse shall be maintained or kept in the open upon any lot, plot, tract or premises other than during actual construction operations upon said premises or related premises.

4-2.6 Septic Tanks

The use of septic tanks for disposal of sewage from buildings hereafter erected or moved into the City of Leawood is prohibited, except in areas where sewer mains of a public or private sewer system are found to be impractical by the Governing Body after report of the City Engineer. In such cases, use of septic tanks shall be subject to the approval of a permit for the septic tank system by the Governing Body after recommendation of the County Health Department.

4-2.7 Storage of Hazardous Materials

See Uniform Fire Code as adopted by the City of Leawood for restrictions on placement and allowable quantities.

4-2.8 Individually Owned Television Antenna

Not to include satellite dishes.

4-2.9 Use of Temporary Protective Coverings on Buildings

The use of temporary protective coverings, (i.e. tarp, salvage covers, tarpaper) on external portions of buildings, structures or appurtenances shall not be allowed to exceed 30 days. Provided that the property owner or representative has provided a set of plans and / or written strategy for repairing the structure within the initial 30 days of installing the temporary protective covering, then the Building Official may grant an addition 30-60 day extension. The temporary protective covering may not be allowed to exceed 90 days without permission from the Governing Body of the City of Leawood.

Section 2. Existing Section Repealed. The existing Section 4-2 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October, 2001.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORD1918

Publication Fees: $45.62

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1918--10/23/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 24, 2001

Patricia A. Monahan

Notary Public

NOTARY PUBLIC - State of Kansas
PATRICIA A. MONAHAN
My Appt. Exp. 2/9/2005

$45.62

ORDINANCE NO. 1918

First published in The Legal Record: Tuesday, October 23, 2001.

ORDINANCE NO. 1918

AN ORDINANCE AMENDING SECTIONS 4-2 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE PROHIBITED USES; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 4-2 of the Leawood Development Ordinance, is hereby amended to read as follows:

4-2 PROHIBITED USES

4-2.1 Buildings in Residentially Zoned Area

No business building shall be erected in a residentially zoned district, nor shall any dwelling be converted to or used for any business purpose or character in a residentially zoned district except as specifically authorized in Section 4-7 Home Occupations.

4-2.2 Detached Structures

No detached structure shall be permitted, including garage, barn, shed, greenhouse, above ground pool (type sold to be placed above ground), outbuilding or any other detached structure, unless otherwise allowed by ordinance.

4-2.3 Ceasing or Abandonment of Construction

No building, structure or appurtenance shall be permitted or maintained upon which construction has ceased for a period longer than 6 months.

4-2.4 No Damaged Building Left Unrepaired Over Three Months

No building, structure or appurtenance damaged by fire, windstorm, hail, water, tree or any other means shall be permitted to remain in such damaged condition for a period longer than 3 months, except with permission of the Governing Body of the City of Leawood.

4-2.5 No Building Material Stored, Etc.

No building material, inoperable vehicle, construction equipment, machinery, trailer, construction trailer or refuse shall be maintained or kept in the open upon any lot, plot, tract or premises other than during actual construction operations upon said premises or related premises.

4-2.6 Septic Tanks

The use of septic tanks for disposal of sewage from buildings hereafter erected or moved into the City of Leawood is prohibited, except in areas where sewer mains of a public or private sewer system are found to be impractical by the Governing Body after report of the City Engineer. In such cases, use of septic tanks shall be subject to the approval of a permit for the septic tank system by the Governing Body after recommendation of the County Health Department.

4-2.7 Storage of Hazardous Materials

See Uniform Fire Code as adopted by the City of Leawood for restrictions on placement and allowable quantities.

4-2.8 Individually Owned Television Antenna

Not to include satellite dishes.

4-2.9 Use of Temporary Protective Coverings on Buildings

The use of temporary protective coverings, (i.e. tarp, salvage covers, tarpaper) on external portions of buildings, structures or appurtenances shall not be allowed to exceed 30 days. Provided that the property owner or representative has provided a set of plans and / or written strategy for repairing the structure within the initial 30 days of installing the temporary protective covering, then the Building Official may grant an addition 30-60 day extension. The temporary protective covering may not be allowed to exceed 60 days without permission from the Governing Body of the City of Leawood.

Section 2. Existing Section Repealed. The existing Section 4-2 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October 2001.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1917

AN ORDINANCE AMENDING SECTIONS 4-1 OF THE LEAWOOD DEVELOPMENT ORDINANCE, SPECIFICALLY PROVIDING FOR CHANGES TO THE ACCESSORY USES; AND REPEALING EXISTING SECTION.

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

Section 1. Leawood Development Ordinance Amended. That Section 4-1 of the Leawood Development Ordinance, is hereby amended to read as follows:

4-1 ACCESSORY USES

4-1.1 General Conditions

All accessory buildings, structures, and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthy, disturbing so as to create a public nuisance and shall be located on the premises of the main use.

4-1.2 Location and Height of Accessory Uses, Buildings and Structures

A) Location. No accessory use, building, or structure permitted by this ordinance may be located in a required yard, except as otherwise specifically authorized.

B) Location Exceptions.

1) Swimming pools and tennis court perimeter fences shall maintain a minimum of 10 feet from side and rear property lines. Play equipment, i.e. swings, jungle gyms, children's playhouse, etc., but not to include sport courts, may be allowed anywhere in a rear yard.

2) Yard perimeter fences, walls, and retaining walls may be placed on property line. Retaining walls so constructed to provide for a patio or similar use shall not be exempt from the minimum yard requirements set forth in this ordinance unless specifically authorized at development plan approval.

3) Concrete at grade patios, walkways, and driveways may extend to property line.

4) Garden structures may be allowed anywhere in the side or rear yard.

C) Accessory Building, Structure Height and Coverage Limitations.

1) No accessory building or structure permitted by this ordinance shall exceed one floor level and a height of 15 feet measured from ground level. Agricultural (AG) District and Planned Rural Density Single Family Residential (RP-A5) accessory uses and structures shall be exempt from this requirement.

2) No accessory building or structure permitted by this ordinance shall exceed 2% of the lot coverage nor shall the total lot coverage exceed 75% for all impervious surfaces within the site. Agricultural (AG) District and Planned Rural Density Single Family Residential (RP-A5) accessory uses and structures shall be exempt from this requirement.

4-1.3 Permitted Accessory Uses, Buildings and Structures

Accessory uses, buildings, and structures shall be permitted in the following districts.

A) Agricultural Districts

1) Any structure used in conjunction with a permitted use;

2) Any accessory use allowed in "R" districts may be used in conjunction with a single family home;

3) Signs permitted in Section 4-5 of this ordinance;

4) Windmills, wind-driven power generators are permitted provided that any such structure complies with all applicable zoning regulations.

5) Living quarters for farm attendants may be located in an accessory building in the Agricultural (AG) District provided the building code can be met.

B) Residential Districts

1) Solar collector provided that all components servicing the collector panel are concealed and all exposed metal shall be finished with warm earth tones or black, in color;

2) Satellite receiving dish antennae:

a) in excess of one meter shall not be allowed;

b) one meter or less in size are exempt from these regulations.

3) Readily moveable sports, recreation or outdoor cooking equipment;

4) In ground swimming pool;

5) Home Occupations; (See Section 4-8 of this ordinance);

6) Fence, walls and retaining walls (Sealed engineering plans shall be submitted and approved prior to construction of any wall or retaining wall 4 feet in height or higher);

7) Garage sales limited to 2 sales per year (4 days per sale);

8) Sample sales limited to 2 sales per year (4 days per sale;)

9) Children's play equipment including swing sets, jungle gyms, sandboxes, playhouses, tree houses and, other related equipment provided playhouses do not exceed 64 square feet in gross floor area, with a maximum door width of 24" and 15 feet in total height measured from the ground to the highest point. Only one playhouse is allowed per residence;

10) Dog houses, dog runs, and dog kennels, provided they do not exceed a 64 square foot area and a 6' height, limited to the rear yard and adjacent to the existing structure. Any requests for a larger structure must go before the Board of Zoning Appeals for approval;

11) Flag pole;

12) Wood decks (attached);

13) Concrete patios including stone, brick, and pavers but not including asphalt;

14) Bath house, pool house, and cabana only in conjunction with swimming pools;

15) Firewood piles for home use;

16) Garden structures consisting of parallel colonnades supporting an open roof or girders and cross rafters, commonly known as pergolas, arbors and trellises, and garden statuary;

17) Storage or parking of recreational vehicles and equipment as provided in 4-4.6c 1&2;

18) Horse pasturing shall be permitted as an accessory use in Planned Rural Density Single Family Residential (RP-A5) and Planned Large Lot Single Family Residential (RP-A) District provided that a minimum lot area of 3 acres can be maintained;

19) Hobby or craft activities operated by the occupant only provided that articles produced or constructed are not sold on the premises;

20) Signs permitted in Section 4-5 of this ordinance;

21) Mother's day out programs and preschools shall be permitted accessory uses in church, religious, educational, and community buildings.

22) An estate sale for purposes of this ordinance shall mean a sale conducted on the premises (lot or parcel of land) by the owner or said premises for the specific purpose of selling personal possessions and/or belongs that shall have been acquired or which have accumulated at said premises over the course of time. In no event shall "estate" include possessions that are not owned by resident or have been transferred to the site specifically for purposes of sale. Estate sales shall be permitted provided the following conditions have been met:

   a) Residents within 200 feet have been notified by regular mail postmarked not less than 10 days prior to the date of the sale.

   b) Means of parking and traffic control have been established and coordinated with the police and public works departments.

   c) Signage shall be limited to that permitted by this ordinance.

   d) Tents or other accessory structures; food vendors; and/or any other such atypical residential uses shall require Special Use Permits as provided in Section 4-3.1(31) dealing with temporary short term uses.

   e) Sales limited to 1 per calendar year per location, operated for not more than 4 consecutive days during daylight hours.

   f) Permit required.

23) Architecturally attached structures shall be allowed only when the accessory structure is connected to the primary structure with a breezeway, minimum 10' wide pergola, or other usable shade type structures constructed of similar materials to which it

will be attached. The roof section connecting the accessory structure shall not be any longer than 15' in length, measured along the top of the structural roof attachment. Not to be included as an allowable connection is a fence, deck, awning or other types of non-compatible or non-shade type structures.

C) Planned Apartment House Residential (RP-3) and Planned Cluster Residential (RP-4) Districts (Additional Uses)

1) Parking areas; (plan approved)

2) Signs permitted in Section 4-5 of this ordinance;

3) Tenant used recreation facilities including minor buildings (plan approved);

4) Trash collection centers;

5) Power generators;

6) Vending machines located inside tenant buildings.

D) Office, Commercial, Industrial and Special Development Districts

1) Off street parking lots as approved in the final development plan;

2) Signs permitted in Section 4-5 of this ordinance;

3) Food service and vending machines located inside of a building;

4) Private garage for motor vehicles; (plan approved)

5) Living quarters for maintenance personnel;

6) Low level exterior lighting;

7) Flagpoles;

8) Health club for employees or tenants when located inside of the primary building;

9) Day care center for employees or tenants when located inside of the primary building;

10) Restaurants, cafeterias, drug stores, gift shops and newsstands when located inside of the building;

11) Fencing as approved in the final development plan;

12) Pharmaceutical sales, medicines, etc. when incidental to the practice of medicine in a medical office;

13) Eyeglass sales when incidental to the practice of optometry;

14) Satellite receiving dish antennae may be placed on the roof of a building provided that the antennae shall only be located on a flat roof and shall be screened from view. The screen shall be architecturally compatible with the structure as to shape, size, color and bulk;

15) Solar Collector (plan approved)

a) Any system incorporated into a commercial building shall be integrated into the basic form and main body of the building. If roof mounted, all collector panels shall fit into the form of the roof; if the building's roof is sloped or if "rack" mounting is used on a flat roof, the mounting must be concealed from view at street level. Exposed rack supports and freestanding collectors apart from the main building are not permitted.

b) Roof mounted solar energy systems mounted on "accessory buildings" are allowed on garages or swimming pool equipment buildings. All such energy systems mounted on accessory buildings shall conform to the requirements outlined in paragraph (a). No freestanding panels or panel racks shall be allowed.

c) In an active or photovoltaic system, all components servicing the collector panels shall be concealed including mechanical piping, electrical conduits, etc.

d) All exposed metal - including the framework of active collector panels or exposed mullions and framework of passive systems shall be of finished +warm earth tones, or black, in color. Clear unpainted aluminum shall not be allowed.

4-1.4 Prohibited Accessory Uses

A) No accessory building may be used for residential dwelling purposes at any time except as specifically authorized in the Agricultural (AG) District.

B) Outdoor storage, except as specifically authorized in the district regulations.

C) Standing or parked advertising trailers.

Section 2. Existing Section Repealed. The existing Section 4-1 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October, 2001.

(S E A L)

Peggy J. Dunn

Peggy J. Dunn, Mayor

Attest:

Martha Heizer

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORD1917.

Publication Fees: $114.30

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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for 1 consecutive week(s), as follows:

ORDINANCE NO. 1917--10/23/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 24, 2001

Patricia A. Monahan

Notary Public

NOTARY PUBLIC - State of Kansas
PATRICIA A. MONAHAN
My Appt. Exp. 2/9/2005

$114.30

ORDINANCE NO. 1917

First published in The Legal Record, Tuesday, October 23, 2001.

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A) Location. No accessory use, building, or structure permitted by this ordinance may be located in a required yard, except as otherwise specifically authorized.

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1) Parking areas: (plan approved)
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4) Trash collection centers;
5) Power generators;
6) Vending machines located inside tenant buildings.

D) Office, Commercial, Industrial and Special Development Districts

1) Off street parking lots as approved in the final development plan;
2) Signs permitted in Section 4-5 of this ordinance;
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5) Living quarters for maintenance personnel;
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7) Flagpoles;
8) Health club for employees or tenants when located inside of the primary building;
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B) Outdoor storage, except as specifically authorized in the district regulations.

C) Standing or parked advertising trailers.

Section 2. Existing Section Repealed. The existing Section 4-1 of the Leawood Development Ordinance is hereby repealed.

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

Passed by the Council the 15th day of October, 2001.

Approved by the Mayor the 15th day of October, 2001.

(SEAL)

Peggy J. Dunn, Mayor

Attest:

Martha Heizer, City Clerk

Approved as to form:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1916

AN ORDINANCE GRANTING TO QWEST COMMUNICATIONS CORPORATION, A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Qwest Communications Corporation, ['QWEST'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Qwest Communications Corporation, or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

   This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of–way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues

shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

   Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental

requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

Qwest Communications Corporation
13952 Denver West Parkway
Building # 53, Suite # 200
Golden, CO 80401

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or

occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that

such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other

person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or

become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	September 4, 2001	**Second Reading**:	September 17, 2001
Third Reading:	October 1, 2001	**Effective Date**:	December 1, 2001

Passed by the Governing Body this 1st day of October, 2001.

Approved by the Mayor this 1st day of October, 2001.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa Wetzler

Lisa R. Wetzler, Assistant City Attorney

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Martha

13952 Denver W Pkwy, Bldg 53 #200
Golden, Colorado 80401

J.L. Shives
Assistant Vice President
Right-Of-Way & Real Estate
(303) 445-7006

RECEIVED
OCT 30 2001

ide the light
Qwest.

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

October 25, 2001

Ms. Lisa Wetzler
Assistant City Attorney
Leawood City Hall
4800 Town Center Drive
Leawood, Kansas 66211

Re: Qwest Communications Corporation
Telecommunications Franchise

Dear Ms Wetzler:

As Assistant Vice-President for Qwest Communications Corporation, I am authorized to accept, and do hereby accept, the telecommunications franchise adopted by the City Council on October 1, 2001. Please contact me at your convenience so we may determine the amount of the franchise fee that Qwest is to pay the City under the terms of the franchise.

We appreciate your assistance in this process.

Very truly yours,

J L Shives

J. L. Shives

cc: C. Melcher Esq.
M. Johnson Esq.

ORD1916

Publication Fees: $375.92

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 2 consecutive week(s), as follows:

ORDINANCE NO. 1916--10/09/01 & 10/16/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

OCTOBER 17, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$375.92

ORDINANCE NO. 1916

First published in The Legal Record, Tuesday, October 9, 2001.

ORDINANCE NO. 1916

AN ORDINANCE GRANTING TO QWEST COMMUNICATIONS CORPORATION, A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Qwest Communications Corporation, ['QWEST'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Qwest Communications Corporation, or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordinance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

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provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

    Qwest Communications Corporation
    13952 Denver West Parkway
    Building # 53, Suite # 200
    Golden, CO 80401

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

    b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

    c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

    a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

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ORDINANCE NO. 1916

First published in The Legal Record, Tuesday, October 9, 2001.

ORDINANCE NO. 1916

AN ORDINANCE GRANTING TO QWEST COMMUNICATIONS CORPORATION, A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, Qwest Communications Corporation, ['QWEST'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

Definitions. For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means Qwest Communications Corporation, or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this

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provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

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13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

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15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

   a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

   b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

   c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

   a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

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b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	September 4, 2001	**Second Reading:**	September 17, 2001
Third Reading:	October 1, 2001	**Effective Date:**	December 1, 2001

Passed by the Governing Body this 1st day of October, 2001.

Approved by the Mayor this 1st day of October, 2001.

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler, Assistant City Attorney

ORDINANCE NO. 1915

ORDINANCE AMENDING ORDINANCE NO. 1873, LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND, FOR THE PURPOSE OF PAYING FOR THE COST OF ROAD IMPROVEMENTS LOCATED WITHIN THE NORMANDY PLACE SUBDIVISION, IN THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS [IMPROVEMENT DISTRICT NORMANDY PLACE, PROJECT 164]

WHEREAS, pursuant to proceedings regularly held according to law, contracts have been let for the following improvements in the City of Leawood:

Improvement, reimprovement, excavation and repair of the damaged sections of all roads within the Normandy Place Subdivision and certain storm water drainage improvements within said subdivision; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to the City is $315,000.00; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to be assessed against the improvement district is $315,000.00, and such property, within the improvement district shall be assessed for actual cost based on an equal share per lot within the benefit district; and

WHEREAS, the Governing Body has, after due notice, met and determined the amount of such special assessment; and

WHEREAS, the Governing Body passed Ordinance No. 1873, ['Ordinance'] on August 21, 2000, for such levying of assessments to occur; and

WHEREAS, said Governing Body now desires to amend Section 2, to include additional language setting forth the number of annual installments that such assessments will be levied.

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

SECTION ONE: Special assessments to pay the cost of said improvement, with accrued interest, be and the same are hereby levied against the several lots, pieces and parcels of land liable for special assessments for said improvement as set out in the attached Assessment Roll, attached hereto and incorporated herein by reference as if fully set out, and on file in the City Clerk's Office.

SECTION TWO: Such assessments with accrued interest are levied concurrently with general property taxes and shall be payable in fifteen [15] annual installments. The first installment shall be payable at the time of the first payment of general property taxes following the adoption and publication of this ordinance, unless this ordinance is adopted and certified too late to permit collection at such time.

SECTION THREE: All assessments shall bear interest at a rate not to exceed the maximum rate set by Kansas law.

SECTION FOUR: The owner of any property so assessed may at any time prior to 4:00 P.M., Monday, September 25, 2000, pay the entire amount of the assessment against any lot or parcel of land, without interest, to the City Treasurer.

SECTION FIVE: Assessments not paid prior to 4:00 P.M., Monday, September 25, 2000, shall be certified by the City Clerk, together with the interest accrued or to accrue, to the County Clerk, and collected in the same manner as other taxes.

SECTION SIX: This ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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ASSESSMENT ROLL

Normandy Place Road Improvement
Project 164

Assessment Factor:
Actual Cost of Improvement.
Equal shares per lot.

Property I.D.#	Ownership	Assessment
HP89000000 0T0C1	Mary M. Mann	$5,431.03
HP89000000 0T0C2	Harold & Ruth L. Katz	$5,431.03
HP89000000 0T0C3	Sharon Cowden	$5,431.03
HP89000000 0T0D	Patricia M. Rasmussen	$5,431.03
HP89000000 0T0D1	Constance Phillips	$5,431.03
HP89000000 0T0D2	Herbert Adler	$5,431.03
HP89000000 0T0D6	Irwin D. & Barbara S. Rein	$5,431.03
HP890000TA 0T07	Thelma W. Fox	$5,431.03
HP890000TA 0T08	Dianna T. Sheffield	$5,431.03
HP890000TA 0T09	Clifford L. Rovelto & Eileen M. Fergus	$5,431.03
HP890000TA 0U01	Brent L. Grams	$5,431.03
HP890000TA 0U02	Avery Murray	$5,431.03
HP890000TA 0U03	Mary Patricia Hughes	$5,431.03

Property I.D.#	Ownership	Assessment
HP890000TA 0U04	Robert D. & Marilyn C. Rafferty	$5,431.03
HP890000TA 0U05	Frederick A. & Carol K. Watts	$5,431.03
HP890000TA 0U06	Edmund W. & Dorothy C. Wollmuth	$5,431.03
HP890000TC 0009	Kurt & Margrit Vetsch	$5,431.03
HP890000TC 0010	Kenneth F. & Janice M. Stewart	$5,431.03
HP890000TC 0011	Jane A. Peal	$5,431.03
HP890000TC 0012A	Howard J. Ellfeldt	$5,431.03
HP890000TC U05A	Mark A. & Patricia A. Lester	$5,431.03
HP890000TC U05B	William G. & Patricia J. Samuels	$5,431.03
HP890000TC U06A	Robert S. Selby & Nancy L. Dietrich	$5,431.03
HP890000TC U06B	Louis F. & Mary C. Drees	$5,431.03
HP890000TC 0U07	John S. & Roberta M. Saper	$5,431.03
HP890000TC U08A	Dorothy U. & Eric L. Hansen	$5,431.03
HP890000TC U08B	William W. & Carol L. Chiles	$5,431.03
HP890000TC U08C	Johnson County Bank ETAL	$5,431.03
HP890000TC U08D	Gladys G. Miller	$5,431.03
HP890000TC U010	Elvira C. Migliazzo	$5,431.03
HP890000TC U011	Courtney Y. Sloan & Gloria Fischer Dobbs	$5,431.03
HP890000TC U012	Martha A. Horan	$5,431.03
HP890000TD 0010	L. Keith & Shirley A. Ellenberger	$5,431.03
HP890000TD 0011	Stanley A. & Marlene P. Katz	$5,431.03

Property I.D.#	Ownership	Assessment
HP890000TD 0012	Ronald L. & Joan F. Minda	$5,431.03
HP890000TD 0013	Charles L. JR & Mary J. Walden	$5,431.03
HP890000TD 0014	Irving B. & Shirley A. Malashock	$5,431.03
HP890000TD 0015	Stephen E. & Maren H. Paoletti	$5,431.03
HP890000TD 0016	Charles E. Pappas	$5,431.03
HP890000TD 0017	William J. & Sharon M. Hill	$5,431.03
HP890000TD 0018	Thomas H. & Grace W. Nicholl	$5,431.03
HP890000TD 0024	Nancy N. & Jerry G. Cornelison	$5,431.03
HP890000TD U28A	V. Darlene Williams	$5,431.03
HP890000TD U28B	Robert H. & Jeanette Wayne	$5,431.03
HP890000TH 0001	Thomas F. & Alice A. Lewinsohn	$5,431.03
HP890000TH 0002	Labe & Gloria Asner	$5,431.03
HP890000TH 0003	James K. & Lynelle R. Richardson	$5,431.03
HP890000TH 0004	Heinz K. Wehner	$5,431.03
HP890000TH 0005	Jill P. Liechty	$5,431.03
HP890000TH 0006	Jerry Fogel	$5,431.03
HP890000TH 0007	Joseph P. & Etta F. Vowells	$5,431.03

Property I.D.#	Ownership	Assessment
HP890000TH 0008	Joanne M. Vandervort	$5,431.03
HP890000TH 0009	Larry C. Emery & Mary G. Siero	$5,431.03
HP890000TH 0010	Martha M. Burge	$5,431.03
HP890000TH 0011	J. Paul Moore	$5,431.03
HP890000TH 0012	Barbara J. Eichhorn	$5,431.03
HP890100TD 0019A	John C. & Geneva D. McKeever	$5,431.03
HP890100TD 0019B	Gregory J. Orman	$5,431.03

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ORDINANCE NO. 1915

ORDINANCE AMENDING ORDINANCE NO. 1873, LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND, FOR THE PURPOSE OF PAYING FOR THE COST OF ROAD IMPROVEMENTS LOCATED WITHIN THE NORMANDY PLACE SUBDIVISION, IN THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS [IMPROVEMENT DISTRICT NORMANDY PLACE, PROJECT 164]

WHEREAS, pursuant to proceedings regularly held according to law, contracts have been let for the following improvements in the City of Leawood:

Improvement, reimprovement, excavation and repair of the damaged sections of all roads within the Normandy Place Subdivision and certain storm water drainage improvements within said subdivision; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to the City is $315,000.00; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to be assessed against the improvement district is $315,000.00, and such property, within the improvement district shall be assessed for actual cost based on an equal share per lot within the benefit district; and

WHEREAS, the Governing Body has, after due notice, met and determined the amount of such special assessment; and

WHEREAS, the Governing Body passed Ordinance No. 1873, ['Ordinance'] on August 21, 2000, for such levying of assessments to occur; and

WHEREAS, said Governing Body now desires to amend Section 2, to include additional language setting forth the number of annual installments that such assessments will be levied.

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

SECTION ONE: Special assessments to pay the cost of said improvement, with accrued interest, be and the same are hereby levied against the several lots, pieces and parcels of land liable for special assessments for said improvement as set out in the attached Assessment Roll, attached hereto and incorporated herein by reference as if fully set out, and on file in the City Clerk's Office.

STATE OF KANSAS }
COUNTY OF JOHNSON } SS
FILED FOR RECORD
2001 SEP 26 A 9: 16 8

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REBECCA L. DAVIS
REGISTER OF DEEDS

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SECTION TWO: Such assessments with accrued interest are levied concurrently with general property taxes and shall be payable in fifteen [15] annual installments. The first installment shall be payable at the time of the first payment of general property taxes following the adoption and publication of this ordinance, unless this ordinance is adopted and certified too late to permit collection at such time.

SECTION THREE: All assessments shall bear interest at a rate not to exceed the maximum rate set by Kansas law.

SECTION FOUR: The owner of any property so assessed may at any time prior to 4:00 P.M., Monday, September 25, 2000, pay the entire amount of the assessment against any lot or parcel of land, without interest, to the City Treasurer.

SECTION FIVE: Assessments not paid prior to 4:00 P.M., Monday, September 25, 2000, shall be certified by the City Clerk, together with the interest accrued or to accrue, to the County Clerk, and collected in the same manner as other taxes.

SECTION SIX: This ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ASSESSMENT ROLL

Normandy Place Road Improvement
Project 164

Assessment Factor:
Actual Cost of Improvement.
Equal shares per lot.

Property I.D.#	Ownership	Assessment
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HP89000000 0T0C2	Harold & Ruth L. Katz	$5,431.03
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HP890000TH 0012	Barbara J. Eichhorn	$5,431.03
HP890100TD 0019A	John C. & Geneva D. McKeever	$5,431.03
HP890100TD 0019B	Gregory J. Orman	$5,431.03

CERTIFICATE

State of Kansas)
County of Johnson)
City of Leawood)

I, Martha Heizer, City Clerk of the City of Leawood, Kansas, hereby certify that the attached is a true and correct copy of Ordinance No. 1915 as the same appears in my office.

In testimony whereof, I have hereunto signed my name and affixed the Seal of said City this 5th day of September, 2001.

(S.E.A.L)

Martha Heizer

Martha Heizer, City Clerk

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First published in The Johnson County Sun, Friday, September 7, 2001

ORDINANCE NO. 1915

ORDINANCE AMENDING ORDINANCE NO. 1873, LEVYING ASSESSMENTS ON LOTS, PIECES, AND PARCELS OF LAND, FOR THE PURPOSE OF PAYING FOR THE COST OF ROAD IMPROVEMENTS LOCATED WITHIN THE NORMANDY PLACE SUBDIVISION, IN THE CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS [IMPROVEMENT DISTRICT NORMANDY PLACE PROJECT 164]

WHEREAS, pursuant to proceedings regularly held according to law, contracts have been let for the following improvements in the City of Leawood:

Improvement, reimprovement, excavation and repair of the damaged sections of all roads within the Normandy Place Subdivision and certain storm water drainage improvements within said subdivision; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to the City is $315,000.00; and

WHEREAS, the Governing Body has determined that the total cost of such improvement to be assessed against the improvement district is $315,000.00, and such property, within the improvement district shall be assessed for actual cost based on an equal share per lot within the benefit district; and

WHEREAS, the Governing Body has, after due notice, met and determined the amount of such special assessment; and

WHEREAS, the Governing Body passed Ordinance No. 1873, ["Ordinance"] on August 21, 2000, for such levying of assessments to occur; and

WHEREAS, said Governing Body now desires to amend Section 2, to include additional language setting forth the number of annual installments that such assessments will be levied.

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

SECTION ONE: Special assessments to pay the cost of said improvement, with accrued interest, be and the same are hereby levied against the several lots, pieces and parcels of land liable for special assessments for said improvement as set out in the attached Assessment Roll, attached hereto and incorporated herein by reference as if fully set out, and on file in the City Clerk's Office.

SECTION TWO: Such assessments with accrued interest are levied concurrently with general property taxes and shall be payable in fifteen [15] annual installments. The first installment shall be payable at the time of the first payment of general property taxes following the adoption and publication of this ordinance, unless this ordinance is adopted and certified too late to permit collection at such time.

SECTION THREE: All assessments shall bear interest at a rate not to exceed the maximum rate set by Kansas law.

SECTION FOUR: The owner of any property so assessed may at any time prior to 4:00 P.M., Monday, September 25, 2000, pay the entire amount of the assessment against any lot or parcel of land, without interest, to the City Treasurer.

SECTION FIVE: Assessments not paid prior to 4:00 P.M., Monday, September 25, 2000, shall be certified by the City Clerk, together with the interest accrued or to accrue, to the County Clerk, and collected in the same manner as other taxes.

SECTION SIX: This ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.

PASSED by the Governing Body this 4th day of September, 2001.
APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ASSESSMENT ROLL
Normandy Place Road Improvement
Project 164

Assessment Factor:
Actual Cost of Improvement.
Equal shares per lot.

Property I.D.#	Owner(s)	Assessment
HP89000000 0T0C1	Mary M. Mann	$5,431.03
HP89000000 0T0C2	Harold & Ruth L. Katz	$5,431.03
HP89000000 0T0C3	Sharon Cowden	$5,431.03
HP89000000 0T0D	Patricia M. Rasmussen	$5,431.03
HP89000000 0T0D1	Constance Phillips	$5,431.03
HP89000000 0T0D2	Herbert Adler	$5,431.03
HP89000000 0T0D6	Irwin D. & Barbara S. Rain	$5,431.03
HP890000TA 0T[illegible]	Thelma W. Fox	$5,431.03
HP890000[illegible]0T08	Diana T. Sheffield	$5,431.03
[illegible]0TA-0T09	Clifford L. Rovelto & Eileen M. Fergus	$5,431.03

AFFIDAVIT OF PUBLICATION

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

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

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for one consecutive day (weeks)/days), the first publication thereof being made as aforesaid on the 7th day of September, 2001, with subsequent publication being made on the following dates:

_____, 2001 _____, 2001

_____, 2001 _____, 2001

Georgiann Thacker

Subscribed and sworn to before me this 7th, day of September, 2001

Deanna J. Martasin
NOTARY PUBLIC

My Commission Expires January 25, 2004

Printer's Fee 63.92

Additional Copies $ _____

DEANNA J. MARTASIN
NOTARY PUBLIC
STATE OF KANSAS

ORDINANCE NO. 1914C

AN ORDINANCE AMENDING SECTIONS 3-210; 3-212; 3-214; AND 3-215, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ALCOHOLIC LIQUOR; REPEALING EXISTING SECTIONS 3-210; 3-212; 3-214; AND 3-215, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 3, Article 2, Section 10, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-210. **OCCUPATIONAL LICENSE FEE UPON RETAILERS.** Any person holding a valid Kansas retailer's license for alcoholic liquors for consumption off the premises shall furnish to the city clerk, on a form provided, the following information:

(a) Name of applicant;
(b) Address of applicant;
(c) Address of premises where liquor sold;
(d) If applicant is a corporation, name and address of registered agent;
(e) If applicant is a partnership, name and address of each partner;
(f) Length of applicant's residence in Kansas;
(g) Does applicant presently hold any other liquor license?
(h) Has applicant's license ever been revoked or suspended?
(I) Does applicant have a Kansas State Retail Liquor license?
(j) When does it expire?
(k) Owner of premises licensed?
(l) If applicant is not the owner, give date and term of lease or other rental agreement.

The application for retail liquor occupation license shall be accompanied by a fee of $300 and shall be verified. Upon receipt of the fee and application in correct form, the city clerk shall issue a receipt-occupation tax to the applicant for the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The receipt shall be displayed in a conspicuous place on the licensed premises. All license fees shall be nonrefundable and nontransferable.

SECTION TWO: Chapter 3, Article 2, Section 12, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-212. **LICENSE FEE UPON DRINKING ESTABLISHMENTS.** It shall be unlawful for any person granted a license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the City of Leawood without first obtaining a City license from the City Clerk.

No city license to sell or serve any alcoholic liquor shall be issued until the applicant has made application and made payment in the amount of Two Hundred and Fifty Dollars ($250.00) to the City. Upon receipt of payment and application in correct form and in compliance with all other requirements of the City of Leawood, the City Clerk shall issue a City license to the applicant. The license shall cover the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The City license shall be displayed in a conspicuous place on the licensed premises. All license fees are nonrefundable and nontransferable.

SECTION THREE: Chapter 3, Article 2, Section 14, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-214. CATERERS.

(a) License Required. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any alcohol by the drink within the City without obtaining a local caterer's license from the City Clerk.

(b) License Fee.

(1) There is hereby levied an annual license fee in the amount of One Hundred Dollars ($100.00) on each caterer doing business in the City who has a caterer's license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under original state license and within five (5) days after any renewal of the state license.

(2) All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of the state license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the state license.

(3) The license period shall extend for the period covered by the state license. All license fees shall be nonrefundable and nontransferable.

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

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

(d) Notice to Chief of Police. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the Chief of Police at least 48 hours prior to the event that the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

SECTION FOUR: Chapter 3, Article 2, Section 15, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-215. TEMPORARY PERMITS.

(a) Permit Required. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the City without first obtaining a local temporary permit from the City Clerk.

(b) Any temporary permit must be approved by the City Council of Leawood. City Council may authorize the Clerk to issue a temporary permit to sell or serve alcoholic liquor within the City if it determines:

(1) The event is sponsored by a non-profit or charitable organization; and

(2) All net proceeds are to be used for charitable purposes or for a defined program for community betterment.

(c) Permit Fee.

(1) There is hereby levied a temporary permit fee in the amount of Fifty Dollars ($50.00) per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.

(2) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the City where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

(d) City Temporary Permit. It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least thirty (30) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:

(1) The name of the applicant;

(2) The group for which the event is planned;

(3) The location of the event;

(4) The date and time of the event;

(5) Any anticipated need for police, fire, or other municipal services.

(e) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and filing of the written application, the City Clerk shall issue a temporary permit to the applicant.

(f) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.

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

(h) A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which shall be specified in the permit. Not more than four (4) temporary permits may be issued to any one applicant in a calendar year.

(i) All temporary permit fees shall be nonreturnable and nontransferable.

SECTION FIVE: Repeal of Existing Section. The existing Code § 3-210; 3-212; 3-214; AND 3-215 are hereby repealed.

SECTION SIX: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SEVEN: Publication: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1914C

Publication Fees: $69.83

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1914C--9/11/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

SEPTEMBER 12, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$74.72

ORDINANCE NO. 1914C

First published in The Legal Record, Tuesday, September 11, 2001.

ORDINANCE NO. 1914C

AN ORDINANCE AMENDING SECTIONS 3-210; 3-212; 3-214; AND 3-215, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ALCOHOLIC LIQUOR; REPEALING EXISTING SECTIONS 3-210; 3-212; 3-214; AND 3-215, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 3, Article 2, Section 10, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-210. OCCUPATIONAL LICENSE FEE UPON RETAILERS. Any person holding a valid Kansas retailer's license for alcoholic liquors for consumption off the premises shall furnish to the city clerk, on a form provided, the following information:

(a) Name of applicant;
(b) Address of applicant;
(c) Address of premises where liquor sold;
(d) If applicant is a corporation, name and address of registered agent;
(e) If applicant is a partnership, name and address of each partner;
(f) Length of applicant's residence in Kansas;
(g) Does applicant presently hold any other liquor license?
(h) Has applicant's license ever been revoked or suspended?
(i) Does applicant have a Kansas State Retail Liquor license?
(j) When does it expire?
(k) Owner of premises licensed?
(l) If applicant is not the owner, give date and term of lease or other rental agreement.

The application for retail liquor occupation license shall be accompanied by a fee of $300 and shall be verified. Upon receipt of the fee and application in correct form, the city clerk shall issue a receipt-occupation tax to the applicant for the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The receipt shall be displayed in a conspicuous place on the licensed premises. All license fees shall be nonrefundable and nontransferable.

SECTION TWO: Chapter 3, Article 2, Section 12, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-212. LICENSE FEE UPON DRINKING ESTABLISHMENTS. It shall be unlawful for any person granted a license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the City of Leawood without first obtaining a City license from the City Clerk.

No city license to sell or serve any alcoholic liquor shall be issued until the applicant has made application and made payment in the amount of Two Hundred and Fifty Dollars ($250.00) to the City. Upon receipt of payment and application in correct form and in compliance with all other requirements of the City of Leawood, the City Clerk shall issue a City license to the applicant. The license shall cover the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The City license shall be displayed in a conspicuous place on the licensed premises. All license fees are nonrefundable and nontransferable.

SECTION THREE: Chapter 3, Article 2, Section 14, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-214. CATERERS.

(a) License Required. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any alcohol by the drink within the City without obtaining a local caterer's license from the City Clerk.
(b) License Fee.
  (1) There is hereby levied an annual license fee in the amount of One Hundred Dollars ($100.00) on each caterer doing business in the City who has a caterer's license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under original state license and within five (5) days after any renewal of the state license.
  (2) All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of the state license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the state license.
  (3) The license period shall extend for the period covered by the state license. All license fees shall be nonrefundable and nontransferable.
  (4) Every licensee shall cause the caterer license to be placed in plain view on any premises within the City where the caterer is serving or mixing alcoholic liquor for consumption on the premises.
(c) Business Regulations. No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.
(d) Notice to Chief of Police. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the Chief of Police at least 48 hours prior to the event that the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

SECTION FOUR: Chapter 3, Article 2, Section 15, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-215. TEMPORARY PERMITS.

(a) Permit Required. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the City without first obtaining a local temporary permit from the City Clerk.
(b) Any temporary permit must be approved by the City Council of Leawood. City Council may authorize the Clerk to issue a temporary permit to sell or serve alcoholic liquor within the City if it determines:
  (1) The event is sponsored by a non-profit or charitable organization; and
  (2) All net proceeds are to be used for charitable purposes or for a defined program for community betterment.
(c) Permit Fee.
  (1) There is hereby levied a temporary permit fee in the amount of Fifty Dollars ($50.00) per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.
  (2) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the City where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.
(d) City Temporary Permit. It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least thirty (30) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:
  (1) The name of the applicant;
  (2) The group for which the event is planned;
  (3) The location of the event;
  (4) The date and time of the event;
  (5) Any anticipated need for police, fire, or other municipal services.
(e) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and filing of the written application, the City Clerk shall issue a temporary permit to the applicant.
(f) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.
(g) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.
(h) A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which shall be specified in the permit. Not more than four (4) temporary permits may be issued to any one applicant in a calendar year.
(i) All temporary permit fees shall be nonreturnable and nontransferable.

SECTION FIVE: Repeal of Existing Section. The existing Code § 3-210; 3-212; 3-214; AND 3-215 are hereby repealed.

SECTION SIX: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SEVEN: Publication: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1912C

First published in The Legal Record, Tuesday, September 11, 2001.

ORDINANCE NO. 1912 C

AN ORDINANCE AMENDING SECTION 2-109, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ANIMAL CONTROL; REPEALING EXISTING SECTION 2-109, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 2, Article 1, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

2-109. LIMITATIONS ON OWNERSHIP.

(a) It shall be unlawful for any person to own, harbor or keep more than two dogs and/or two cats over six months of age in the City of Leawood unless the person has properly obtained a permit allowing the person to keep a greater number of dogs and/or cats.

(b) Any person who desires to own, keep or harbor more than two dogs and/or two cats, including those desiring to operate a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, may apply to the City Clerk for a "special animal permit," that shall, upon issuance, allow the applicant to own, keep or harbor the animals specifically allowed in that permit.

1. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that reasonable animal care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to the following:

a. That the animals will be kept or maintained at all times in a safe and sanitary manner.

b. That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.

c. That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.

d. That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

e. That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.

f. That the animals will not unreasonably annoy humans, endanger the life, health or safety or citizens to the enjoyment of life or property.

g. That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

h. That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public healthy, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

i. That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including but not limited to, those pertaining to the reasonable animal care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

(c) The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements by review of an examination of the documentation submitted by the applicant, or an investigation by the animal control division of the police department, or both, reveals that, in the opinion of the Animal Control Division, the applicant has failed to meet the requirements of this section. Any such applicant shall be required to show proof of meeting the required standards by clear and convincing evidence. The Animal Control Division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The Animal Control Division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant and the criteria set forth in this section and any other factors relevant to the issue of keeping additional animals.

(d) The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The special animal permit shall be issued for the individual animals listed in the application and shall not be transferable to other animals except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, which may substitute animals up to a certain number as approved in the special animal permit. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal.

(e) The City Clerk may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter, the regulations promulgated by the City Council, or any state or local law such as those governing cruelty to animals, or the keeping of animals, or if the animals' place of keeping otherwise constitutes a nuisance to the surrounding neighbors or that the permittee had provided false information in the application. Any person whose permit is revoked shall, within 30 days thereafter, sell or otherwise humanely remove the animals from the premises and no part of the permit fee shall be refunded.

(f) As used in this section, "special circumstances" is defined as any unusual, extraordinary and exceptional situation or condition whereby the strict application of the numerical limits set forth in this section would be contrary to the intent, purposes and objectives of such limitations and would be contrary to the public interest and welfare.

(g) The provisions of this section do not apply to service animals otherwise governed under K.S.A. 39-1101 et seq.

(h) Any person who is denied a special animal permit or who has had an existing permit revoked may, within 10 days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Leawood Municipal Court including the administrative fee, for an administrative hearing thereon.

1. An administrative fee of $10.00 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.

2. The filing of an appeal under this subsection shall stay any action taken pursuant to this chapter for sixty (60) days, provided, however, that the Judge of the Municipal Court may grant an additional stay up to a total of 120 days from the day of the original denial of the special animal permit.

3. The hearing on the appeal shall be conducted by a Leawood Municipal Court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions or findings of the Animal Control Officer and/or City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case. If the Court denies the application, then the Court shall set a reasonable time, not to exceed an additional 120 days for the applicant to remove the animals from the applicant's premises.

(i) An initial permit fee in the amount of $100.00 shall be paid by the owner, keeper or harborer of the animal identified in the permit. A permit renewal fee in the amount of $50.00 shall be paid by the owner, keeper or harborer, for each year thereafter. All fees shall be nonrefundable and nontransferable.

(Ord. 1796C, 05-17-99)
Code 2000

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing Code Section 2-109 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1913C

AN ORDINANCE AMENDING SECTION 3-107, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LICENSE FEES FOR CEREAL MALT BEVERAGES; REPEALING EXISTING SECTION 3-107, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 3, Article 1, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-107. **LICENSE FEE.** The rules and regulations regarding the license fees shall be as follows:

(a) ***General Retailer*** -- for each place of business selling cereal malt beverages at retail, $200 per year.

(b) ***Limited Retailer*** -- for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, $50 per year.

All license fees issued under this article shall be nonrefundable and nontransferable. Licenses shall be issued on an annual basis, with the license effective for one year from the date of issuance.

SECTION TWO: Repeal of Existing Section. The existing Code § 3-107 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1913C

Publication Fees: $27.42

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1913C--9/11/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
SEPTEMBER 12, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$29.34

ORDINANCE NO. 1913C

First published in The Legal Record, Tuesday, September 11, 2001.

ORDINANCE NO. 1913C

AN ORDINANCE AMENDING SECTION 3-107, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LICENSE FEES FOR CEREAL MALT BEVERAGES; REPEALING EXISTING SECTION 3-107, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 3, Article 1, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-107. **LICENSE FEE.** The rules and regulations regarding the license fees shall be as follows:

(a) ***General Retailer*** -- for each place of business selling cereal malt beverages at retail, $200 per year.

(b) ***Limited Retailer*** -- for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, $50 per year.

All license fees issued under this article shall be nonrefundable and nontransferable. Licenses shall be issued on an annual basis, with the license effective for one year from the date of issuance.

SECTION TWO: Repeal of Existing Section. The existing Code § 3-107 is hereby repealed.

SECTION THREE: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FOUR: Publication: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this this 4th day of September, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Helzer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1912 C

AN ORDINANCE AMENDING SECTION 2-109, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ANIMAL CONTROL; REPEALING EXISTING SECTION 2-109, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 2, Article 1, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

2-109. LIMITATIONS ON OWNERSHIP.

(a) It shall be unlawful for any person to own, harbor or keep more than two dogs and/or two cats over six months of age in the City of Leawood unless the person has properly obtained a permit allowing the person to keep a greater number of dogs and/or cats.

(b) Any person who desires to own, keep or harbor more than two dogs and/or two cats, including those desiring to operate a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, may apply to the City Clerk for a "special animal permit," that shall, upon issuance, allow the applicant to own, keep or harbor the animals specifically allowed in that permit.

1. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that reasonable animal care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to the following:

   a. That the animals will be kept or maintained at all times in a safe and sanitary manner.

   b. That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.

   c. That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.

   d. That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

e. That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.

f. That the animals will not unreasonably annoy humans, endanger the life, health or safety or citizens to the enjoyment of life or property.

g. That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

h. That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public healthy, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

i. That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including but not limited to, those pertaining to the reasonable animal care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

(c) The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements by review of an examination of the documentation submitted by the applicant, or an investigation by the animal control division of the police department, or both, reveals that, in the opinion of the Animal Control Division, the applicant has failed to meet the requirements of this section. Any such applicant shall be required to show proof of meeting the required standards by clear and convincing evidence. The Animal Control Division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The Animal Control Division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant and the criteria set forth in this section and any other factors relevant to the issue of keeping additional animals.

(d) The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The special animal permit shall be issued for the individual animals listed in the application and shall

not be transferable to other animals except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, which may substitute animals up to a certain number as approved in the special animal permit. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal.

(e) The City Clerk may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter, the regulations promulgated by the City Council, or any state or local law such as those governing cruelty to animals, or the keeping of animals, or if the animals' place of keeping otherwise constitutes a nuisance to the surrounding neighbors or that the permittee had provided false information in the application. Any person whose permit is revoked shall, within 30 days thereafter, sell or otherwise humanely remove the animals from the premises and no part of the permit fee shall be refunded.

(f) As used in this section, "special circumstances" is defined as any unusual, extraordinary and exceptional situation or condition whereby the strict application of the numerical limits set forth in this section would be contrary to the intent, purposes and objectives of such limitations and would be contrary to the public interest and welfare.

(g) The provisions of this section do not apply to service animals otherwise governed under K.S.A. 39-1101 et seq.

(h) Any person who is denied a special animal permit or who has had an existing permit revoked may, within 10 days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Leawood Municipal Court including the administrative fee, for an administrative hearing thereon.

1. An administrative fee of $10.00 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.
2. The filing of an appeal under this subsection shall stay any action taken pursuant to this chapter for sixty (60) days, provided, however, that the Judge of the Municipal Court may grant an additional stay up to a total of 120 days from the day of the original denial of the special animal permit.
3. The hearing on the appeal shall be conducted by a Leawood Municipal Court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions or findings of the Animal Control Officer and/or City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case. If the Court denies the application, then the Court shall set a reasonable time, not to exceed an additional 120 days for the applicant to remove the animals from the applicant's premises.

(j) An initial permit fee in the amount of $100.00 shall be paid by the owner, keeper or harborer of the animal identified in the permit. A permit renewal fee in the amount of $50.00 shall be paid by the owner, keeper or harborer, for each year thereafter. All fees shall be nonrefundable and nontransferable.

(Ord. 1796C, 05-17-99)
Code 2000

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing Code Section 2-109 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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ORD1912C

Publication Fees: $69.83

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1912C--9/11/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

SEPTEMBER 12, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$74.72

ORDINANCE NO. 1912C

First published in The Legal Record, Tuesday, September 11, 2001.

ORDINANCE NO. 1912 C

AN ORDINANCE AMENDING SECTION 2-109, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ANIMAL CONTROL; REPEALING EXISTING SECTION 2-109, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 2, Article 1, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby added to read as follows:

2-109. LIMITATIONS ON OWNERSHIP.

(a) It shall be unlawful for any person to own, harbor or keep more than two dogs and/or two cats over six months of age in the City of Leawood unless the person has properly obtained a permit allowing the person to keep a greater number of dogs and/or cats.

(b) Any person who desires to own, keep or harbor more than two dogs and/or two cats, including those desiring to operate a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, may apply to the City Clerk for a "special animal permit," that shall, upon issuance, allow the applicant to own, keep or harbor the animals specifically allowed in that permit.

1. All applicants must adequately show that special circumstances exist that justify the keeping of the subject animals, and that the keeping of additional animals will not create a nuisance in the surrounding neighborhood, that reasonable animal care will be provided and that the premises where the animals are kept is suitable for the keeping of multiple animals and is in conformity with all City zoning requirements. The criteria to be evaluated include, without being limited to the following:

a. That the animals will be kept or maintained at all times in a safe and sanitary manner.

b. That the quarters in which such animals are kept or confined will be adequately lighted and ventilated and are so constructed and maintained that they can be kept in a clean and sanitary condition.

c. That the health and well-being of the animals will not in any way be endangered by the manner of keeping or confinement.

d. That the keeping of such animals will not harm the surrounding neighborhood or disturb the peace and quiet of the surrounding neighborhood.

e. That the keeping of such animals will not cause fouling of the air by offensive odors and thereby create or cause unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept or harbored.

f. That the animals will not unreasonably annoy humans, endanger the life, health or safety or citizens to the enjoyment of life or property.

g. That the animals will not repeatedly run or be found at large, will not damage or deposit excretory matter upon the property of anyone other than their owner, and will not chase vehicles or molest or intimidate pedestrians or passersby.

h. That the animals will not make disturbing noises, including but not limited to, continued and repeated or untimely howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors and others in close proximity to the premises where the animals are kept or harbored, or otherwise be offensive or dangerous to the public healthy, safety or welfare, by virtue of their behavior, number, type or manner of keeping.

i. That the applicant or any person who will share in the care, custody and control of the animals, is not currently in violation of, or has not previously violated any applicable City, state or federal laws, codes, rules or regulations, including but not limited to, those pertaining to the reasonable animal care and control of animals and the maintenance of their property, which would reflect adversely on their ability to fully comply with the conditions of the subject permit.

(c) The City Clerk shall deny any application where the applicant fails to show proof of the aforementioned requirements by review of an examination of the documentation submitted by the applicant, or an investigation by the animal control division of the police department, or both, reveals that, in the opinion of the Animal Control Division, the applicant has failed to meet the requirements of this section. Any such applicant shall be required to show proof of meeting the required standards by clear and convincing evidence. The Animal Control Division shall submit a written report of its investigation stating the factual basis for its recommendation to grant or deny any application. The Animal Control Division shall consider the comments of neighbors, past violations by applicant, the size, condition and location of the area where the animals will be kept, the size of the animals to be kept, past complaints concerning the applicant and the criteria set forth in this section and any other factors relevant to the issue of keeping additional animals.

(d) The City Clerk shall establish an application process to be followed by all individuals seeking a "special animal permit." The permit shall be issued for the period from January 1st through December 31st of each year. The special animal permit shall be issued for the individual animals listed in the application and shall not be transferable to other animals except for a circus, bona fide educational institution, bona fide medical institution, or bona fide museum, kennel, pet shop, bona fide licensed veterinary hospital, livery or riding stable, commercial zoo, zoological park, animal act, or similar place of exhibition of animals, which may substitute animals up to a certain number as approved in the special animal permit. The fact an individual has previously been issued a special animal permit may be considered but shall not be controlling in the City Clerk's decision to issue a special animal permit for a different animal.

(e) The City Clerk may revoke any permit if the person holding the permit refuses or fails to comply with this Chapter, the regulations promulgated by the City Council, or any state or local law such as those governing cruelty to animals, or the keeping of animals, or if the animals' place of keeping otherwise constitutes a nuisance to the surrounding neighbors or that the permittee had provided false information in the application. Any person whose permit is revoked shall, within 30 days thereafter, sell or otherwise humanely remove the animals from the premises and no part of the permit fee shall be refunded.

(f) As used in this section, "special circumstances" is defined as any unusual, extraordinary and exceptional situation or condition whereby the strict application of the numerical limits set forth in this section would be contrary to the intent, purposes and objectives of such limitations and would be contrary to the public interest and welfare.

(g) The provisions of this section do not apply to service animals otherwise governed under K.S.A. 39-1101 et seq.

(h) Any person who is denied a special animal permit or who has had an existing permit revoked may, within 10 days thereafter, file a written notice or statement of appeal from said decision, ruling, action or finding to the Leawood Municipal Court including the administrative fee, for an administrative hearing thereon.

1. An administrative fee of $10.00 shall be paid to the Municipal Court Clerk and is required for each appeal to the Municipal Court, and no appeal shall be set for hearing until such fee has been paid.

2. The filing of an appeal under this subsection shall stay any action taken pursuant to this chapter for sixty (60) days, provided, however, that the Judge of the Municipal Court may grant an additional stay up to a total of 120 days from the day of the original denial of the special animal permit.

3. The hearing on the appeal shall be conducted by a Leawood Municipal Court judge who will sit as an administrative judge for purposes of this chapter. The sole issue for determination shall be whether decisions, rulings, actions or findings of the Animal Control Officer and/or City Clerk were within the scope of their authority, supported by substantial evidence, and not arbitrary nor capricious in nature. The Court shall make specific findings of fact and conclusions of law in each case. If the Court denies the application, then the Court shall set a reasonable time, not to exceed an additional 120 days for the applicant to remove the animals from the applicant's premises.

(j) An initial permit fee in the amount of $100.00 shall be paid by the owner, keeper or harborer of the animal identified in the permit. A permit renewal fee in the amount of $50.00 shall be paid by the owner, keeper or harborer, for each year thereafter. All fees shall be nonrefundable and nontransferable.

(Ord. 1796C, 05-17-99)
Code 2000

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing Code Section 2-109 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this 4th day of September, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1914C

First published in The Legal Record, Tuesday, September 11, 2001.

ORDINANCE NO. 1914C

AN ORDINANCE AMENDING SECTIONS 3-210; 3-212; 3-214; AND 3-215, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO ALCOHOLIC LIQUOR; REPEALING EXISTING SECTIONS 3-210; 3-212; 3-214; AND 3-215, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 3, Article 2, Section 10, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-210. **OCCUPATIONAL LICENSE FEE UPON RETAILERS.** Any person holding a valid Kansas retailer's license for alcoholic liquors for consumption off the premises shall furnish to the city clerk, on a form provided, the following information:

(a) Name of applicant;
(b) Address of applicant;
(c) Address of premises where liquor sold;
(d) If applicant is a corporation, name and address of registered agent;
(e) If applicant is a partnership, name and address of each partner;
(f) Length of applicant's residence in Kansas;
(g) Does applicant presently hold any other liquor license?
(h) Has applicant's license ever been revoked or suspended?
(i) Does applicant have a Kansas State Retail Liquor license?
(j) When does it expire?
(k) Owner of premises licensed?
(l) If applicant is not the owner, give date and term of lease or other rental agreement.

The application for retail liquor occupation license shall be accompanied by a fee of $300 and shall be verified. Upon receipt of the fee and application in correct form, the city clerk shall issue a receipt-occupation tax to the applicant for the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The receipt shall be displayed in a conspicuous place on the licensed premises. All license fees shall be nonrefundable and nontransferable.

SECTION TWO: Chapter 3, Article 2, Section 12, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-212. **LICENSE FEE UPON DRINKING ESTABLISHMENTS.** It shall be unlawful for any person granted a license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the City of Leawood without first obtaining a City license from the City Clerk.

No city license to sell or serve any alcoholic liquor shall be issued until the applicant has made application and made payment in the amount of Two Hundred and Fifty Dollars ($250.00) to the City. Upon receipt of payment and application in correct form and in compliance with all other requirements of the City of Leawood, the City Clerk shall issue a City license to the applicant. The license shall cover the year commencing on the date the Kansas Liquor Retailer's license is issued by the State Director of Alcoholic Beverage Control and shall end one year thereafter. The City license shall be displayed in a conspicuous place on the licensed premises. All license fees are nonrefundable and nontransferable.

SECTION THREE: Chapter 3, Article 2, Section 14, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-214. **CATERERS.**

(a) License Required. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any alcohol by the drink within the City without obtaining a local caterer's license from the City Clerk.

(b) License Fee.
(1) There is hereby levied an annual license fee in the amount of One Hundred Dollars ($100.00) on each caterer doing business in the City who has a caterer's license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under original state license and within five (5) days after any renewal of the state license.
(2) All applications for new or renewal City licenses shall be submitted to the City Clerk. Upon presentation of the state license, payment of the City license fee and the license application, the City Clerk shall issue a City license for the period covered by the state license.
(3) The license period shall extend for the period covered by the state license. All license fees shall be nonrefundable and nontransferable.
(4) Every licensee shall cause the caterer license to be placed in plain view on any premises within the City where the caterer is serving or mixing alcoholic liquor for consumption on the premises.

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

(d) Notice to Chief of Police. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the Chief of Police at least 48 hours prior to the event that the event will take place within the City. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.

SECTION FOUR: Chapter 3, Article 2, Section 15, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

3-215. **TEMPORARY PERMITS.**

(a) Permit Required. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the City without first obtaining a local temporary permit from the City Clerk.

(b) Any temporary permit must be approved by the City Council of Leawood. City Council may authorize the Clerk to issue a temporary permit to sell or serve alcoholic liquor within the City if it determines:
(1) The event is sponsored by a non-profit or charitable organization; and
(2) All net proceeds are to be used for charitable purposes or for a defined program for community betterment.

(c) Permit Fee.
(1) There is hereby levied a temporary permit fee in the amount of Fifty Dollars ($50.00) per day on each group or individual holding a temporary permit issued by the State Director of Alcoholic Beverage Control authorizing sales within the City, which fee shall be paid before the event is begun under the state permit.
(2) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the City where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.

(d) City Temporary Permit. It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least thirty (30) days before the event. Written application for the local temporary permit shall be made to the City Clerk and shall clearly state:
(1) The name of the applicant;
(2) The group for which the event is planned;
(3) The location of the event;
(4) The date and time of the event;
(5) Any anticipated need for police, fire, or other municipal services.

(e) Upon presentation of a state temporary permit, payment of the City's temporary permit fee and filing of the written application, the City Clerk shall issue a temporary permit to the applicant.

(f) The City Clerk shall notify the Chief of Police whenever a temporary permit has been issued and forward a copy of the permit and application to the Chief of Police.

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

(h) A temporary permit shall be issued for a period of time not to exceed three (3) consecutive days, the dates and hours of which shall be specified in the permit. Not more than four (4) temporary permits may be issued to any one applicant in a calendar year.

(i) All temporary permit fees shall be nonreturnable and nontransferable.

SECTION FIVE: Repeal of Existing Section. The existing Code § 3-210; 3-212; 3-214; AND 3-215 are hereby repealed.

SECTION SIX: This ordinance shall be construed as follows:

INTERPRETATION

A. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SEVEN: Publication: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

PASSED by the Governing Body this 4th day of September, 2001.

APPROVED by the Mayor this this 4th day of September, 2001.

[SEAL]

Peggy Dunn/Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1911

ORDINANCE REZONING FROM AG, AGRICULTURAL TO REC, PLANNED RECREATION, FOR PROPERTY LOCATED AT APPROXIMATELY 146TH AND MISSION ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Rezoning. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to REC, Planned Recreation.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the 'Leawood Development Ordinance.'

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 20th day of August, 2001.

APPROVED by the Mayor this 20th day of August, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

I:\4SPARK.doc

EXHIBIT "A"

SOUTH PARK

DESCRIPTION: ALL THAT PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 14, RANGE 25 IN LEAWOOD, JOHNSON COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4, BEING ALSO THE SOUTHWEST CORNER OF "STEEPLECHASE, 2ND PLAT", A SUBDIVISION OF LAND IN SAID CITY, COUNTY AND STATE; THENCE NORTH 87°-45'-16" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 AND ALONG THE SOUTH LINE OF SAID "STEEPLECHASE, 2ND PLAT" AND ITS EASTERLY PROLONGATION, A DISTANCE OF 2642.75 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH 2°-31'-00" EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 1323.93 FEET TO THE SOUTHEAST CORNER OF SAID NORTH 1/2 OF THE SOUTHWEST 1/4, SAID POINT ALSO BEING THE NORTH LINE OF "MISSION HEIGHTS", A SUBDIVISION OF LAND IN SAID CITY, COUNTY, AND STATE; THE SOUTH 87°-42'-05" WEST ALONG THE SOUTH LINE OF SAID 1/2 1/4 SECTION AND ALONG THE NORTH LINE OF SAID "MISSION HEIGHTS", A DISTANCE OF 2641.77 FEET (PLATTED 2643.84 FEET) TO THE SOUTHWEST CORNER OF SAID 1/2 1/4 SECTION; THENCE NORTH 2°-33'-31" WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 331.63 FEET TO THE SOUTHWEST CORNER OF "STRAWBERRY HILL", A SUBDIVISION OF LAND IN SAID CITY, COUNTY AND STATE; THENCE NORTH 87°-43'-59" EAST ALONG THE SOUTH LINE OF SAID "STRAWBERRY HILL", A DISTANCE OF 660.46 FEET TO THE SOUTHEAST CORNER THEREOF: THENCE NORTH 2°-32'-29" WEST ALONG THE EAST LINE OF SAID "STRAWBERRY HILL", A DISTANCE OF 662.88 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 87°-45'-37" WEST ALONG THE NORTH LINE OF SAID "STRAWBERRY HILL" A DISTANCE OF 660.66 FEET TO THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE NORTH 2°-33'-31" WEST ALONG SAID WEST LINE, A DISTANCE OF 331.58 FEET TO THE POINT OF BEGINNING. CONTAINING 70.326 ACRES, MORE OR LESS. SUBJECT TO THAT PART THEREOF IN STREETS AND ROADS.

THE ABOVE DESCRIPTION WAS PREPARED BY ANDERSON SURVEY COMPANY AND COMPRISES THE SAME PROPERTY DESCRIBED AS TRACTS 1 AND 2 DESCRIBED IN CHICAGO TITLE INSURANCE COMPANY'S OWNERSHIP AND EASEMENT CERTIFICATE NO. 020008968, DATED JULY 11, 2000.

ORD1911

Publication Fees: $35.49

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1911--8/21/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 22, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$35.49

time as the ARB may determine, the ARB shall determine what exterior work is or would be routinely approved by the ARB for subdistricts within the City. In so doing the ARB may create such subdistricts of the City in determining what exterior work would be routinely approved within a specific subdistrict. Such exterior work shall be described in adequate detail and certified to the city building official by the ARB that such exterior work is approved for use in specified subdistricts in accordance with the standards set forth in Section 5-115 A. In certifying any exterior work, the ARB may limit the certification to specific subdistricts, and may except from certification corner lots or such other situations as the ARB deems proper. Any property owner having a situation subject to such a limitation or exception may obtain ARB approval after hearing, pursuant to Sections 5-112 through 5-117. The ARB certification of exterior work shall bear the signatures of at least a majority of the entire ARB. If any exterior work has been so certified by the ARB and the exterior work otherwise conforms to the City's zoning code, the permit for such work shall be deemed submitted to the ARB and approved by the ARB, and no ARB hearing or approval shall be required for the issuance of a permit for the construction of such work. Notwithstanding anything herein contained to the contrary, the City Building Official shall determine whether any proposed exterior work has been certified hereunder by the ARB, or notwithstanding such certification determine that such certification should not apply to a particular application for a permit. If the City Building Official determines that any proposed exterior work has not been certified hereunder by the ARB or that such certification should not apply, the proposed exterior work shall be submitted to the ARB for its consideration pursuant to Section 5-111.

5-119. PENALTY FOR VIOLATIONS. Any person, firm or corporation violating any provision of this article or failing or refusing to perform any duty imposed by this article shall be fined in a sum not to exceed $500 or imprisoned for not more than 180 days or be both fined and imprisoned. A separate offense shall be deemed committed each and every day during which a violation occurs or continues.

Section 3. The provisions of Article 1 of Chapter 5 herein adopted shall be incorporated as a compilation of Article 1 of Chapter 5 and shall be included as a supplement to the Municipal Code of the City of Mission Woods, Kansas.

Section 4. This ordinance shall be effective upon its passage and publication one time.

Passed by the governing body and approved by the Mayor this 11th day of August, 2001.

/s/David F. Patzman
David F. Patzman, Mayor

Attest:
/s/ Shelley Gregory
Shelley Gregory, City Clerk

NOTICE TO BIDDERS

First published in The Legal Record, Tuesday, August 21, 2001.

NOTICE TO BIDDERS

First published in The Legal Record, Tuesday, August 21, 2001.

The City of Mission, Kansas, will accept sealed bids until 3:00 P.M., August 31, 2001, for a High Speed Dot Matrix Printer, installed.

Bid information and specifications are available at the Office of the City Clerk, 6090 Woodson, Mission, Kansas 66202, (913) 722-3685.

Date: August 14, 2001

Nancy S. Calkins

Nancy S. Calkins, City Clerk, City of Mission, Kansas

ORDINANCE NO. 1911

First published in The Legal Record, Tuesday, August 21, 2001.

ORDINANCE NO. 1911

ORDINANCE REZONING FROM AG, AGRICULTURAL TO REC, PLANNED RECREATION, FOR PROPERTY LOCATED AT APPROXIMATELY 146TH AND MISSION ROAD, CITY OF LEAWOOD, JOHNSON COUNTY, KANSAS.

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

SECTION ONE: Rezoning. That the following described real estate, hereinafter described in Exhibit "A," attached hereto and incorporated herein by reference, is hereby rezoned from AG, Agricultural, to REC, Planned Recreation.

SECTION TWO: Official Zoning Map Amended. That the Planning and Development Director is hereby directed to amend the Official Zoning Map of the City of Leawood, Kansas, in accordance with the above and foregoing zoning changes.

SECTION THREE: Reincorporation of Official Zoning Map as Amended. That the Official Zoning Map of the City, as amended by the provisions of this ordinance, is hereby reincorporated and declared to be the Official Zoning Map of the City of Leawood, Kansas, as provided for and adopted pursuant to the provisions contained within the Leawood Development Ordinance.

SECTION FOUR: Effective Date. That this ordinance shall take effect and be in force from and after its passage and publication as required by law.

PASSED by the Governing Body this 20th day of August, 2001.

APPROVED by the Mayor this 20th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

EXHIBIT "A"

SOUTHWEST

DESCRIPTION: ALL THAT PART OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 14, RANGE 25 IN LEAWOOD, JOHNSON COUNTY, KANSAS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4, BEING ALSO THE SOUTHWEST CORNER OF "STEEPLECHASE, 2ND PLAT", A SUBDIVISION OF LAND IN SAID CITY, COUNTY AND STATE; THENCE NORTH 87°-45'-16" EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 AND ALONG THE SOUTH LINE OF SAID "STEEPLECHASE, 2ND PLAT" AND ITS EASTERLY PROLONGATION, A DISTANCE OF 2642.75 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST 1/4; THENCE SOUTH 2°-31'-00" EAST ALONG THE EAST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 1323.93 FEET TO THE SOUTHEAST CORNER OF SAID NORTH 1/2 OF THE SOUTHWEST 1/4, SAID POINT ALSO BEING THE NORTH LINE OF "MISSION HEIGHTS", A SUBDIVISION OF LAND IN SAID CITY, COUNTY, AND STATE; THE SOUTH 87°-42'-05" WEST ALONG THE SOUTH LINE OF SAID 1/2 1/4 SECTION AND ALONG THE NORTH LINE OF SAID "MISSION HEIGHTS", A DISTANCE OF 2641.77 FEET (PLATTED 2643.84 FEET) TO THE SOUTHWEST CORNER OF SAID 1/2 1/4 SECTION; THENCE NORTH 2°-33'-31" WEST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, A DISTANCE OF 331.63 FEET TO THE SOUTHWEST CORNER OF "STRAWBERRY HILL", A SUBDIVISION OF LAND IN SAID CITY, COUNTY AND STATE; THENCE NORTH 87°-43'-58" EAST ALONG THE SOUTH LINE OF SAID "STRAWBERRY HILL", A DISTANCE OF 660.48 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 2°-32'-29" WEST ALONG THE EAST LINE OF SAID "STRAWBERRY HILL", A DISTANCE OF 662.88 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH 87°-45'-37" WEST ALONG THE NORTH LINE OF SAID "STRAWBERRY HILL" A DISTANCE OF 660.66 FEET TO THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE NORTH 2°-33'-31" WEST ALONG SAID WEST LINE, A DISTANCE OF 331.58 FEET TO THE POINT OF BEGINNING. CONTAINING 70.326 ACRES, MORE OR LESS, SUBJECT TO THAT PART THEREOF IN STREETS AND ROADS.

THE ABOVE DESCRIPTION WAS PREPARED BY ANDERSON SURVEY COMPANY AND COMPRISES THE SAME PROPERTY DESCRIBED AS TRACTS 1 AND 2 DESCRIBED IN CHICAGO TITLE INSURANCE COMPANY'S OWNERSHIP AND EASEMENT CERTIFICATE NO. 020006868, DATED JULY 11, 2000.

ORDINANCE NO. 1910C

AN ORDINANCE AMENDING SECTION 14-303 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PARKING REGULATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND REPEALING EXISTING SECTION 14-303, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 3, Section 3, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. PARKING

14-303. **ANGLE PARKING.** Angle parking, except where driveways exist, shall be permitted as follows:

(a) On the west side of Lee Boulevard adjacent to the north 45 feet of Lot 67 Leawood, and from the north line of Lot 67 Leawood, an additional 213 feet northwards, adjacent to portions of Lots 68, 69 and 70 Leawood, measured at the edge of the right-of-way. Nothing in this section shall be construed to permit the parking of other than private passenger vehicles;

(b) On the south side of Somerset Drive adjacent to Lots 69 and 70 Leawood.

(Code 1973, 14-301)
(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing § 14-303 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

P:\414-3.DOC

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

P:\414-3.DOC

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

ORD1910C

Publication Fees: $32.48

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1910C--8/7/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 8, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$32.48

ORDINANCE NO. 1908C

First published in The Legal Record, Tuesday, August 7, 2001

ORDINANCE NO. 1908C

AN ORDINANCE AMENDING SECTIONS 14-101 THROUGH 14-108 OF T OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO REG TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LE KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD ORDINANCE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORP BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012, AND K.S.A. AND 12-3302; REPEALING EXISTING SECTIONS 14-101 THROUGH ORDINANCE NO. 1896C; AND OTHER SECTIONS IN CONFLICT HEREW

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

SECTION ONE: Chapter 14, Article 1, Section 1, of the Code of t Leawood, Kansas, 2000, is hereby amended to read as follows:

14-101. **INCORPORATING "STANDARD TRAFFIC ORDINANCE."** hereby incorporated by reference for the purpose of regulating traffic corporate limits of the City of Leawood, Kansas, that certain stand ordinance known as the 'Standard Traffic Ordinance for Kansas Citie of 2001, prepared and published in book form by the League Municipalities, save and except such articles, sections, parts or porti hereafter omitted, deleted, modified or changed, such incorpora authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. than three copies of said standard ordinance shall be marked or stampe Copy as incorporated by Ordinance No. 1908C,' with all portions thereof intended to be omitted or changed clearly marked to such omission or change and to which shall be attached a copy of this and filed with the City Clerk to be open to inspection and available to at all reasonable hours.

(C

SECTION TWO: Chapter 14, Article 1, Section 2, of the Code of t Leawood, Kansas, 2000, is hereby amended to read as follows:

14-102. **SAME; AMENDMENT.** Section 33 (Article 7) of the Standa Ordinance incorporated in Section 14-101 of this article shall be amend as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires lower compliance with Section 32, the limits specified in this S established as hereinafter authorized shall be maximum lawful sp no person shall drive a vehicle at a speed in excess of such limits:

(1) All vehicles 20 miles per hour in any park under the juris this city.

(2) All vehicles 20 miles per hour during those hours whe are going to and from school of any day school is in ses streets and/or parts of streets abutting school property an to school crosswalks designated as school zones; pro appropriate signs are erected giving notice of such speed the times said limits are in force, said times to be dete the Chief of Police with the consent of the City Council.

(3) All vehicles 25 miles per hour in any residential distri other streets within the City except where modified by e and traffic investigation as provided hereafter in subsect this Section. The maximum speed limit established by o to this paragraph shall be of force and effect regardless o signs are posted giving notice thereof and notwithsta signs giving notice of maximum speed limits in excess th any sign giving notice of a maximum speed limit in exc limits established by or pursuant to this paragraph shall any force or effect, subject to the following exception.

(b) The Chief of Police is hereby authorized and empowered to maximum speed zones when he or she shall find and determine regulation is necessary for safety purposes or to expedite traff extent any such regulation is not in conflict with any law of the C Chief of Police shall, following ratification of his or her des under this subsection by the Governing Body, place and mai necessary traffic control signs and devices.

(c) Whenever the Chief of Police shall determine upon the bas

ORDINANCE NO. 1910C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1910C

AN ORDINANCE AMENDING SECTION 14-303 OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PARKING REGULATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS, AND REPEALING EXISTING SECTION 14-303, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 3, Section 3, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. PARKING

14-303. ANGLE PARKING. Angle parking, except where driveways exist, shall be permitted as follows:

(a) On the west side of Lee Boulevard adjacent to the north 45 feet of Lot 67 Leawood, and from the north line of Lot 67 Leawood, an additional 213 feet northwards, adjacent to portions of Lots 68, 69 and 70 Leawood, measured at the edge of the right-of-way. Nothing in this section shall be construed to permit the parking of other than private passenger vehicles;

(b) On the south side of Somerset Drive adjacent to Lots 69 and 70 Leawood.

(Code 1973, 14-301)
(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing § 14-303 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1909C

AN ORDINANCE AMENDING SECTIONS 14-201; 14-205; AND 14-206, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LOCAL TRAFFIC REGULATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; REPEALING EXISTING SECTIONS 14-201; 14-205; 14-206; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 2, Section 1 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

14-201. **PENALTIES.** Unless otherwise specified, the penalties for violation of any provision of this article will be the same as set out in Section 201(d) of the "Standard Traffic Ordinance for Kansas Cities", 2001 Edition, as incorporated by reference by Section 14-101 of this Chapter.

(Ord. 1801C; 5-17-99)
(Code 2000)

SECTION TWO: Chapter 14, Article 2, Section 5 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-205. **REGULATION OF TRUCK TRAFFIC.** Regulations of truck traffic in the city shall be as follows:

(a) Regulation of Truck Traffic. No vehicle or truck, including trailers or attachments, carrying a manufacturer's rating of one ton or more, other than those carrying passengers or constructed to carry passengers, shall be allowed to travel within the city on any roadway other than a designated Truck Route.

(b) Exceptions. Any vehicle carrying goods, merchandise, building material or other articles to be delivered in the city may travel to that location by the most direct route from the nearest available Truck Route.

(c) Designated Truck Routes. The following streets shall be exempt from the above regulations: State Line Road; 103rd Street; I-435; 135th Street; Mission Road from 95th Street north; Kenneth Parkway; Nall Avenue; Roe Avenue; and 119th Street from Mission Road to Roe Avenue.

(Ord. 1005C, 10-6-87)
(Code 2000)

SECTION THREE: Chapter 14, Article 2, Section 6 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-206. **MAIN TRAFFICWAYS.** The following list of streets, as located within the City of Leawood, are hereby designated as main trafficways with primary functions of said trafficways for the moving of through traffic between areas of concentrated activities and between such areas within the city and traffic facilities outside the city all pursuant to K.S.A. 12-685:

(a) 83rd Street;
(b) 89th Street;
(c) 95th Street;
(d) 103rd Street;
(e) 115th Street;
(f) 117th Street;
(g) 119th Street;
(h) 123rd Street;
(i) 127th Street;
(j) 133rd Street (reverse frontage road);
(k) 135th Street;
(l) 137th Street (reverse frontage road);
(m) 143rd Street;
(n) 151st Street;
(o) College Boulevard;
(p) Kenneth Parkway/Kenneth Road;
(q) Lee Boulevard;
(r) Mission Road;
(s) Nall Avenue;
(t) Roe Avenue;
(u) Somerset Drive;
(v) State Line Road;
(w) Tomahawk Creek Parkway;
(x) Town Center Drive.

(Ord. 1710C; 3-23-98)
(Code 2000)

SECTION FOUR: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FIVE: That existing § 14-201; 14-205; and 14-206 are hereby repealed.

SECTION SIX: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION SEVEN: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

P:\414-2.DOC

ORD1909C

Publication Fees: $54.63

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1909C--8/7/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

AUGUST 8, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$54.63

ORDINANCE NO. 1909C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1909C

AN ORDINANCE AMENDING SECTIONS 14-201; 14-205; AND 14-206, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LOCAL TRAFFIC REGULATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; REPEALING EXISTING SECTIONS 14-201; 14-205; 14-206; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 2, Section 1 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

14-201. PENALTIES. Unless otherwise specified, the penalties for violation of any provision of this article will be the same as set out in Section 201(d) of the "Standard Traffic Ordinance for Kansas Cities", 2001 Edition, as incorporated by reference by Section 14-101 of this Chapter.

(Ord. 1801C; 5-17-99)
(Code 2000)

SECTION TWO: Chapter 14, Article 2, Section 5 of the Code of the City of Leawood, Kansas, 2000, *is hereby amended to read as follows:*

14-205. REGULATION OF TRUCK TRAFFIC. Regulations of truck traffic in the city shall be as follows:

(a) Regulation of Truck Traffic. No vehicle or truck, including trailers or attachments, carrying a manufacturer's rating of one ton or more, other than those carrying passengers or constructed to carry passengers, shall be allowed to travel within the city on any roadway other than a designated Truck Route.

(b) Exceptions. Any vehicle carrying goods, merchandise, building material or other articles to be delivered in the city may travel to that location by the most direct route from the nearest available Truck Route.

(c) Designated Truck Routes. The following streets shall be exempt from the above regulations: State Line Road; 103rd Street; I-435; 135th Street; Mission Road from 95th Street north; Kenneth Parkway; Nall Avenue; [illegible] Street from Mission Road to Roe Avenue.

(Ord. 1005C, 10-6-87)
[illegible]

SECTION THREE: Chapter 14, Article 2, Section 6 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-206. MAIN TRAFFICWAYS. The following list of streets, as located within the City of Leawood, are hereby designated as main trafficways with primary functions of said trafficways for the moving of through traffic between areas of concentrated activities and between such areas within the city and traffic facilities outside the city all pursuant to K.S.A. 12-685:

(a) 83rd Street;
(b) 89th Street;
(c) 95th Street;
(d) 103rd Street;
(e) 115th Street;
(f) 117th Street;
(g) 119th Street;
(h) 123rd Street;
(i) 127th Street;
(j) 133rd Street *(reverse frontage road)*;
(k) 135th Street;
(l) 137th Street *(reverse frontage road)*;
(m) 143rd Street;
(n) 151st Street;
(o) College Boulevard;
(p) Kenneth Parkway/Kenneth Road;
(q) Lee Boulevard;
(r) Mission Road;
(s) Nall Avenue;
(t) Roe Avenue;
(u) Somerset Drive;
(v) State Line Road;
(w) Tomahawk Creek Parkway;
(x) Town Center Drive.

(Ord. 1710C; 3-23-98)
(Code 2000)

SECTION FOUR: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION FIVE: That existing § 14-201; 14-205; and 14-206 are hereby repealed.

SECTION SIX: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION SEVEN: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1905 C

AN ORDINANCE AMENDING SECTION 11-201, OF THE CODE OF TH
LEAWOOD, 2000, PERTAINING TO LOCAL PROVISIONS WI
CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND R
EXISTING § 11-201, AND OTHER SECTIONS IN CONFLICT HEREWITH.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERING BODY O
OF LEAWOOD, KANSAS:

SECTION ONE: Chapter 11, Article 2, Section 1, of the Code of
Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. LOCAL PROVISIONS

11-201. **PENALTIES.** Unless otherwise specified, the penalties for violati
the following sections will be classed in the manner set out in Arti
"Uniform Public Offense Code for Kansas Cities", 2001 Edition, as
by reference by Section 11-101 of this chapter.

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall
construed to effectively carry out its purposes which are hereby found and decla
furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsectio
portion or part of the proposed ordinance set out, or the application thereof to an
circumstance is declared to be unconstitutional or invalid, such decision shall no
validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to p
ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-201 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8,

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

Senate President Will Support Proposal on Regents' Research

Senate President Dave Kerr is backing efforts to build new research centers at state universities.

Kerr, R-Hutchinson, says he supports a proposal from the state Board of Regents for $110 million in bonds for construction. The regents oversee the operation of state universities, community colleges and vocational-technical schools.

Kerr told *The Lawrence Journal-World* that the plan will receive favorable attention from the Legislature.

The state needs to help public universities try to get more research grants, he said. And in a year that promises to feature a tight budget, lawmakers need to move forward on "creative ideas," he added.

Under the proposal, the state would issue $110 million in 20-year bonds. The state would make the first five years' payments on the bonds; the host university would be responsible for the next 15 years.

The proposal assumes the universities' payments would be covered by research grants made possible by the new buildings.

A tentative list of building projects includes a $65 million biomedical and life-science research building at the University of Kansas Medical Center in Kansas City; a $42 million food safety center at Kansas State University; and a $10 million for an engineering studies building at Wichita State University.

The regents plan to introduce the pro-
posal during the

that he's mulling over the idea, cheering his Kansas party faithful with the possibility that Roberts won't have an easy race.

But history would be against Glickman, and not only because a Democrat hasn't won a Senate seat since 1932. Kansas history is filled with examples of failed comebacks.

The trend started with the state's first governor, Charles Robinson. A Republican, he served one two-year term, surviving an impeachment and attempt to remove him from office arising from a feud with Sen. James Lane.

He did win a seat in the Kansas Senate in 1872 as an independent, but voters removed him from office in 1884, and he lost races as a Democrat for Congress in 1886 and governor in 1890.

There are more recent examples.

In 1962, Republican Ed Arn, governor in 1951-55, ran for the U.S. Senate but lost the GOP nomination to James Pearson. In 1968,

lost a close 1986 attorney general
Republican incumbent Bob Ste
dozen years later, Moore unseate
lican U.S. Rep. Vince Snowbarg
3rd Congressional District.

In 1930, Gov. Clyde Reed S
himself unable to negotiate the sw
divided Republican Party, losing
nation by 27,000 votes. Six years
won a seat in the U.S. Senate.

The man he defeated in the gene
tion was Democrat George McGill,
of his party to win a Senate seat.

Six years before, McGill had be
from the trend against comebacks,
ing Republican Ben Paulen, gove
1925-29.

But McGill found himself stung
trend after he lost his seat to Reed.
against Republican Sen. Arthur Ca
1942 and lost; six years later, when
didn't run again, McGill lost to GO
Andrew Schoeppel. They had a rem
1954, with the same result.

Jonathan M. Davis' record of
was even longer. He'd already h
unsuccessful gubernatorial race beh
when he won the 1922 race. He
feated for re-election in 1924 and
successfully again in 1926.

He lost the Democratic primary
ernor in 1936 and ran unsuccessful
independent candidate in 1938.
lost races for the U.S.

ORDINANCE NO. 1908C

AN ORDINANCE AMENDING SECTIONS 14-101 THROUGH 14-108 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302; REPEALING EXISTING SECTIONS 14-101 THROUGH 14-108; ORDINANCE NO. 1896C; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 1, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-101. **INCORPORATING "STANDARD TRAFFIC ORDINANCE."** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Leawood, Kansas, that certain standard traffic ordinance known as the 'Standard Traffic Ordinance for Kansas Cities,' Edition of 2001, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped 'Official Copy as incorporated by Ordinance No. 1908C,' with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 14, Article 1, Section 2, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-102. **SAME; AMENDMENT.** Section 33 (Article 7) of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this Section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum

limits:

(1) All vehicles 20 miles per hour in any park under the jurisdiction of this city.

(2) All vehicles 20 miles per hour during those hours when students are going to and from school of any day school is in session, upon streets and/or parts of streets abutting school property and adjacent to school crosswalks designated as school zones; provided that appropriate signs are erected giving notice of such speed limits and the times said limits are in force, said times to be determined by the Chief of Police with the consent of the City Council.

(3) All vehicles 25 miles per hour in any residential district and on other streets within the City except where modified by engineering and traffic investigation as provided hereafter in subsection (b) of this Section. The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

(b) The Chief of Police is hereby authorized and empowered to designate maximum speed zones when he or she shall find and determine that such regulation is necessary for safety purposes or to expedite traffic, to the extent any such regulation is not in conflict with any law of the City. The Chief of Police shall, following ratification of his or her designations under this subsection by the Governing Body, place and maintain the necessary traffic control signs and devices.

(c) Whenever the Chief of Police shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare by resolution a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to Council action and K.S.A. 8-1560 and 8-2002. It shall be unlawful for any person to drive a vehicle at a speed in excess of such declared maximum limits.

(Ord.1800C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 14, Article 1, Section 3, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-103. **SAME.** Section 68 (Article 11) of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FOUR: Chapter 14, Article 1, Section 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-104. **SAME.** Section 136 (Article 15) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted.

(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.

(2) operate such a device on any public tennis court.

(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

NOTICE
Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(c) Any person found guilty of a violation of this section shall be fined $25.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FIVE: Chapter 14, Article 1, Section 5, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-105. TRAFFIC REGULATIONS ON PRIVATE PROPERTY. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"TRAFFIC REGULATIONS OF THE CITY OF LEAWOOD ENFORCED ON THIS PROPERTY. SPEED LIMIT 15 M.P.H." (or as posted.)

Then such private property shall thereafter be deemed to be under the traffic regulations of the city as provided by law.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION SIX: Chapter 14, Article 1, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-106. TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic infractions which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION SEVEN: Chapter 14, Article 1, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-107. PENALTY FOR SCHEDULE FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than $10 nor more than $500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION EIGHT: Chapter 14, Article 1, Section 8, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-108. **REPEALED** *[See Standard Traffic Ordinance, 2001 Edition]*

(Ord. 1896C; 06-18-01)
(Code 2000)

SECTION NINE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: That existing § 14-101 through 14-108; and Ordinance No. 1896C are hereby repealed.

SECTION ELEVEN: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION TWELVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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ORD1908C

Publication Fees: $88.97

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CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1908C--8/7/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 8, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$88.97

ORDINANCE NO. 1908C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1908C

AN ORDINANCE AMENDING SECTIONS 14-101 THROUGH 14-108 OF THE CODE OF THE CITY OF LEAWOOD, KANSAS, 2000, PERTAINING TO REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. § 12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302; REPEALING EXISTING SECTIONS 14-101 THROUGH 14-108; ORDINANCE NO. 1896C; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 14, Article 1, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-101. **INCORPORATING "STANDARD TRAFFIC ORDINANCE."** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Leawood, Kansas, that certain standard traffic ordinance known as the 'Standard Traffic Ordinance for Kansas Cities,' Edition of 2001, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped 'Official Copy as incorporated by Ordinance No. 1908C,' with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 14, Article 1, Section 2, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-102. **SAME; AMENDMENT.** Section 33 (Article 7) of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 33. Maximum Speed Limits.

(a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this Section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

(1) All vehicles 20 miles per hour in any park under the jurisdiction of this city.

(2) All vehicles 20 miles per hour during those hours when students are going to and from school of any day school is in session, upon streets and/or parts of streets abutting school property and adjacent to school crosswalks designated as school zones; provided that appropriate signs are erected giving notice of such speed limits and the times said limits are in force, said times to be determined by the Chief of Police with the consent of the City Council.

(3) All vehicles 25 miles per hour in any residential district and on other streets within the City except where modified by engineering and traffic investigation as provided hereafter in subsection (b) of this Section. The maximum speed limit established by or pursuant to this paragraph shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this paragraph shall not be of any force or effect, subject to the following exception.

(b) The Chief of Police is hereby authorized and empowered to designate maximum speed zones when he or she shall find and determine that such regulation is necessary for safety purposes or to expedite traffic, to the extent any such regulation is not in conflict with any law of the City. The Chief of Police shall, following ratification of his or her designations under this subsection by the Governing Body, place and maintain the necessary traffic control signs and devices.

(c) Whenever the Chief of Police shall determine upon the basis of an engineering and traffic investigation that any speed limit herein set forth is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare by resolution a reasonable and safe speed limit consistent with applicable state and local statutes which shall be effective at all times or during daytime or nighttime or at such other times as may be determined when appropriate signs giving notice thereof are erected pursuant to Council action and K.S.A. 8-1560 and 8-2002. It shall be unlawful for any person to drive a vehicle at a speed in excess of such declared maximum limits.

(Ord.1800C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 14, Article 1, Section 3, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-103. **SAME.** Section 68 (Article 11) of the Standard Traffic Ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 68. Pedestrians on Highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk, jog or run along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking, jogging or running along and upon a highway shall walk, jog or run as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk, jog or run only on the left side of the roadway.

(d) Except as otherwise provided in this ordinance, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FOUR: Chapter 14, Article 1, Section 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-104. **SAME.** Section 136 (Article 15) of the standard traffic ordinance incorporated in Section 14-101 of this article shall be amended to read as follows:

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted.

(a) No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall:

(1) go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets.

(2) operate such a device on any public tennis court.

(3) operate such a device on any private parking area or lot where signs are posted giving notice of such prohibition. This prohibition shall not be applicable unless the following signage is clearly and properly posted at all entrances to said private parking lot or area, to wit:

> NOTICE
> Pursuant to Section 14-104 of the Code of the City of Leawood, Kansas, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot or area. Conviction will result in a $25 fine.

(b) Whenever any person is operating such a device upon a useable path or sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.

(c) Any person found guilty of a violation of this section shall be fined $25.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION FIVE: Chapter 14, Article 1, Section 5, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-105. **TRAFFIC REGULATIONS ON PRIVATE PROPERTY.** Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

"TRAFFIC REGULATIONS OF THE CITY OF LEAWOOD ENFORCED ON THIS PROPERTY. SPEED LIMIT 15 M.P.H." (or as posted.)

Then such private property shall thereafter be deemed to be under the traffic regulations of the city as provided by law.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION SIX: Chapter 14, Article 1, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-106. **TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.**

(a) An ordinance traffic infraction is a violation of any section of this ordinance that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118.

(b) All traffic infractions which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

(Ord. 1800C; 5-17-99)
(Code 2000)

SECTION SEVEN: Chapter 14, Article 1, Section 7, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-107. **PENALTY FOR SCHEDULE FINES.** The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than $10 nor more than $500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed $500.

(Ord. 1800C; 5-17-99)
(Code 2000)

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PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1907C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1907C

AN ORDINANCE AMENDING SECTION 11-606, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PENALTIES; REPEALING EXISTING § 11-606, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 6, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-606. **PENALTIES.** A violation of any provision of this Article shall be punishable as a Class A violation as defined by the "Uniform Public Offense Code for Kansas Cities," as incorporated by reference by Section 11-101 of this Chapter, as amended.

(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-606 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1910C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1910C

AN ORDINANCE AMENDING SECTION 14-303 OF THE CODE OF THE CITY LEAWOOD, 2000, PERTAINING TO PARKING REGULATIONS WITHIN T CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND REPEALI EXISTING SECTION 14-303, AND OTHER SECTIONS IN CONFLICT HEREWITH

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERING BODY OF THE C OF LEAWOOD, KANSAS:

SECTION ONE: Chapter 14, Article 3, Section 3, of the Code of the City Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. PARKING

14-303. **ANGLE PARKING.** Angle parking, except where driveways exist, shal permitted as follows:

(a) On the west side of Lee Boulevard adjacent to the north 45 feet of Lo Leawood, and from the north line of Lot 67 Leawood, an additional feet northwards, adjacent to portions of Lots 68, 69 and 70 Leawo measured at the edge of the right-of-way. Nothing in this section shal construed to permit the parking of other than private passenger vehicles

(b) On the south side of Somerset Drive adjacent to Lots 69 and 70 Leawoo

(Code 1973, 14-3

(Code 20

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberal construed to effectively carry out its purposes which are hereby found and declared to be furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, senten portion or part of the proposed ordinance set out, or the application thereof to any person circumstance is declared to be unconstitutional or invalid, such decision shall not affect validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That existing § 14-303 is hereby repealed.

SECTION FOUR: That the City Clerk is hereby directed to publish said ordinan once in the official city newspaper.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

BACK ISSUES ARE AVAILABLE

Call us at 913-780-5790 to order

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SECTION EIGHT: Chapter 14, Article 1, Section 8, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

14-108. **REPEALED** *[See Standard Traffic Ordinance, 2001 Edition]*

(Ord. 1896C; 06-18-01)
(Code 2000)

SECTION NINE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: That existing § 14-101 through 14-108; and Ordinance No. 1896C are hereby repealed.

SECTION ELEVEN: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION TWELVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(SEAL)

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1907C

AN ORDINANCE AMENDING SECTION 11-606, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PENALTIES; REPEALING EXISTING § 11-606, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 6, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-606. **PENALTIES.** A violation of any provision of this Article shall be punishable as a Class A violation as defined by the "Uniform Public Offense Code for Kansas Cities," as incorporated by reference by Section 11-101 of this Chapter, as amended.

(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-606 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

I:\411-606.DOC

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

I:\411-606.DOC

ORD1907C

Publication Fees: $29.39

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1907C--8/7/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 8, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$29.39

ORDINANCE NO. 1907C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1907C

AN ORDINANCE AMENDING SECTION 11-606, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO PENALTIES; REPEALING EXISTING § 11-606, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 6, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-606. **PENALTIES.** A violation of any provision of this Article shall be punishable as a Class A violation as defined by the "Uniform Public Offense Code for Kansas Cities," as incorporated by reference by Section 11-101 of this Chapter, as amended.

(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-606 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1906C

AN ORDINANCE AMENDING SECTIONS 11-301, 11-304, 11-306, AND 11-309, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO NUISANCE ALARMS SYSTEMS, AND REPEALING EXISTING § 11-301, 11-304, 11-306, AND 11-309; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 3, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. NUISANCE ALARM SYSTEMS.

11-301. NUISANCE ALARM SYSTEMS PROHIBITED. It shall be unlawful for any person or business to own, lease or otherwise utilize for the purpose of providing security to person or property, any burglary, robbery, fire or panic alarm system deemed to be a nuisance. Nuisance alarm systems shall be defined as follows:

(a) *False alarms.* Any alarm which elicits a response from the police and/or fire departments more than three times in a calendar year when no emergency exists is defined as a nuisance alarm. Exempt from this definition are newly installed alarms which shall receive a grace period of 30 days or four false alarms, whichever occurs first; alarm signals caused by extraordinary conditions of nature or other extraordinary circumstances beyond control of the owner, operator, or contractor; and alarm systems owned or operated by any governmental political unit.

(b) *Direct telephone alarms.* Any alarm which is programmed to automatically dial any telephone number, listed or unlisted, directly into any city department for the purpose of transmitting a voice recording of any emergency message.

(c) *Disturbing alarms.* Any alarm which emits an audible or visible signal which is not automatically discontinued within 15 minutes of activation.

(d) *Unregistered alarm systems.* Any alarm system which is not registered with the City.

It shall further be unlawful for any person to transmit an alarm of any kind knowing that such alarm is false or that no emergency exists.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION TWO: Chapter 11, Article 3, Section 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-304. NOTIFICATION OF NUISANCE ALARMS.
Upon receiving the third false alarm in a calendar year, the city shall notify the responsible party by first class mail of such occurrences and that additional false alarms shall require the payment of fees as per section 11-306 of this article. Such written notification shall be assumed to have been delivered three days after mailing.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION THREE: Chapter 11, Article 3, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-306. FALSE ALARMS; FEES REQUIRED. Any alarm system which has recorded more than three false alarms within a calendar year shall be subject to the fees set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701. The payment of the fee provided for shall be submitted to the city within 10 days of receiving notice that such fee is due. The chief of police may waive all or part of such fees if the responsible party participates in approved education designed to reduce the occurrence of false alarms.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FOUR: Chapter 11, Article 3, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-309. NON-RESPONSE TO ALARMS. Nothing herein shall imply or otherwise convey the impression that there is a duty to respond to any alarm system utilized to convey messages of whatever character to the police or fire departments of the city.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FIVE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SIX: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION SEVEN: That existing § 11-301, 11-304, 11-306, and 11-309, are hereby repealed.

SECTION EIGHT: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

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ORD1906C

Publication Fees: $51.54

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1906C--8/7/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

AUGUST 8, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$51.54

ORDINANCE NO. 1906C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1906C

AN ORDINANCE AMENDING SECTIONS 11-301, 11-304, 11-306, AND 11-309, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO NUISANCE ALARMS SYSTEMS, AND REPEALING EXISTING § 11-301, 11-304, 11-306, AND 11-309; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 3, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. NUISANCE ALARM SYSTEMS.

11-301. NUISANCE ALARM SYSTEMS PROHIBITED. It shall be unlawful for any person or business to own, lease or otherwise utilize for the purpose of providing security to person or property, any burglary, robbery, fire or panic alarm system deemed to be a nuisance. Nuisance alarm systems shall be defined as follows:

(a) *False alarms.* Any alarm which elicits a response from the police and/or fire departments more than three times in a calendar year when no emergency exists is defined as a nuisance alarm. Exempt from this definition are newly installed alarms which shall receive a grace period of 30 days or four false alarms, whichever occurs first; alarm signals caused by extraordinary conditions of nature or other extraordinary circumstances beyond control of the owner, operator, or contractor; and alarm systems owned or operated by any governmental political unit.

(b) *Direct telephone alarms.* Any alarm which is programmed to automatically dial any telephone number, listed or unlisted, directly into any city department for the purpose of transmitting a voice recording of any emergency message.

(c) *Disturbing alarms.* Any alarm which emits an audible or visible signal which is not automatically discontinued within 15 minutes of activation.

(d) *Unregistered alarm systems.* Any alarm system which is not registered with the City.

It shall further be unlawful for any person to transmit an alarm of any kind knowing that such alarm is false or that no emergency exists.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION TWO: Chapter 11, Article 3, Section 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-304. NOTIFICATION OF NUISANCE ALARMS.
Upon receiving the third false alarm in a calendar year, the city shall notify the responsible party by first class mail of such occurrences and that additional false alarms shall require the payment of fees as per section 11-306 of this article. Such written notification shall be assumed to have been delivered three days after mailing.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION THREE: Chapter 11, Article 3, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-306. FALSE ALARMS; FEES REQUIRED. Any alarm system which has recorded more than three false alarms within a calendar year shall be subject to the fees set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701. The payment of the fee provided for shall be submitted to the city within 10 days of receiving notice that such fee is due. The chief of police may waive all or part of such fees if the responsible party participates in approved education designed to reduce the occurrence of false alarms.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FOUR: Chapter 11, Article 3, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-309. NON-RESPONSE TO ALARMS. Nothing herein shall imply or otherwise convey the impression that there is a duty to respond to any alarm system utilized to convey messages of whatever character to the police or fire departments of the city.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FIVE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SIX: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION SEVEN: That existing § 11-301, 11-304, 11-306, and 11-309, are hereby repealed.

SECTION EIGHT: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1903

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $3,700,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD.

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Acquisition, construction and installation of improvements to existing City parks pursuant to K.S.A. 12-1301 *et seq.*, Ordinance No. 1742 and Resolution No. 1444;

(b) Acquisition, construction and installation of a new public works building pursuant to K.S.A. 12-1736 *et seq.*, and Resolution No. 1532;

(c) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(d) Improvement and reimprovement of 151st Street between Nall Avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(e) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1553, as amended by Resolution No. 1614; and

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notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing
shall levy and collect special assessments on property specially benefited by the
Improvement Projects, and to the extent said special assessments shall not be so collected
the extent of the City's portion of the principal of and interest on said Notes not first p
from special assessments, the Governing Body shall levy and collect a tax upon all
tangible property, real and personal, within the territorial limits of the City in an
sufficient to pay the principal of and interest on said Notes as the same become due and pa

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are
authorized and directed to prepare and execute the Notes herein authorized in the for
substance hereinbefore described and as provided by law and to procure the proper registra
the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and w
executed and registered, said Notes shall be countersigned by the City Clerk and delivered
original purchaser or purchasers thereof, upon payment of the purchase price therefor in pr
in the Note Resolutions.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Notes
deposited with the City Treasurer. The sum of $1,100,000 of such proceeds shall be
redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in
funds created for the purpose of paying costs and expenses of each of the respectiv
Improvement Projects as provided in the Note Resolutions.

Section 6. Tax Covenants. The City covenants and agrees that (1) it will compl
each and every provision of the Internal Revenue Code of 1986, as amended (the "C
including Sections 103 and 141 through 150, that is or may become applicable to the
necessary to maintain the exclusion from gross income for federal income tax purposes
interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code
extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicab
with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not in
directly or indirectly use or permit the use of any of the proceeds of the Notes or other fu
the City in any manner or take or permit any other action, that would cause the Notes
"arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not
permit the use of any proceeds of the Notes or any other funds of the City
action to be taken, or fail to take any action, if such action or failure to act would adverse
the exclusion from gross income for federal income tax purposes of the interest on th
The City will, in addition, adopt such other ordinances or resolutions and take such other
as may be necessary to comply with the Code and with all other applicable futu
regulations, published rulings and judicial decisions, in order to ensure that the interes
Notes will remain excluded from federal gross income, to the extent any such actions
taken by the City.

The City covenants and agrees that it will not use any portion of the proceed
Notes, including any investment income earned on such proceeds, directly or indirec
manner that would cause any of the Notes to be a "private activity bond" within the me
Section 141(a) of the Code.

Section 7. Remedies. The provisions of this Ordinance, including the coven
agreements herein contained, shall constitute a contract between the City and the Owne
Notes and may be enforced in accordance with the provisions of the respective Note Res

Section 8. Further Authority. The duly elected and appointed officers of
including the Mayor, the City Clerk and the Finance Director, are hereby further author
directed to execute all documents and take such actions as they may deem necessary or
in order to carry out and perform the purposes of this Ordinance and the Note Resolution
make ministerial alterations, changes or additions in the foregoing agreements, sta
instruments and other documents herein approved, authorized and confirmed which t
approve, and the execution or taking of such action shall be conclusive evidence
necessity or advisability.

Section 9. Governing Law. This Ordinance and the Notes shall be governed exc
by and construed in accordance with applicable laws of the State of Kansas.

Section 10. Effective Date. That this Ordinance shall take effect and be in force
publication as provided by law.

CONTINUED ON NEXT PAGE

ORDINANCE NO. 1905 C

AN ORDINANCE AMENDING SECTION 11-201, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LOCAL PROVISIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND REPEALING EXISTING § 11-201, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 2, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. LOCAL PROVISIONS

11-201. **PENALTIES.** Unless otherwise specified, the penalties for violation of any of the following sections will be classed in the manner set out in Article 12 of the "Uniform Public Offense Code for Kansas Cities", 2001 Edition, as incorporated by reference by Section 11-101 of this chapter.

(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-201 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

P:\411-2.DOC

[SEAL]

ATTEST:

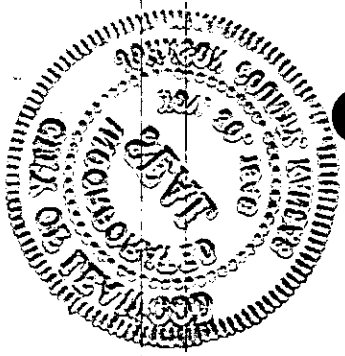
Martha Heizer, City Clerk

Peggy Dunn, Mayor

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

P:\411-2.DOC



ORD1905C

Publication Fees: $29.39

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1905C--8/7/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 8, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$29.39

ORDINANCE NO. 1905C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1905-C

AN ORDINANCE AMENDING SECTION 11-201, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO LOCAL PROVISIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; AND REPEALING EXISTING § 11-201, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 2, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 2. LOCAL PROVISIONS

11-201. **PENALTIES.** Unless otherwise specified, the penalties for violation of any of the following sections will be classed in the manner set out in Article 12 of the "Uniform Public Offense Code for Kansas Cities", 2001 Edition, as incorporated by reference by Section 11-101 of this chapter.

(Code 2000)

SECTION TWO: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION THREE: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION FOUR: That existing § 11-201 is hereby repealed.

SECTION FIVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1904 C

AN ORDINANCE AMENDING SECTIONS 11-101, THROUGH 11-108, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. §12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302, AND REPEALING EXISTING § 11-101 THROUGH 11-108, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. **UNIFORM CODE INCORPORATED.** There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities", 2001 Edition, prepared and published by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. § 12-3009 through §12-3012, inclusive, as amended. No fewer than three copies of said uniform ordinance shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 1904C ", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 11, Article 1, Section 2 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-102. **BATTERY.** Repealed. *[See 'Uniform Public Offense Code']*

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 11, Article 1, Section 3 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-103. **SAME.** Section 6.16 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

GIVING A WORTHLESS CHECK

(a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(b) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee:

(1) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge as established and in effect by the adoption of the annual City fee resolution, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, notice includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order; or

(2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(c) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) Was given to a payee who had knowledge or had been informed, when the payee accepted the check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds. (K.S.A. Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than $500 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute.

(Ord.1797C; 5-17-99)
(Code 2000)

SECTION FOUR: Chapter 11, Article 1, Section 4 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-104. **SAME.** Section 10.1 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

CRIMINAL USE OF WEAPONS

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles, throwing star, or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement;

(2) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) Carrying any pistol, revolver or other firearm:

(i) concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within the passenger compartment of any vehicle in transport unless the weapon is unloaded and in a case;

(5) Setting a spring gun;

(6) Possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a Molotov cocktail or a pipe bomb.

(b) Subsections (a) (1), (2), (3) and (4) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b) (1) through (b)(3) of this section to possess such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(5) The state fire marshal, the state fire marshal's deputies or member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(6) Special deputy sheriffs in counties over 100,000 population who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer.

(d) Subsections (a)(1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class A violation.

(Ord.1797C; 5-17-99)
(Code 2000)

SECTION FIVE: Chapter 11, Article 1, Section 5 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-105. **UNLAWFUL DISCHARGE OF FIREARMS**. Repealed. *[See the 'Uniform Public Offense Code.']*

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION SIX: Chapter 11, Article 1, Section 6 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-106. **SAME.** Section 10.6 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

AIR GUN, AIR RIFLE, PAINTBALL GUN, BOW AND ARROW, SLINGSHOT OR BB GUN

(a) The unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(b) The unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the possession of an airgun, air rifle, paintball gun, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION SEVEN: Chapter 11, Article 1, Section 7 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-107. **SAME.** Section 10.13 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

BARBED WIRE
It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the city, except on property zoned for agricultural purposes.

Violation of this section is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION EIGHT: Chapter 11, Article 1, Section 8 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-108. **SAME.** Section 11.11 of the Uniform Code, relating to Cruelty to Animals, incorporated in Section 11-101 above is hereby omitted and deleted.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION NINE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION ELEVEN: That existing § 11-101 through 11-108 are hereby repealed.

SECTION TWELVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

P:\4UPO2001.DOC

ORD1904C

Publication Fees: $117.30

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1904C--8/7/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

AUGUST 8, 2001

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$117.30

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1904 C

AN ORDINANCE AMENDING SECTIONS 11-101, THROUGH 11-108, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. §12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302, AND REPEALING EXISTING § 11-101 THROUGH 11-108, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. **UNIFORM CODE INCORPORATED.** There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities", 2001 Edition, prepared and published by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. § 12-3009 through §12-3012, inclusive, as amended. No fewer than three copies of said uniform ordinance shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 1904C", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

(Code 2000)

SECTION TWO: Chapter 11, Article 1, Section 2 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-102. **BATTERY.** Repealed. *[See 'Uniform Public Offense Code']*

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION THREE: Chapter 11, Article 1, Section 3 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-103. **SAME.** Section 6.16 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

GIVING A WORTHLESS CHECK

(a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.

(b) In any prosecution against the maker or drawer of a check, order or draft payment, of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the drawee:

(1) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge as established and in effect by the adoption of the annual City fee resolution, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the drawee. As used in this section, notice includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order; or

(2) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee.

(c) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presented for payment prior to the postdated date; or

(2) Was given to a payee who had knowledge or had been informed, when the payee accepted the check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds. (K.S.A. Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than $500 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute.

(Ord.1797C; 5-17-99)
(Code 2000)

SECTION FOUR: Chapter 11, Article 1, Section 4 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-104. **SAME.** Section 10.1 of the Uniform Code incorporated in Section 11-101 above is hereby amended to read as follows:

CRIMINAL USE OF WEAPONS

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles, throwing star, or any knife, commonly referred to as a switchblade, which has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward, or centrifugal thrust or movement;

(2) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument;

(3) Carrying on one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance;

(4) Carrying any pistol, revolver or other firearm:

(i) concealed on one's person except when on the person's land or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to public view;

(iii) within the passenger compartment of any vehicle in transport unless the weapon is unloaded and in a case;

(5) Setting a spring gun;

(6) Possessing or transporting any incendiary or explosive material, liquid, solid or mixture, equipped with a fuse, wick or any other detonating device, commonly known as a Molotov cocktail or a pipe bomb.

CONTINUED FROM PRECEDING PAGE

(b) Subsections (a) (1), (2), (3) and (4) shall not apply to or affect following:

(1) Law enforcement officers, or any person summoned by officers to assist in making arrests or preserving the p actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security perso keepers of prisons, penitentiaries, jails and other institutio detention of persons accused or convicted of crime, wh within the scope of their authority;

(3) Members of the armed services or reserve forces of t States or the Kansas National Guard while in the perfor their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to authorized under (b) (1) through (b)(3) of this section t such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performanc duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the involved, while actually engaged in the duties employment;

(4) Detectives or special agents regularly employed by companies or other corporations to perform full-time se investigative service, while actually engaged in the dutie employment; or

(5) The state fire marshal, the state fire marshal's deputies or of a fire department authorized to carry a firearm pur K.S.A. Supp. 31-157 and amendments thereto, while engag investigation in which such fire marshal, deputy or me authorized to carry a firearm pursuant to K.S.A. 31- amendments thereto.

(6) Special deputy sheriffs in counties over 100,000 populati have satisfactorily completed the basic course of ins required for permanent appointment as a part-tim enforcement officer.

(d) Subsections (a)(1) and (6) shall not apply to any person wh purchases, possesses or carries a firearm, device or attachment wh been rendered unserviceable by steel weld in the chamber and m weld of the barrel to the receiver and which has been registered national firearms registration and transfer record in compliance w U.S.C. 5841 et seq. in the name of such person and, if such transfers such firearm, device or attachment to another person, has registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class A violation.

(Ord.1797C; 5-17-99)
(Code 2000)

SECTION FIVE: Chapter 11, Article 1, Section 5 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-105. UNLAWFUL DISCHARGE OF FIREARMS. Repealed. *[See the 'Uniform Public Offense Code.']*

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION SIX: Chapter 11, Article 1, Section 6 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-106. SAME. Section 10.6 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

AIR GUN, AIR RIFLE, PAINTBALL GUN, BOW AND ARROW, SLINGSHOT OR BB GUN

(a) The unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(b) The unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the possession of an airgun, air rifle, paintball gun, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(Ord. 1797C; 5-17-99)

SECTION SEVEN: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

BEAT YOUR COMPETITION BY KEEPING ABREAST OF THE CRITICAL INFORMATION YOU WON'T FIND ELSEWHERE!

SUBSCRIBE TO
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CONTINUED FROM PRECEDING PAGE

Section 9. Further Authority. The Mayor, City Clerk and other City officials are further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance to make alterations, changes or additions in the agreements, statements, instruments and other documents approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 10. Governing Law. The Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 11. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

PASSED by the Governing Body of the City this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1904 C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1904 C

AN ORDINANCE AMENDING SECTIONS 11-101, THROUGH 11-108, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO REGULATING PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOOD, KANSAS; INCORPORATING BY REFERENCE THE 'UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,' 2001 EDITION, SUCH INCORPORATION BEING AUTHORIZED BY K.S.A. §12-3009 THROUGH 12-3012, AND K.S.A. § 12-3301 AND 12-3302, AND REPEALING EXISTING § 11-101 THROUGH 11-108, AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 1. UNIFORM OFFENSE CODE

11-101. **UNIFORM CODE INCORPORATED.** There is hereby incorporated by reference the "Uniform Public Offense Code for Kansas Cities", 2001 Edition, prepared and [illegible] except [illegible] modified [illegible] through [illegible] uniform [illegible] rated by [illegible] ended to [illegible] ange and [illegible] ity Clerk [illegible] de 2000) [illegible] City of [illegible] 5-17-99) [illegible] de 2000)

SECTION THREE: Chapter 11, Article 1, Section 3 of the Code of the [illegible] Leawood, Kansas, 2000, is hereby amended to read as follows:

11-103. **SAME.** Section 6.16 of the Uniform Code incorporated in Section 11-101 is hereby amended to read as follows:

GIVING A WORTHLESS CHECK

(a) Giving a worthless check is the making, drawing, issuing or delive[illegible] causing or directing the making, drawing, issuing or delivering [illegible] check, order or draft on any bank, credit union, savings an[illegible] association or depository for the payment of money or its equivale[illegible] intent to defraud and knowing, at the time of the making, drawing, [illegible] or delivering of such check, order or draft, that the maker or drawer [illegible] deposit in or credits with the drawee or has not sufficient funds [illegible] credits with, the drawee for the payment of such check, order or d[illegible] full upon its presentation.

(b) In any prosecution against the maker or drawer of a check, order o[illegible] payment, of which has been refused by the drawee on accou[illegible] insufficient funds, the making, drawing, issuing or delivering o[illegible] check shall be prima facie evidence of intent to defraud and of know[illegible] of insufficient funds in, or on deposit with, the drawee:

(1) unless the maker or drawer pays the holder thereof the amou[illegible] thereon and a service charge as established and in effect b[illegible] adoption of the annual City fee resolution, within seven days [illegible] notice has been given to the maker or drawer that such check, [illegible] or order has not been paid by the drawee. As used in this se[illegible] notice includes oral or written notice to the person entitled th[illegible] Written notice shall be presumed to have been given [illegible] deposited as restricted matter in the United States mail, addr[illegible] to the person to be given notice at such person's address [illegible] appears on such check, draft or order; or

(2) if a postdated date is placed on the check, order or draft witho[illegible] knowledge or consent of the payee.

(c) It shall not be a defense to a prosecution under this section that the c[illegible] draft or order upon which such prosecution is based:

(1) Was postdated, unless such check, draft or order was presente[illegible] payment prior to the postdated date; or

(2) Was given to a payee who had knowledge or had been infor[illegible] when the payee accepted the check, draft or order, that the [illegible] did not have sufficient funds in the hands of the drawee to [illegible] such check, draft or order upon presentation, unless such c[illegible] draft or order was presented for payment prior to the dat[illegible] maker informed the payee there would be sufficient funds. (K[illegible] Supp. 21-3707, as amended)

Giving a worthless check is a Class A violation if the check, draft or o[illegible] drawn for less than $500 except when the person has, within five [illegible] immediately preceding commission of the offense, been convicted of gi[illegible] worthless check two or more times, in which case it is a felony under state [illegible]

(Ord.1797C; 5-[illegible]

(Code[illegible]

SECTION FOUR: Chapter 11, Article 1, Section 4 of the Code of the [illegible] Leawood, Kansas, 2000, is hereby amended to read as follows:

11-104. **SAME.** Section 10.1 of the Uniform Code incorporated in Section 11-101 is hereby amended to read as follows:

CRIMINAL USE OF WEAPONS

(a) Criminal use of weapons is knowingly:

(1) Selling, manufacturing, purchasing, possessing or carryi[illegible] bludgeon, sandclub, metal knuckles, throwing star, or any [illegible] commonly referred to as a switchblade, which has a bla[illegible] opens automatically by hand pressure applied to a button, sp[illegible] other device in the handle of the knife, or any knife having [illegible] that opens or falls or is ejected into position by the force of [illegible] or by an outward, downward, or centrifugal thrust or movem[illegible]

(2) Carrying concealed on one's person, or possessing with in[illegible] use the same unlawfully against another, a dagger, dirk [illegible] blackjack, slingshot, dangerous knife, straight-edged razor, [illegible] or any other dangerous or deadly weapon or instrument [illegible] character, except that an ordinary pocket knife with no blad[illegible] than four inches in length shall not be construed to be a dan[illegible] knife, or a dangerous or deadly weapon or instrument;

(3) Carrying on one's person or in any land, water or air vehicl[illegible] intent to use the same unlawfully, a tear gas or smoke bo[illegible] projector or any object containing a noxious liquid, [illegible] substance;

(4) Carrying any pistol, revolver or other firearm:

(i) concealed on one's person except when on the perso[illegible] or in the person's abode or fixed place of business;

(ii) openly or visibly on the person at any place open to [illegible] view;

(iii) within the passenger compartment of any vehi[illegible] transport unless the weapon is unloaded and in a case

(5) Setting a spring gun;

(6) Possessing or transporting any incendiary or explosive m[illegible] liquid, solid or mixture, equipped with a fuse, wick or an[illegible] detonating device, commonly known as a Molotov cockt[illegible] pipe bomb.

CONTINUED FROM PRECEDING PAGE

(b) Subsections (a) (1), (2), (3) and (4) shall not apply to or affect any of the following:

(1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(3) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(4) Manufacture of, transportation to, or sale of weapons to a person authorized under (b) (1) through (b)(3) of this section to possess such weapons.

(c) Subsection (a) (4) does not apply to or affect the following:

(1) Watchmen, while actually engaged in the performance of the duties of their employment;

(2) Licensed hunters while engaged in hunting;

(3) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;

(4) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(5) The state fire marshal, the state fire marshal's deputies or member of a fire department authorized to carry a firearm pursuant to K.S.A. Supp. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(6) Special deputy sheriffs in counties over 100,000 population who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer.

(d) Subsections (a)(1) and (6) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(e) It shall be a defense that the defendant is within an exemption. (K.S.A. 21-4201)

Violation of this section is a Class A violation.

(Ord.1797C; 5-17-99)
(Code 2000)

SECTION FIVE: Chapter 11, Article 1, Section 5 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-105. UNLAWFUL DISCHARGE OF FIREARMS. Repealed. *[See the 'Uniform Public Offense Code.']*

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION SIX: Chapter 11, Article 1, Section 6 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-106. SAME. Section 10.6 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

AIR GUN, AIR RIFLE, PAINTBALL GUN, BOW AND ARROW, SLINGSHOT OR BB GUN.

(a) The unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the shooting, discharging or operating of any air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful operation of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(b) The unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is the possession of an airgun, air rifle, paintball gun, bow and arrow, slingshot or BB gun with the intent to shoot, discharge, or operate the air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
Unlawful possession of an air gun, air rifle, paintball gun, bow and arrow, slingshot or BB gun is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION SEVEN: Chapter 11, Article 1, Section 7 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-107. SAME. Section 10.13 of the Uniform Code incorporated in Section 11-101 above shall be amended to read as follows:

BARBED WIRE

It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the city, except on property zoned for agricultural purposes.

Violation of this section is a Class C violation.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION EIGHT: Chapter 11, Article 1, Section 8 of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-108. SAME. Section 11.11 of the Uniform Code, relating to Cruelty to Animals, incorporated in Section 11-101 above is hereby omitted and deleted.

(Ord. 1797C; 5-17-99)
(Code 2000)

SECTION NINE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION TEN: That the City Clerk is hereby directed to publish said ordinance once in the official city newspaper.

SECTION ELEVEN: That existing § 11-101 through 11-108 are hereby repealed.

SECTION TWELVE: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1903

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $3,700,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD.

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Acquisition, construction and installation of improvements to existing City parks pursuant to K.S.A. 12-1301 *et seq.*, Ordinance No. 1742 and Resolution No. 1444;

(b) Acquisition, construction and installation of a new public works building pursuant to K.S.A. 12-1736 *et seq.*, and Resolution No. 1532;

(c) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(d) Improvement and reimprovement of 151st Street between Nall Avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(e) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1553, as amended by Resolution No. 1614; and

(f) Construction of 133rd Street from State Line Road to Mission Road pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525 (collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated December 1, 2001, in the principal amount of $2,100,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof,

and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $2,600,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

Section 1. Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Three Million Seven Hundred Thousand Dollars ($3,700,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

Section 2. Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

Section 3. Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal

notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not first payable from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $1,100,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

Section 6. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any

action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 7. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

Section 8. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 9. Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

Section 10. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVEDAS TO FORM:

Patricia A. Bennett, City Attorney

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ORD1903

Publication Fees: $86.53

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1903--8/7/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

AUGUST 8, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$86.53

ORDINANCE NO. 1906C

First published in The Legal Record, Tuesday, August 7, 2001.

ORDINANCE NO. 1906C

AN ORDINANCE AMENDING SECTIONS 11-301, 11-304, 11-306, AND 11-309, OF THE CODE OF THE CITY OF LEAWOOD, 2000, PERTAINING TO NUISANCE ALARMS SYSTEMS, AND REPEALING EXISTING § 11-301, 11-304, 11-306, AND 11-309; AND OTHER SECTIONS IN CONFLICT HEREWITH.

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

SECTION ONE: Chapter 11, Article 3, Section 1, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

ARTICLE 3. NUISANCE ALARM SYSTEMS.

11-301. NUISANCE ALARM SYSTEMS PROHIBITED. It shall be unlawful for any person or business to own, lease or otherwise utilize for the purpose of providing security to person or property, any burglary, robbery, fire or panic alarm system deemed to be a nuisance. Nuisance alarm systems shall be defined as follows:

(a) *False alarms.* Any alarm which elicits a response from the police and/or fire departments more than three times in a calendar year when no emergency exists is defined as a nuisance alarm. Exempt from this definition are newly installed alarms which shall receive a grace period of 30 days or four false alarms, whichever occurs first; alarm signals caused by extraordinary conditions of nature or other extraordinary circumstances beyond control of the owner, operator, or contractor; and alarm systems owned or operated by any governmental political unit.

(b) *Direct telephone alarms.* Any alarm which is programmed to automatically dial any telephone number, listed or unlisted, directly into any city department for the purpose of transmitting a voice recording of any emergency message.

(c) *Disturbing alarms.* Any alarm which emits an audible or visible signal which is not automatically discontinued within 15 minutes of activation.

(d) *Unregistered alarm systems.* Any alarm system which is not registered with the City.

It shall further be unlawful for any person to transmit an alarm of any kind knowing that such alarm is false or that no emergency exists.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION TWO: Chapter 11, Article 3, Section 4, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-304. NOTIFICATION OF NUISANCE ALARMS.
Upon receiving the third false alarm in a calendar year, the city shall notify the responsible party by first class mail of such occurrences and that additional false alarms shall require the payment of fees as per section 11-306 of this article. Such written notification shall be assumed to have been delivered three days after mailing.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION THREE: Chapter 11, Article 3, Section 6, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-306. FALSE ALARMS; FEES REQUIRED. Any alarm system which has recorded more than three false alarms within a calendar year shall be subject to the fees set forth in the Fee Schedule established and maintained by the city administrator, as prescribed in section 1-701. The payment of the fee provided for shall be submitted to the city within 10 days of receiving notice that such fee is due. The chief of police may waive all or part of such fees if the responsible party participates in approved education designed to reduce the occurrence of false alarms.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FOUR: Chapter 11, Article 3, Section 9, of the Code of the City of Leawood, Kansas, 2000, is hereby amended to read as follows:

11-309. NON-RESPONSE TO ALARMS. Nothing herein shall imply or otherwise convey the impression that there is a duty to respond to any alarm system utilized to convey messages of whatever character to the police or fire departments of the city.

(Ord. 1467C; 2-21-95)
(Code 2000)

SECTION FIVE: That this ordinance shall be construed as follows:

INTERPRETATION

A. **Liberal Construction:** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience.

B. **Invalidity:** If for any reason any chapter, article, section, subsection, sentence, portion or part of the proposed ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

SECTION SIX: That the City Clerk is hereby directed to publish said ordin once in the official city newspaper.

SECTION SEVEN: That existing § 11-301, 11-304, 11-306, and 11-309, are he repealed.

SECTION EIGHT: This ordinance shall become effective August 8, 2001.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

[SEAL]

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

RESOLUTION NO. 1622

First published in The Legal Record, Tuesday, August 7, 2001.

RESOLUTION NO. 1622

A RESOLUTION ADOPTING THE FISCAL YEAR 2002 ANNUAL BUDGET FOR CITY OF LEAWOOD, KANSAS.

WHEREAS, a public hearing was conducted at the July 16, 2001, City Council me to consider the Fiscal Year 2002 annual budget for the City of Leawood, Kansas, pursua K.S.A. § 79-2929; and

WHEREAS, the Fiscal Year 2002 annual budget was presented to the Governing Bo its August 6, 2001, City Council meeting; and

WHEREAS, the Governing Body desires the Fiscal Year 2002 annual budget to adopted.

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

SECTION ONE: The City of Leawood, Kansas, a municipal corporation, c hereby adopt the Fiscal Year 2002 annual budget as presented at its August 6, 2001, City Cou meeting.

SECTION TWO: This resolution shall become effective upon passage publication by the Governing Body.

PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

Peggy Dunn, Mayor

[SEAL]

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1903

AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE ISSUANCE AND DELIVERY OF TEMPORARY NOTES OF THE CITY OF LEAWOOD, KANSAS, IN THE PRINCIPAL AMOUNT OF $3,700,000 TO PROVIDE TEMPORARY FINANCING OF THE COST OF PUBLIC IMPROVEMENT PROJECTS IN THE CITY OF LEAWOOD.

WHEREAS, the City of Leawood, Kansas (the "City") is a city of the first class, duly created, organized and existing under the laws of the State of Kansas; and

WHEREAS, the Governing Body of the City has heretofore authorized the following described improvement projects within the City pursuant to the following authority, to wit:

(a) Acquisition, construction and installation of improvements to existing City parks pursuant to K.S.A. 12-1301 *et seq.*, Ordinance No. 1742 and Resolution No. 1444;

(b) Acquisition, construction and installation of a new public works building pursuant to K.S.A. 12-1736 *et seq.*, and Resolution No. 1532;

(c) Improvement and reimprovement of 119th Street in the vicinity of the intersection thereof with Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1505;

(d) Improvement and reimprovement of 151st Street between Nall Avenue and Mission Road pursuant to K.S.A. 12-685 *et seq.* and Resolution No. 1506;

(e) Improvements to Roe Avenue at the intersection thereof with 135th Street south to 137th Street pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1553, as amended by Resolution No. 1614; and

(f) Construction of 133rd Street from State Line Road to Mission Road pursuant to K.S.A. 12-6a01 *et seq.* and Resolution No. 1525 (collectively, the "City Improvement Projects"); and

WHEREAS, the City has heretofore issued its Temporary Notes dated December 1, 2001, in the principal amount of $2,100,000 (the "Prior Notes") to provide funds to pay the costs of certain of the City Improvement Projects heretofore incurred by the City; and

WHEREAS, the Prior Notes become due and payable in the immediate future but all aspects of the City Improvement Projects will not be completed at the date of maturity thereof, and the City has incurred or expects to incur additional costs payable in respect of the City Improvement Projects within the next six months in the amount of $2,600,000; and

WHEREAS, the City is authorized by law and in particular K.S.A. 10-123, as amended, to issue temporary notes of the City to provide funds to redeem and pay the Prior Notes and to pay the costs of the City Improvement Projects as the same become due and payable.

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

Section 1. Authorization of the Notes. That in order to provide funds to redeem and pay the Prior Notes and to pay costs of the City Improvement Projects now due or to become due in the immediate future, including necessary engineering, legal and incidental costs, there shall be issued and the City is hereby authorized to issue temporary notes of the City in the aggregate principal amount of Three Million Seven Hundred Thousand Dollars ($3,700,000) (the "Notes"). The amount of the Notes together with other temporary notes heretofore issued to finance each of the City Improvement Projects which remain outstanding does not exceed the total estimated cost of each such City Improvement Project.

Section 2. Terms of the Notes. The Notes shall be issued in separate series designated City of Leawood, Kansas Temporary Notes with such further appropriate designation incorporated in such title of the Notes of each series to identify the particular project for which such series is issued as shall be provided in the Note Resolution providing for the issuance thereof. Said Notes shall be dated, shall mature and be payable by their stated terms at such times, shall be in such form, shall be subject to redemption and payment prior to maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the resolutions adopted by the Governing Body of the City providing for the issuance of each such series of Notes (the "Note Resolutions").

Section 3. Security for the Notes. The Notes shall be general obligations of the City, and the full faith, credit and resources of the City of Leawood, Kansas, shall be and the same are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Notes.

The Governing Body of the City shall make provision for the payment of said Notes by the issuance of renewal notes or general obligation bonds of the City to provide permanent financing of each of the City Improvement Projects upon the completion thereof. If said renewal notes or bonds shall not be so issued and the Notes shall not be so paid, the Governing Body shall levy and collect special assessments on property specially benefited by the City Improvement Projects, and to the extent said special assessments shall not be so collected and to the extent of the City's portion of the principal of and interest on said Notes not *first payable* from special assessments, the Governing Body shall levy and collect a tax upon all taxable tangible property, real and personal, within the territorial limits of the City in an amount sufficient to pay the principal of and interest on said Notes as the same become due and payable.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Notes herein authorized in the form and substance hereinbefore described and as provided by law and to procure the proper registration in the office of the City Clerk and in the office of the Treasurer of the State of Kansas, and when so executed and registered, said Notes shall be countersigned by the City Clerk and delivered to the original purchaser or purchasers thereof, upon payment of the purchase price therefor as provided in the Note Resolutions.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Notes shall be deposited with the City Treasurer. The sum of $1,100,000 of such proceeds shall be used to redeem and retire the Prior Notes, and the balance of such proceeds shall be deposited in special funds created for the purpose of paying costs and expenses of each of the respective City Improvement Projects as provided in the Note Resolutions.

Section 6. Tax Covenants. The City covenants and agrees that (1) it will comply with each and every provision of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103 and 141 through 150, that is or may become applicable to the Notes, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Notes; (2) it will comply with the requirements of Section 148 of the Code to the extent applicable to the Notes; (3) it will use the proceeds of the Notes as soon as practicable and with reasonable dispatch for the purposes for which the Notes are issued; (4) it will not invest or directly or indirectly use or permit the use of any of the proceeds of the Notes or other funds of the City in any manner or take or permit any other action, that would cause the Notes to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of the Notes or any other funds of the City nor take or permit any action to be taken, or fail to take any action, if such action or failure to act would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Notes. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Notes will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Notes, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any of the Notes to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 7. Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Owners of the Notes and may be enforced in accordance with the provisions of the respective Note Resolutions.

Section 8. Further Authority. The duly elected and appointed officers of the City, including the Mayor, the City Clerk and the Finance Director, are hereby further authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and the Note Resolutions, and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 9. Governing Law. This Ordinance and the Notes shall be governed exclusively by and construed in accordance with applicable laws of the State of Kansas.

Section 10. Effective Date. That this Ordinance shall take effect and be in force after its publication as provided by law.

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PASSED by the Governing Body this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(S E A L)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

(PUBLISHED IN THE LEGAL RECORD ON August 7, 2001)

ORDINANCE NO. 1902

AN ORDINANCE AUTHORIZING THE ISSUANCE AND DELIVERY OF $9,300,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2001-A, OF THE CITY OF LEAWOOD, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE BONDS AS THEY BECOME DUE; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Leawood, Kansas (the "City"), is a city of the first class, created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, pursuant to K.S.A. 12-1301, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition; and

WHEREAS, the City has heretofore issued bonds approved at said election in the principal amount of $5,400,000; and

WHEREAS, the City has incurred and expects to incur in the immediate future costs of improvements to City parks (the "City Park Improvement") and the Governing Body hereby finds and determines that it is necessary and desirable to issue the second installment of the bonds authorized by voters at said election in the principal amount of $6,050,000; and

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City has heretofore authorized the acquisition of certain real property in Leawood South Park leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads and furnishing and equipping the same (the "Fire Station No. 3 Improvement") at an estimated cost of $3,195,000; and

WHEREAS, the Governing Body now finds and determines that the estimated cost of the Fire Station No. 3 Improvement is $3,250,000; and

WHEREAS, all legal requirements pertaining to the City Park Improvement and the Fire Station No. 3 Improvement (collectively, the "Series 2001 Improvements") have been complied with, and the Governing Body of the City now finds and determines that the total cost of the Series 2001 Improvements (including interest on temporary notes of the City and issuance costs of the Bonds) and related expenses is not less than $9,300,000, the entire cost of which to be paid by the City at-large, and there are no funds available in the treasury of the City to pay the cost of the Series 2001 Improvements requiring $9,300,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the Governing Body of the City is authorized by law to issue general obligation bonds of the City to finance the costs of the Series 2001 Improvements; and

WHEREAS, the Governing Body of the City has advertised the sale of its general obligation bonds in accordance with the law and has awarded the sale of such bonds to A. G. Edwards & Sons, Inc. (the "Original Purchaser"); and

WHEREAS, the Governing Body of the City finds and determines that it is necessary for the City to authorize the issuance and delivery of its general obligation bonds in the principal amount of $9,300,000 to finance the costs of the Series 2001 Improvements.

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

Section 1. Definitions of Words and Terms.

"**Bond and Interest Fund**" means the Bond and Interest Fund of the City for its general obligation bonds.

"**Bond Resolution**" means the resolution adopted by the Governing Body of the City contemporaneously herewith providing the terms and details of the Bonds authorized by this Ordinance.

"**Bonds**" means the City's General Obligation Improvement Bonds, Series 2001-A, authorized by this Ordinance in the aggregate principal amount of $9,300,000 and dated August 15, 2001.

"**City**" means the City of Leawood, Kansas.

"**City Clerk**" means the appointed and acting City Clerk or, in the City Clerk's absence, the appointed acting City Clerk of the City.

"**City Treasurer**" means the appointed and acting City Treasurer or, in the City Treasurer's absence, the appointed acting City Treasurer of the City.

"**Code**" means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

"**Mayor**" means the elected and acting Mayor of the City or, in the Mayor's absence, the appointed acting Mayor of the City.

"**Ordinance**" means this Ordinance of the City authorizing the issuance of the Bonds.

"**Series 2001 Improvements**" means the improvements referred to in the recitals to this Ordinance or any Substitute Improvements, as defined in the Resolution.

"**State**" means the State of Kansas.

Section 2. Authorization of and Security for the Bonds. The Bonds are authorized and directed to be issued in the principal amount of $9,300,000, for the purpose of providing funds to finance the costs of the Series 2001 Improvements.

The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City.

The full faith, credit and resources of the City are irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution adopted by the Governing Body of the City.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Bonds herein authorized and to procure the proper registration in the office of the City Clerk and in the office of the State Treasurer of the State of Kansas, and when so executed and registered, said Bonds shall be delivered to the Original Purchaser upon payment of the purchase price therefor as provided in the Bond Resolution.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Bonds shall be deposited with the City Treasurer and used and applied as provided in the Bond Resolution.

Section 6. Levy and Collection of Annual Tax. The Governing Body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting an annual tax upon all of the taxable tangible property, real and personal, within territorial limits of the City in the manner

provided by law in amounts sufficient to pay the installments of principal and interest on the Bonds as the same accrue and become payable.

The taxes and assessments above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, and the proceeds derived from such taxes and assessments shall be deposited in the Bond and Interest Fund.

If at any time taxes and assessments are not collected in time to pay the principal of or interest on the Bonds when due, the City Treasurer is authorized and directed to pay the principal and interest out of the general funds of the City and to reimburse the general funds for money so expended when the taxes and assessments are collected.

Section 7. Tax Covenants. The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; (2) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds; (3) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for with the Bonds are issued; (4) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to take any action that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Bond to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 8. Remedies. The provisions of this Ordinance and the Bond Resolution, including the covenants and agreements herein and therein contained, shall constitute a contract between the City and the Owners of the Bonds and may be enforced in accordance with the provisions hereof and of the Bond Resolution.

Section 9. Further Authority. The Mayor, City Clerk and other City officials are further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance to make alterations, changes or additions in the agreements, statements, instruments and other documents approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 10. Governing Law. The Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 11. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

PASSED by the Governing Body of the City this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORD1902

Publication Fees: $94.72

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 1 consecutive week(s), as follows:

ORDINANCE NO. 1902--8/7/01

Penny Knight
Legal Notices Administrator

Subscribed and sworn to before me on this date:
AUGUST 8, 2001

Debra Valenti
Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$94.72

ORDINANCE NO. 1902

First published in The Legal Record, Tuesday, August 7, 2001.

(PUBLISHED IN THE LEGAL RECORD ON August 7, 2001)

ORDINANCE NO. 1902

AN ORDINANCE AUTHORIZING THE ISSUANCE AND DELIVERY OF $9,300,000 PRINCIPAL AMOUNT OF GENERAL OBLIGATION IMPROVEMENT BONDS, SERIES 2001-A, OF THE CITY OF LEAWOOD, KANSAS; PROVIDING FOR THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON THE BONDS AS THEY BECOME DUE; AND MAKING CERTAIN COVENANTS WITH RESPECT THERETO.

WHEREAS, the City of Leawood, Kansas (the "City"), is a city of the first class, created, organized and existing under the laws of the State of Kansas (the "State"); and

WHEREAS, pursuant to K.S.A. 12-1301, et seq., as amended, and Ordinance No. 1742, the Governing Body of the City called an election in the City for the purpose of submitting the following question:

> "Shall the City of Leawood issue its general obligation bonds pursuant to K.S.A. 12-1302 in an amount not to exceed $12,500,000 for the purpose of paying for the costs of improvements to existing City parks?"; and

WHEREAS, at said election more than a majority of the qualified electors in the City voted in favor of the proposition, the vote having been certified to have been and being declared to be 7957 votes in favor of said proposition and 2600 votes against said proposition; and

WHEREAS, the City has heretofore issued bonds approved at said election in the principal amount of $5,400,000; and

WHEREAS, the City has incurred and expects to incur in the immediate future costs of improvements to City parks (the "City Park Improvement") and the Governing Body hereby finds and determines that it is necessary and desirable to issue the second installment of the bonds authorized by voters at said election in the principal amount of $6,050,000; and

WHEREAS, pursuant to K.S.A. 12-1736, et seq., as amended, and Ordinance No. 1704, the Governing Body of the City has heretofore authorized the acquisition of certain real property in Leawood South Park leased by the City and acquisition, construction and installation of a new fire station thereon, including parking facilities and access roads and furnishing and equipping the same (the "Fire Station No. 3 Improvement") at an estimated cost of $3,195,000; and

WHEREAS, the Governing Body now finds and determines that the estimated cost of the Fire Station No. 3 Improvement is $3,250,000; and

WHEREAS, all legal requirements pertaining to the City Park Improvement and the Fire Station No. 3 Improvement (collectively, the "Series 2001 Improvements") have been complied with, and the Governing Body of the City now finds and determines that the total cost of the Series 2001 Improvements (including interest on temporary notes of the City and issuance costs of the Bonds) and related expenses is not less than $9,300,000, the entire cost of which to be paid by the City at-large, and there are no funds available in the treasury of the City to pay the cost of the Series 2001 Improvement requiring $9,300,000 to be paid for by the issuance of general obligation bonds; and

WHEREAS, the Governing Body of the City is authorized by law to issue general obligation bonds of the City to finance the costs of the Series 2001 Improvements; and

WHEREAS, the Governing Body of the City has advertised the sale of its general obligation bonds in accordance with the law and has awarded the sale of such bonds to A. G. Edwards & Sons, Inc. (the "Original Purchaser"); and

WHEREAS, the Governing Body of the City finds and determines that it is necessary for the City to authorize the issuance and delivery of its general obligation bonds in the principal amount of $9,300,000 to finance the costs of the Series 2001 Improvements.

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

Section 1. Definitions of Words and Terms.

"Bond and Interest Fund" means the Bond and Interest Fund of the City for its general obligation bonds.

"Bond Resolution" means the resolution adopted by the Governing Body of the City contemporaneously herewith providing the terms and details of the Bonds authorized by this Ordinance.

"Bonds" means the City's General Obligation Improvement Bonds, Series 2001-A, authorized by this Ordinance in the aggregate principal amount of $9,300,000 and dated August 15, 2001.

"City" means the City of Leawood, Kansas.

"City Clerk" means the appointed and acting City Clerk or, in the City Clerk's absence, the appointed acting City Clerk of the City.

"City Treasurer" means the appointed and acting City Treasurer or, in the City Treasurer's absence, the appointed acting City Treasurer of the City.

"Code" means the Internal Revenue Code of 1986, as amended, and the applicable regulations proposed or promulgated thereunder of the United States Department of the Treasury.

"Mayor" means the elected and acting Mayor of the City or, in the Mayor's absence, the appointed acting Mayor of the City.

"Ordinance" means this Ordinance of the City authorizing the issuance of the Bonds.

"Series 2001 Improvements" means the improvements referred to in the recitals to this Ordinance or any Substitute Improvements, as defined in the Resolution.

"State" means the State of Kansas.

Section 2. Authorization of and Security for the Bonds. The Bonds are authorized and directed to be issued in the principal amount of $9,300,000, for the purpose of providing funds to finance the costs of the Series 2001 Improvements.

The Bonds shall be general obligations of the City payable as to both principal and interest from ad valorem taxes which may be levied without limitation as to rate or amount upon all the taxable tangible property, real and personal, within the territorial limits of the City.

The full faith, credit and resources of the City are irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 3. Terms, Details and Conditions of the Bonds. The Bonds shall be dated and bear interest, shall mature and be payable at such times, shall be in such form, shall be subject to redemption and payment prior to the maturity, and shall be issued and delivered in the manner prescribed and subject to the provisions, covenants and agreements set forth in the Bond Resolution adopted by the Governing Body of the City.

Section 4. Execution and Delivery. The Mayor and City Clerk of the City are hereby authorized and directed to prepare and execute the Bonds herein authorized and to procure the proper registration in the office of the City Clerk and in the office of the State Treasurer of the State of Kansas, and when so executed and registered, said Bonds shall be delivered to the Original Purchaser upon payment of the purchase price therefor as provided in the Bond Resolution.

Section 5. Disposition of Proceeds. The proceeds of the sale of the Bonds shall be deposited with the City Treasurer and used and applied as provided in the Bond Resolution.

Section 6. Levy and Collection of Annual Tax. The Governing Body of the City shall annually make provision for the payment of principal of, premium, if any, and interest on the Bonds as the same become due by levying and collecting an annual tax upon all of the taxable tangible property, real and personal, within territorial limits of the City in the manner provided by law in amounts sufficient to pay the installments of principal and interest on the Bonds as the same accrue and become payable.

The taxes and assessments above referred to shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the general ad valorem taxes of the City are levied and collected, and the proceeds derived from such taxes and assessments shall be deposited in the Bond and Interest Fund.

If at any time taxes and assessments are not collected in time to pay the principal of or interest on the Bonds when due, the City Treasurer is authorized and directed to pay the principal and interest out of the general funds of the City and to reimburse the general funds for money so expended when the taxes and assessments are collected.

Section 7. Tax Covenants. The City covenants and agrees that (1) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Bonds; (2) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Bonds; (3) it will use the proceeds of the Bonds as soon as practicable and with all reasonable dispatch for the purposes for with the Bonds are issued; (4) it will not invest or directly or indirectly use or permit the use of any proceeds of the Bonds or any other funds of the City in any manner, or take or omit to take any action that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code; and (5) it will not use or permit the use of any proceeds of Bonds or any other funds of the City nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Bonds. The City will, in addition, adopt such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

The City covenants and agrees that it will not use any portion of the proceeds of the Bonds, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Bond to be a "private activity bond" within the meaning of Section 141(a) of the Code.

Section 8. Remedies. The provisions of this Ordinance and the Bond Resolution, including the covenants and agreements herein and therein contained, shall constitute a contract between the City and the Owners of the Bonds and may be enforced in accordance with the provisions hereof and of the Bond Resolution.

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Section 9. Further Authority. The Mayor, City Clerk and other City officials are further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of the Ordinance to make alterations, changes or additions in the agreements, statements, instruments and other documents approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 10. Governing Law. The Ordinance and the Bonds shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 11. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City and publication in the official City newspaper.

PASSED by the Governing Body of the City this 6th day of August, 2001.

APPROVED by the Mayor this 6th day of August, 2001.

(SEAL)

Peggy J. Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Patricia A. Bennett, City Attorney

ORDINANCE NO. 1901

AN ORDINANCE GRANTING TO AMERICAN FIBER SYSTEMS, INC., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, American Fiber Systems, Inc., ['AFS'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means American Fiber Systems, Inc.,, or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

   This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of–way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

   Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only

in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

American Fiber Systems, Inc.,
100 Meridian Center, Suite # 250
Rochester, NY 14618

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action

against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise

ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	July 2, 2001	**Second Reading**:	July 16, 2001
Third Reading:	August 6, 2001	**Effective Date**:	October 5, 2001

Passed by the Governing Body this 6th day of August, 2001.

Approved by the Mayor this 6th day of August, 2001.

Peggy Dunn

Peggy Dunn, Mayor

ATTEST:

Martha Heizer

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler

Lisa R. Wetzler, Assistant City Attorney

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Martha

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RECEIVED
OCT 8 2001

October 5, 2001

Ms. Lisa Wetzler
City OF Leawood
4800 Town Center Drive
Leawood, KS 66211

Re: American Fiber Systems
Telecommunications Franchise

Dear Lisa:

On behalf of my client, American Fiber Systems, I am writing to formally accept the terms and conditions of the telecommunications franchise adopted by the Governing Body of the City of Leawood on August 6, 2001.

Very truly yours,

SONNENSCHEIN NATH & ROSENTHAL

By:

Mark P. Johnson

cc: Ms. Amy Gilchrist

ORD1901

Publication Fees: $373.86

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

CITY OF LEAWOOD
4800 TOWN CENTER DR
LEAWOOD, KS 66211

Proof of Publication

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

for 2 consecutive week(s), as follows:

ORDINANCE NO. 1901--8/14/01 & 8/21/01

Penny Knight

Legal Notices Administrator

Subscribed and sworn to before me on this date:

AUGUST 22, 2001

Debra Valenti

Notary Public

DEBRA VALENTI
Notary Public - State of Kansas

My appointment expires: August 21, 2003.

$373.86

ORDINANCE NO. 1901

First published in The Legal Record, Tuesday, August 14, 2001.

ORDINANCE NO. 1901

AN ORDINANCE GRANTING TO AMERICAN FIBER SYSTEMS, INC., A TELECOMMUNICATIONS FRANCHISE AND THE RIGHT TO CONSTRUCT, OPERATE AND MAINTAIN TELECOMMUNICATIONS FACILITIES WITHIN THE CORPORATE LIMITS OF THE CITY OF LEAWOD, KANSAS.

WHEREAS, the City of Leawood, Kansas ['City'], a municipal corporation, duly organized and existing under the laws of the State of Kansas, has the right under statute to grant a franchise to construct, operate and maintain telecommunications facilities in said City; and

WHEREAS, American Fiber Systems, Inc., ['AFS'] desires to operate telecommunication facilities for the purposes of providing telecommunication services in the City and its surrounding communities, and therefore has applied to the City for a franchise in order to operate its facilities; and

WHEREAS, any such permission requires a franchise to be granted by the City in accordance to K.S.A. § 12-2001, et seq.

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

1. **Definitions.** For the purpose of this franchise ordinance, the following words and phrases and their derivations shall have the following meaning:

'Cable' includes both the coaxial cable used to transmit signals of high frequency, and fiber optic cable that consists of a bundle of thin insulated glass strands used to transmit data, voice, video and other communications, and any other assembly of materials so classified generically as cable.

'Cable Service' means the one-way transmission to subscribers of video programming or other programming service, and subscriber interaction, if any, which is required for selection and use of video programming or other programming service, as defined by 47 USC §522(6), any successor statute of similar import.

'City' means the City of Leawood, Kansas, a municipal corporation, and if applicable, the territorial boundaries of the City of Leawood as now constituted or as shall hereafter exist.

'Facilities' means lines, pipes, wires, cables, conduits, ducts, culverts, hoses, irrigation systems, manholes, poles, towers, vaults, pedestals, boxes, appliances, antennas, repeaters, micro cells, Pico cells, amplifiers, transmitters, gates, meters, appurtenances, or other equipment used by the franchisee for the purposes of conducting franchise operations and providing service to subscribers.

'Franchise Ordinance' means this ordinance passed to grant the telecommunications franchise to franchisee. This ordinance shall operate as an agreement or contract between the City and franchisee and shall be subject to the laws of the State of Kansas.

'Franchisee' means American Fiber Systems, Inc.,, or its successors, transferees, or assigns.

'Franchise Fee' means the fee imposed by the City on franchisee solely because of its status as such, in accordance to K.S.A. § 12-2001. It shall not include: [1] any tax, fee, or assessment of general applicability including any which are imposed on franchisee; [2] requirements or charges incidental to the awarding or enforcing the franchise ordinance, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages, [3] any permit fee or other fee imposed under any valid right-of-way ordinance, or [4] any other fee imposed by federal, state, or local law.

'Gross Revenues' means those revenues less uncollectible, derived from the following: [1] recurring local exchange service for business and residence which includes basic exchange service, touch tone, optional calling features, and measured local calls; [2] recurring local exchange access line services for pay phone lines provided by franchisee to all pay phone service providers; [3] local directory assistance revenue; [4] line status verification/busy interrupt revenue; [5] local operator assistance revenue; [6] nonrecurring local exchange service revenue which shall include customer service for installation of lines, reconnection of service and charge for duplicate bills. All other revenues, including, but not limited to, revenues from extended area service, unbundled network elements, nonregulated services, carrier and end user access, long distance, and all other services not wholly local in nature are excluded from 'gross revenues.' Further, 'gross revenues' shall be reduced by bad debt expenses and uncollectible and late charges shall not be included within 'gross revenues.' If during the term of this franchise ordinance franchisee offers additional services of a wholly local nature which if in existence at the effective date of the franchise ordinance would have been included with the definition of 'gross revenues,' such services shall be included from the date of the offering of such services in the City for the remaining term of the franchise ordinance.

'Open Video System' means the provision of video programming service as described in and subject to 47 USC § 573, or a successor statute of similar import.

'Person' means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

'Right-of-Way' means the area on, below or above the present and future streets, alleys, avenues, roads, sidewalks, highways, parkways or boulevards dedicated as right-of-way.

'Service' means a commodity used by the public and provided through franchisee's facilities.

'Subscriber' means any person who receives services from franchisee services.

'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, as defined by 47 USC § 153(43), and successor statute of similar import.

'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes or users as to be effectively available directly to the public, regardless of the facilities used, as defined by 47 USC § 153(46), a successor statute or similar import.

'Utility Easement' means, for the purpose of this ordinance, an easement dedicated to the City for the purpose of utilities.

2. **Grant.** Franchisee is hereby granted the right, privilege and franchise to construct, operate, and maintain facilities in, through and along the City's right-of-way and utility easements for the purposes of supplying local telecommunications services on a nonexclusive basis within the City, subject, however, to the terms and conditions herein set forth within this ordinance. As a condition of this grant, franchisee is required to obtain and is responsible for any necessary permit, license, certification, grant, registration or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, subject to franchisee's right to challenge in good faith such requirements as established by the FCC, KCC or other City ordinance.

This franchise does not provide franchisee the right to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City. Upon franchisee's request for a franchise to provide cable service as a cable operator [as defined by 47 USC § 522(5)] within the City, the City agrees to timely negotiate such franchise in good faith with franchisee. Franchisee agrees that this franchise does not permit franchisee to operate an open video system without payment of fees permitted by 47 USC § 573(c)(2)(B) and without complying with FCC regulations promulgated pursuant to 47 USC § 573.

3. **Use of Public Right-of-Way and Utility Easements.** Franchisee's facilities shall be located in the right-of-way and utility easements as now constructed and as further authorized by the City in accordance with all applicable laws, statutes and/or ordinances. Nothing in this agreement shall authorize Franchisee to locate its facilities on or within any City owned parkland property or any other City owned property unless authorized by separate agreement. Placement, changes, additions, replacements, maintenance and repairs to franchisee's facilities shall be conducted in compliance with any applicable ordinance and/or permit requirement. Franchisee will be responsible for obtaining all necessary permits as required by the City for work performed in the right-of-way and utility easements, as well as paying any associated permit fee. In addition, franchisee shall be subject to all technical specifications, design criteria, policies now or hereafter adopted or promulgated by the City, or any other appropriate governmental entity. In its use of the right-of-way and utility easements within the City, franchisee shall be subject to all right-of-way management ordinances and all other applicable rules, regulations, policies, laws, orders, resolutions, and ordinances now or hereafter adopted or promulgated by any appropriate governmental entity now or hereafter having jurisdiction, including, but not limited to the City in the reasonable exercise of its police powers.

4. **Franchise Fee.** Franchisee shall pay the greater of $12,000 or an annual sum of $2.50 per lineal foot for all fiber in the right-of-way. This payment shall be due on the effective date of the ordinance and annually thereafter. In the event franchisee provides local service to customers within the City, franchisee shall notify the City Clerk. At such time, the franchise fee shall be the greater of the above prescribed amount, or five [5%] percent of its gross revenues as defined herein. Payment on the basis of gross revenues shall be made on a monthly basis without invoice or reminder from the City, and paid within forty-five [45] days after the last day of the applicable month.

All payments herein provided shall be in addition to, not in lieu of, all other taxes, charges, assessments, fees and impositions of general applicability that are or may be imposed by the City, with the exception of any annual occupation license. Franchisee shall pay interest at an annual rate of ten [10%] percent for each month or fraction thereof on any late payment of the charge provided for in this franchise ordinance.

5. **City's Right to Audit and Access to Records.** If franchisee is providing service within the City, franchisee shall annually file with the City of Leawood a gross receipts report regarding all applicable monthly revenues and all relevant codes. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of franchisee and agree that pursuant to K.S.A. § 45-221(18), as amended, such information does not constitute public records subject to K.S.A. § 45-218, as amended. In the event the City is required by to disclose such information, the City shall provide franchisee seven [7] days advance notice of its intent to disclose such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information. The City shall also have access to and the right to examine, at all reasonable times, all books, receipts, files, records and documents of the franchisee necessary to verify the correctness of such statement and to correct the same, if found to be erroneous. If such statement of gross revenues is incorrect, then such payment shall be made upon such corrected statement, including interest on said amount at the annual rate of ten [10%] percent.

Regardless of whether franchisee is providing service within the City, the City's acceptance of any payment determined as hereinbefore provided to be deficient shall not be construed as a release of liability from the City or an accord or satisfaction of any claim that the City may have for additional sums owed by franchisee. In addition to access to the records of franchisee for audits, upon request, franchisee shall provide reasonable access to records necessary to verify compliance with the terms of this franchise ordinance.

6. **Term.** This franchisee ordinance shall be effective for a term of one [1] year from the effective date.

7. **Renegotiation of Franchise.** If the City has a good faith belief that franchisee is offering local telecommunications services within the City beyond those telecommunications services contemplated by this ordnance, the City may seek renegotiation of this franchise if the City reasonably believes that such services constitute local telecommunications services subject to a franchise fee under K.S.A. § 12-2001. In the event the City seeks renegotiation under such circumstances, franchisee agrees to negotiate with the City in good faith in a timely manner. Nothing herein shall preclude the City from seeking a separate franchise agreement with franchisee if the City has a good faith belief that franchisee is offering services other than telecommunications services that are subject to a franchise fee under K.S.A. § 12-2001. The purpose of this provision is to allow the City to ensure that franchisee is paying a franchise fee for all services for which a franchise fee is appropriate.

CONTINUED ON NEXT PAGE

JAMES ESTATE
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE DIVISION
IN THE MATTER OF
THE ESTATE OF:
MARY LOIS JAMES, Deceased.
Case No. 01 PR 648
Court No. M-1
Chapter 59
NOTICE OF HEARING AND NOTICE TO CREDITORS
THE STATE OF KANSAS TO ALL PERSONS CONCERNED:
You are hereby notified that on August 8, 2001 a Petition was filed in this Court by UMB Bank, N.A., Executor named in the Last Will and Testament of Mary Lois James, deceased, dated April 6, 1992, praying the instrument previously deposited with the Court on May 1, 2001 be admitted to probate and record; Petitioner be appointed as Executor without bond, and Petitioner be granted Letters Testamentary.
You are further advised that the Petitioner in this matter has requested administration pursuant to the Kansas Simplified Estates Act, and if such request is granted, the Court may not supervise administration of the estate, an no further notice of any action of the Executor or other proceedings in the administration will be given except for notice of sale, mortgage, or lease of real property and of final settlement of the Decedent's estate. Should written objections to simplified administration be filed with the Court, the Court may order supervised administration instead.
You are required to file your written defenses thereto on or before September 10, 2001 at 1:15 p.m. in the District Court, Olathe, Johnson County, Kansas, at which time and place the cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon the Petition.
All creditors are notified to exhibit their demands against the Estate within four months from the date of the first publication of this notice, as provided by law, and if their demands are not thus exhibited, they shall be forever barred.
UMB Bank, N.A., Petitioner
Andrew R. Heyl, #7356
11900 W. 87th St Pkwy.
Suite 240
Lenexa, KS 66215
Telephone: (913) 888-1030
Telecopier: (913) 541-0537
ATTORNEY FOR PETITIONER
8/14 8/21 8/28

JOHANNES ESTATE
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS, PROBATE DIVISION
IN THE MATTER OF THE ESTATE OF
DONALD F. JOHANNES, Deceased.
No. 00PR843
NOTICE OF HEARING ON PETITION FOR FINAL SETTLEMENT
The State of Kansas to All Persons Concerned:
You are hereby notified that a petition has been filed on August 1, 2001, in this Court by Dorothy A. Johannes, executrix of the estate of Donald F. Johannes, deceased, praying for a final settlement of the estate, approval of her acts, proceedings and accounts as executrix, allowance for attorneys' fees and expenses, determination of the heirs, devisees and legatees entitled to the estate and assignment to them in accordance with the will of Donald F. Johannes, deceased. You are hereby required to file your written defenses thereto on or before September 10, 2001, at eleven o'clock a.m., on such day, in such Court, in the City of Olathe, in Johnson County, at which time and place such cause will be heard. Should you fail therein, judgment and decree will be entered in due course upon said petition.
Dorothy A. Johannes, Petitioner
Stephen J. Bahr, KS Bar #16110
DYSART TAYLOR LAY COTTER & MCMONIGLE, PC
4420 Madison Avenue
Kansas City, Missouri 64111
816.931.2700
816.931.7377 facsimile
8/14 8/21 8/28

PREVAN ESTATE
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE DIVISION
In the Matter of the Estate of Harry W. Prevan, Deceased.
Case No. 01 PR 639
Div. No. M-1
Pursuant to K.S.A. Ch. 59
NOTICE TO CREDITORS
THE STATE OF KANSAS TO ALL PERSONS CONCERNED:
You are hereby notified that a Petition for Probate of Will and Appointing Executor Under Kansas Simplified Estates Act was filed August 6, 2001 in this Court by Harriett J. Prevan, as an heir of Harry W. Prevan, deceased, and as Executor named in the Last Will and Testament of the decedent. All creditors are notified to exhibit their demands against the estate within four months from the date of the first publication of this notice as provided by law, and if their demands are not thus exhibited they shall be forever barred.
Harriett J. Prevan, Petitioner
Submitted by:
Mareta J. Smith
Missouri Bar #31392
SHOOK, HARDY & BACON L.L.P.
P.O. Box 15607
Kansas City, Missouri 64106-0607
(816) 474-6550
Christine Young-Terpening
Supreme Court No. 10376
SHOOK, HARDY & BACON L.L.P.
P.O. Box 25128
Overland Park, Kansas 66225
(913) 451-6060
ATTORNEYS FOR PETITIONER
8/14 8/21 8/28

FISCHER ESTATE
First published in The Legal Record, Tuesday, August 14, 2001
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE DIVISION
In the Matter of the Estate of Dolores Lanel Fischer, deceased
Estate No. 01PR455
Division M1
NOTICE TO CREDITORS
THE STATE OF KANSAS TO ALL PERSONS CONCERNED:
You are hereby notified that on August 6, 2001, a Petition for Probate of Will and Issuance of Letters Testamentary under the Kansas Simplified Estate Act was filed in this Court by Rufus F. Fischer, an heir, devisee and legatee, and Executor named in the "Last Will and Testament of Dolores Lanel Fischer," deceased.
All creditors are notified to exhibit their demands against the Estate within four months from the date of first publication of this notice, as provided by law, and if their demands are not thus exhibited, they shall be forever barred.
/s/ Rufus F. Fischer,
Petitioner
THE ELDER & DISABILITY LAW FIRM, P.A.
William G. Hammond, KS Bar #11484
8575 W. 110th St., Ste. 218
Overland Park, KS 66210
Phone (913) 338-5713
Fax (913) 498-0184
ATTORNEY FOR PETITIONER
8/14 8/21 8/28

To Subscribe, Call 913-780-5790

GRMT III, LTD. V. DONOVAN, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL COURT DEPARTMENT
GRMT III, LTD.
Plaintiff,
v.
KEVIN M. DONOVAN and SHELLY S. DONOVAN
et al.,
Defendants.
Case No. 01CV04953
Court No. 7
K.S.A. Chapter 60
NOTICE OF SUIT
The State of Kansas to:
The above-named defendants and the unknown heirs, executors, administrators, devisees, trustees, creditors, lessees, tenants and assigns of any deceased defendants; the unknown spouses of any defendants; the unknown officers, successors, trustees, creditors, lessees, tenants and assigns of any defendants that are existing, dissolved or dormant corporations; the unknown executors, administrators, devisees, trustees, creditors, lessees, tenants, successors and assigns of any defendants that are or were partners or in partnership; the unknown guardians, conservators and trustees of any defendants that are minors or are under any legal disability; and the unknown heirs, executors, administrators, devisees, trustees, creditors, lessees, tenants and assigns of any person alleged to be deceased, AND ALL OTHER PERSONS WHO ARE OR MAY BE CONCERNED:
YOU ARE HEREBY NOTIFIED that a Petition for Mortgage Foreclosure has been filed in the above District Court of Kansas, as above captioned, praying for a decree of foreclosure on the plaintiff's first lien on the real estate described as follows, to wit:
Lot 204, TIMBER'S EDGE, FIFTH PLAT, a subdivision in the City of Overland Park, Johnson County, Kansas
YOU ARE HEREBY REQUIRED to plead to said Petition on or before the 24th day of September, 2001 at the Courthouse in the above county.
Should you fail therein, judgment and decree will be entered in due course upon said Petition for Mortgage Foreclosure.
/s/ Timothy A. McNearney #13037
11350 Tomahawk Creek Parkway
Suite #100
Leawood, KS 66211
(913) 661-9600
ATTORNEY FOR PLAINTIFF
NOTICE
Pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. Section 1692c(b), no information concerning the collection of this debt may be given without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction. The debt collector is attempting to collect a debt and any information obtained will be used for that purpose.
8/14 8/21 8/28

HOMECOMINGS FINANCIAL NETWORK V. TUBBS, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
Homecomings Financial Network, Inc.
Plaintiff,
vs.
Elke Tubbs, et al.
and the unknown heirs, executors, administrators, devisees, trustees, conservators, guardians, creditors and assigns of such of the defendants as may be deceased or incapacitated; the unknown spouses of the defendants; the unknown officers, successors, trustees, creditors and assigns of such defendants as are existing, dissolved or dormant corporations; the unknown guardians, conservators or trustees of such of the defendants as are minors or are in anywise under legal disability, and all other persons who are or may be concerned.
Defendants.
Case No. 01.CV 3070
K.S.A. 60
Mortgage Foreclosure
(Title to Real Estate Involved)
NOTICE OF SHERIFF'S SALE
Under and by virtue of an Order of Sale issued by the Clerk of the District Court in and for the said County of **Johnson,** State of Kansas, in a certain cause in said Court Numbered **01C 3070,** wherein the parties above named were respectively plaintiff and defendant, and to me, the undersigned Sheriff of said County, directed, I will offer for sale at public auction and sell to the highest bidder for cash in hand at **10:00 o'clock a.m., on the 6th day of September, 2001,** at the main door of the **Johnson** County Courthouse, the following described real estate located in the County of **Johnson,** State of Kansas, to wit:
Lot 24, Block 35, Prairie Village, a subdivision in the City of Prairie Village, Johnson County, Kansas, according to the recorded plat thereof.
SHERIFF OF JOHNSON COUNTY, KANSAS
Garry McCubbin, K.S. Ct. #11071
Attorney for Plaintiff
425 No. Ballas Road, Suite 230
St. Louis, MO 63141
(314) 991-0255
ATTORNEYS FOR PLAINTIFF
8/14 8/21 8/28

KNARR, ET AL. V. CLARK, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
WILLIAM MALCOLM KNARR, SUBSTITUTED PARTY PLAINTIFF FOR FIRST UNION NATIONAL BANK
PLAINTIFF
vs.
Darrell Gene Clark a/k/a Darrell G. Clark, deceased, et al.,
DEFENDANTS
Case No. 01CV483
K.S.A. 60
NOTICE OF SHERIFF'S SALE
By virtue of an Order of Sale issued to me out of the said District Court in the above-entitled action, I will on Thursday, September 6, 2001, at 10:00 a.m., of said day at the South front door of the Courthouse in Johnson County, Kansas in the City of Olathe, offer at public sale and sell to the best bidder for cash in hand, the following described real property:
The South 103 feet of Lot 8, DOUGLAS SUBDIVISION, a subdivision in the City of Shawnee, Johnson County, Kansas
subject to any redemption rights as provided by law.
This is an attempt to collect a debt and any information obtained will be used for that purpose.
Sheriff of Johnson County, Kansas
ROBERT E. LASTELIC, #7178
4701 College Blvd., Suite 214
Leawood, Kansas 66211-1689
P.O. Box 7770
Leawood, KS 66207-0770
(913) 345-9595
Fax No. (913) 345-8811
Email rlasteli@ink.org
Our File No. 01-0772/ac
ATTORNEY FOR PLAINTIFF
8/14 8/21 8/28

REED ESTATE
First published in The Legal Record, Tuesday, August 14, 2001.
NOTICE TO CREDITORS TO SUBMIT CLAIMS
Estate of Terry Cheek Reed
To all persons interested in the estate of Terry Cheek Reed, decedent.
The undersigned, Firstar Bank, N.A. is acting as Trustee under a trust; the terms of which provide that the debts of the decedent may be paid by the Trustee upon special [illegible] proof thereof. The address of the Trustee is 6940 Mission Road Prairie Village, Ks. 66208
Attn: Dana J. Blackmon
All creditors of the decedent are notified to present their claims to the undersigned within six (6) months from the date of the first publication of this notice or be forever barred.
Published: 8/14/01, 8/21/01, 8/28/01.
Firstar Bank, N.A.
By: /s/ Dana J. Blackmon
Trustee

BANKERS TRUST COMPANY V. PRATT, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
Bankers Trust Company of California, N.A. as Custodian or Trustee
Plaintiff,
vs.
Jeffrey S. Pratt, et al.
and the unknown heirs, executors, administrators, devisees, trustees, conservators, guardians, creditors and assigns of such of the defendants as may be deceased or incapacitated; the unknown spouses of the defendants; the unknown officers, successors, trustees, creditors and assigns of such defendants as are existing, dissolved or dormant corporations; the unknown guardians, conservators or trustees of such of the defendants as are minors or are in anywise under legal disability, and all other persons who are or may be concerned.
Defendants.
Case No. 01 CV 2618
K.S.A. 60
Mortgage Foreclosure
(Title to Real Estate Involved)
NOTICE OF SHERIFF'S SALE
Under and by virtue of an Order of Sale issued by the Clerk of the District Court in and for the said County of **Johnson,** State of Kansas, in a certain cause in said Court Numbered **01 CV 2618,** wherein the parties above named were respectively plaintiff and defendant, and to me, the undersigned Sheriff of said County, directed, I will offer for sale at public auction and sell to the highest bidder for cash in hand at **10:00 o'clock a.m., on the 6th day of September, 2001,** at the main door of the **Johnson** County Courthouse, the following described real estate located in the County of **Johnson,** State of Kansas, to wit:
Lot 17, Brianwood, a subdivision in the City of Merriam, Johnson County, Kansas; according to the recorded plat thereof.
SHERIFF OF JOHNSON COUNTY, KANSAS
Garry McCubbin, K.S. Ct. #11071
Attorney for Plaintiff
425 No. Ballas Road, Suite 230
St. Louis, MO 63141
(314) 991-0255
ATTORNEYS FOR PLAINTIFF
8/14 8/21 8/28

BANKERS TRUST COMPANY V. SHIRLEY, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
Bankers Trust Company of California, N.A.
As Custodian or Trustee
Plaintiff,
vs.
Dorothy S. Shirley a/k/a Dorothy Sue Shirley, et al.
and the unknown heirs, executors, administrators, devisees, trustees, conservators, guardians, creditors and assigns of such of the defendants as may be deceased or incapacitated; the unknown spouses of the defendants; the unknown officers, successors, trustees, creditors and assigns of such defendants as are existing, dissolved or dormant corporations; the unknown guardians, conservators or trustees of such of the defendants as are minors or are in anywise under legal disability, and all other persons who are or may be concerned.
Defendants.
Case No. 00 CV 6450
K.S.A. 60
Mortgage Foreclosure
NOTICE OF SHERIFF'S SALE
Under and by virtue of an Order of Sale issued by the Clerk of the District Court in and for the said County of **Johnson,** State of Kansas, in a certain cause in said Court Numbered **00 CV 6450,** wherein the parties above named were respectively plaintiff and defendant, and to me, the undersigned Sheriff of said County, directed, I will offer for sale at public auction and sell to the highest bidder for cash in hand at **10:00 o'clock a.m., on the 6th day of September, 2001,** at the main door of the **Johnson** County Courthouse, the following described real estate located in the County of **Johnson,** State of Kansas, to wit:
All of Lot 20, Melrose, a subdivision, now in the City of Shawnee, Johnson County, Kansas.
SHERIFF OF JOHNSON COUNTY, KANSAS
Garry McCubbin, K.S. Ct. #11071
Attorney for Plaintiff
425 No. Ballas Road, Suite 230
St. Louis, MO 63141
(314) 991-0255
ATTORNEYS FOR PLAINTIFF
8/14 8/21 8/28

COMMERCE BANK V. PIERSON, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
COMMERCE BANK, N.A., SUCCESSOR BY MERGER WITH HERITAGE BANK OF OLATHE,
PLAINTIFF
vs.
Curtis A. Pierson, et al.,
DEFENDANTS
Case No. 99C11423
K.S.A. 60
NOTICE OF SHERIFF'S SALE
By virtue of an Order of Sale issued to me out of the said District Court in the above-entitled action, I will on Thursday, September 6, 2001, at 10:00 a.m., of said day at the South front door of the Courthouse in Johnson County, Kansas in the City of Olathe, offer at public sale and sell to the best bidder for cash in hand, the following described real property:
LOT 230 BRIARWOOD, 6TH PLAT, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS.
subject to any redemption rights as provided by law.
This is an attempt to collect a debt and any information obtained will be used for that purpose.
Sheriff of Johnson County, Kansas
ROBERT E. LASTELIC, #7178
4701 College Blvd., Suite 214
Leawood, Kansas 66211-1689
P.O. Box 7770
Leawood, KS 66207-0770
(913) 345-9595
Fax No. (913) 345-8811
Email rlasteli@ink.org
Our File No. 99-0709/ac
ATTORNEY FOR PLAINTIFF
8/14 8/21 8/28

BANK OF AMERICA V. SNYDER, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
CIVIL DEPARTMENT
BANK OF AMERICA, N.A.
Plaintiff,
v.
RICHARD L. SNYDER, et al.

FIRSTAR BANK V. PONDER, ET AL.
First published in The Legal Record, Tuesday, August 14, 2001.
IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
FIRSTAR BANK MILWAUKEE N.A. AS TRUSTEE FOR THE REGISTERED HOLDER OF SALOMON BROTHERS MORTGAGE SECURITIES VII, INC., NEW CENTURY ASSET BACKED FLOATING RATE CERTIFICATES SERIES 2000-NC1
PLAINTIFF
vs.
Robert J. Ponder, et al.,
DEFENDANTS
Case No. 01CV3745
K.S.A. 60
NOTICE OF SHERIFF'S SALE
By virtue of an Order of Sale issued to me out of the said District Court in the above-entitled action, I will on Thursday, September 6, 2001, at 10:00 a.m., of said day at the South front door of the Courthouse in Johnson County, Kansas in the City of Olathe, offer at public sale and sell to the best bidder for cash in hand, the following described real property:
LOT 20, MELODY VIEW A SUBDIVISION IN JOHNSON COUNTY, KANSAS; ACCORDING TO THE RECORDED PLAT THEREOF.
subject to any redemption rights as provided by law.
This is an attempt to collect a debt and any information obtained will be used for that purpose.
Sheriff of Johnson County, Kansas
ROBERT E. LASTELIC, #7178
4701 College Blvd., Suite 214
Leawood, Kansas 66211-1689
P.O. Box 7770
Leawood, KS 66207-0770
(913) 345-9595
Fax No. (913) 345-8811
Email rlasteli@ink.org
Our File No. 01-0509/ac
ATTORNEY FOR PLAINTIFF
8/14 8/21 8/28

Defendants.
Case No. 00 CV 6605
K.S.A. Chapter 60
Division 17
Title to Real Estate Involved
NOTICE OF SHERIFF'S SALE
NOTICE IS HEREBY GIVEN, that under and by virtue of an Order of Sale issued by the Clerk of the District Court of Johnson County, Kansas, in the case above numbered, wherein the parties above named were respectfully plaintiff and defendants, and to me, the undersigned Sheriff of Johnson County, Kansas, directed, I will offer for sale at public auction and sell to the highest bidder for cash in hand at the south door steps of the Courthouse in Olathe, Kansas, in said County and State on September 5th, 2001, at 10:00 a.m. of said day, the following described real estate situated in the County of Johnson, State of Kansas, to-wit:
LOT 4, BELMONT PARK, A SUBDIVISION IN THE CITY OF OLATHE, JOHNSON COUNTY, KANSAS; ACCORDING TO THE RECORDED PLAT THEREOF.
("Property")
said real property is levied upon as the property of defendants Richard L. Snyder and Deann K. Snyder and all other alleged owners and will be sold without appraisal to satisfy said Order of Sale.
JOHNSON COUNTY SHERIFF
Submitted by:
MARTIN, LEIGH, LAWS & FRITZLEN, P.C.
Robert D. Kroeker KS No. 08972
Thomas J. Fritzlen KS No. 17450
ATTORNEY FOR PLAINTIFF
MARTIN, LEIGH, LAWS & FRITZLEN, P.C., AS ATTORNEYS FOR BANK OF AMERICA, N.A., IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.
8/14 8/21 8/28

CONTINUED FROM PRECEDING PAGE

8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted, to any person, firm or corporation, and any such assignee, by accepting such assignment, shall be bound by the terms and provisions hereof. City approval may be denied only upon a good faith finding by the City that the assignee lacks the legal, technical or financial qualifications to perform its obligations in accordance with this franchise ordinance or any other appropriate governmental requirement. If franchisee should seek approval to assign this franchise, franchisee shall notify the City in writing. All such assignments shall be in writing and authenticated copies thereof shall be filed with the City Clerk. This franchise shall be assignable only in accordance with the laws of the State of Kansas, as the same may exist at the time when any assignment is made. Any attempts to transfer, assign or otherwise dispose of the rights granted herein by the City or franchisee's facilities not conforming with the requirements of this section shall be null and void.

13. **Other Service Providers.** Franchisee shall not interfere with any agreement between the City and another service provider. Additionally, if and when the City requires or negotiates to have another service provider cease to use its existing poles and to relocate its facilities underground, all other service providers using the same poles, including franchisee when applicable, shall also relocate their facilities underground at that time; provided, however, that such placement is economically reasonable. The City shall not unreasonably enter into such an agreement with another service provider, and notice of any intent to enter into such an agreement shall be timely provided to franchisee.

14. **Notification Procedure.** Any required or permitted notice under this franchise ordinance shall be in writing. Notice upon the City shall be delivered to the City Clerk by first class United States Mail or by personal delivery. Notice upon franchisee shall be delivered by first class United States Mail or by personal delivery to:

    American Fiber Systems, Inc.,
    100 Meridian Center, Suite # 250
    Rochester, NY 14618

15. **Indemnification.** Upon notice by the City, franchisee shall fully indemnify, defend and hold harmless the City, its officers, employees, agents and authorized contractors from and against any and all claims, demands, suits, proceedings, and actions, liability and judgment by other persons for damages, losses, costs, and expenses, including attorney fees or otherwise, to the extent caused by franchisee's actions and operations of its telecommunications service in accordance to this ordinance. The City agrees to immediately notify franchisee of any such claim, demand, suit, proceeding, and/or action, by providing written notice via certified mail to franchisee. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve franchisee from its duty to defend against liability or its duty to pay any judgment entered against the City, or its agents.

16. **Liability Insurance Requirement.** Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas in an amount not less than One Million Dollars [$1,000,000] per occurrence and Two Million Dollars [$2,000,000] in aggregate, to protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death or property damage occasioned by the service provider, or alleged to so have been caused or occurred. If franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all times maintain in full force and effect a corporate surety bond in a form approved by the City Attorney, in an amount of $50,000, for a term consistent with the term of this franchise ordinance plus one additional year, conditioned upon franchisee's faithful performance of the provisions, terms and conditions conferred herein. An annual bond automatically renewed yearly during this period shall satisfy this requirement.

18. **Reservation of Rights.** In addition to any rights specifically reserved to the City by this franchise ordinance, the City reserves to itself every right and power available to it under the constitutions of the United States and the State of Kansas, and any other right or power, including, but not limited to all police powers and authority to regulate and legislate to protect and promote the public health, safety, welfare, and morals. Nothing in this franchise ordinance shall limit or govern the right of the City to exercise its municipal authority to the fullest extent allowed by law. The City shall have the right to waive any provision of the franchise, except those required by federal or state law, if the City determines: [a] that it is in the public interest to do so; and [b] that the enforcement of such provision will impose an undue hardship on franchisee or its subscribers. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. The waiver of any provision in any one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of this franchise ordinance unless the statement so recites. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.

19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided that said forfeiture shall not take effect until the City shall carry out the following proceedings:

    a. For violations concerning the use of the right-of-way and/or utility easements as described in Section 3 of this franchise ordinance and deemed by the Public Works Director to be a public nuisance and/or emergency, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have fourteen [14] days subsequent to receipt of such notice to inform the City in writing of the action franchisee shall take to correct the violation. Such corrective action shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of such failure to take corrective action, including, but not limited to, reasonable costs of corrective action incurred by the City.

    b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

    c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

    In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

    a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

    b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.

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To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply: The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	July 2, 2001	Second Reading:	July 16, 2001
Third Reading:	August 6, 2001	Effective Date:	October 5, 2001

Passed by the Governing Body this 6th day of August, 2001.

Approved by the Mayor this 6th day of August, 2001.

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler, Assistant City Attorney

ORDINANCE NO. 135

First published in The Legal Record, Tuesday, August 14, 2001

CITY OF MISSION WOODS, KANSAS
ORDINANCE NO. 135

AN ORDINANCE AMENDING CHAPTER 10 OF THE MISSION WOODS MUNICIPAL CODE BY AMENDING SECTION 10-101 TO INCORPORATE BY REFERENCE THE UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES, EDITION OF 2001 AND REPEALING SECTION 1. OF ORDINANCE NUMBERED 130.

WHEREAS, the Governing Body of Mission Woods, Kansas has determined that it is advisable to amend Section 101 of Chapter X of the Municipal Code of the City to adopt the most recent edition of the Uniform Public Offense Code for Kansas Cities prepared and published by The League of Kansas Municipalities.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION WOODS, KANSAS, as follows:

Section 1. Section 101 of Chapter X of the Code of the City of Mission Woods is hereby amended to read as follows:

10-101. INCORPORATING UNIFORM PUBLIC OFFENSE CODE. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Mission Woods, Kansas, that certain code known as the "Uniform Public Offense Code," Edition of 2001, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said uniform public offense code shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Mission Woods, Kansas", with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours.

Section 2. REPEAL AND SAVINGS CLAUSE. Section 1 of Ordinance 130 and all other ordinances inconsistent herewith are repealed; however, the repeal of said ordinances does not effect any right which has accrued, any duty imposed, any penalty incurred, nor any proceeding commenced, under or by virtue of the ordinance repealed. The provisions of any ordinance, so far as they are the same as those of any prior ordinance, shall be construed as a continuation of such provisions, and not as a new enactment.

Section 3. This Ordinance shall be effective upon its passage, approval by the Mayor and publication once in the official city newspaper.

PASSED by the Governing Body and APPROVED by the Mayor this 7th day of August, 2001.

/s/ David F. Patzman
David F. Patzman, Mayor

Attest:

/s/ Shelley Gregory
Shelley Gregory, City Clerk

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To revoke this franchise in accordance with the provisions of this section regarding Revocation of Franchise, the following procedure shall apply. The City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. Prior to the enactment of such ordinance, franchisee shall be provided with timely written notice by certified mail, and franchisee shall be allowed to address the Governing Body before final consideration of such ordinance. If within thirty [30] days after the effective date of such ordinance to terminate the franchise the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchise was appropriately terminated in accordance to the provisions of this section and is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If, within such thirty [30] day period, the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the Court finds that the franchise is subject to cancellation by the reason addressed by this section, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

21. **Miscellaneous Provisions.**

a. Nonexclusive Clause. The privilege to construct, erect, operate and maintain franchisee's facilities and to provide service within the City is nonexclusive. The City expressly reserves the right to grant other franchises to other persons. However, no such additional franchise shall in any way affect the rights or obligations of franchisee.

b. Exclusive Benefit of Franchise Right by Franchisee. The rights granted to franchisee by this franchise ordinance shall be for the sole use of franchisee to provide telecommunications services as authorized herein. These rights are for the exclusive benefit of franchisee, except where otherwise provided herein, or when authorized by the City.

c. Franchisee is Without Remedy Against the City. Franchisee shall have no remedy or recourse whatsoever against the City for any loss, cost, expense, or damage arising from the enactment of the provisions or requirements of this franchise ordinance, or for the failure of the City to have the authority to grant, all, or any part, of the franchise ordinance granted. Second, franchisee expressly acknowledges that it accepted the franchise ordinance granted in reliance upon its independent and personal investigation and understanding of the power and authority of the City to grant the franchise conferred upon franchisee. Third, franchisee acknowledges by its acceptance of this franchise ordinance that it has not been induced to enter into this franchise upon any understanding, or promise, whether given verbally or in writing by or on behalf of the City, or by any other person concerning any term or condition of this franchise ordinance not expressed herein. Finally, franchisee acknowledges by the acceptance of this franchise that it has carefully read the provisions, terms, and conditions of this franchise ordinance and is willing to, and does accept, all of the risk attendant to the provisions, terms, and conditions.

d. Federal, State and City Jurisdiction. This franchise ordinance shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this franchise ordinance to the contrary, the construction, operation and maintenance of franchise facilities by franchisee or its agent shall be in accordance with all laws and regulations of the United States, the State, and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, franchisee shall meet or exceed the most stringent technical standards set by regulatory bodies, including, but not limited to the City, now or hereafter having jurisdiction. Franchisee's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. Franchisee shall comply with all applicable general laws and ordinances enacted by the City pursuant to that power. Finally, franchisee's failure to comply with any law or regulation governing the operation of said franchise facilities may result in a forfeiture of the franchise in accordance with the provisions of this franchise ordinance.

e. Attachment to Poles. Nothing in this franchise ordinance shall be construed to require or permit any telephone, electric light or power wire attachments by either the City or franchisee on the poles of the other. If such attachments are desired by either party, then a separate non-contingent agreement shall be prerequisite to such attachments.

f. Failure to Enforce. The failure of either party to enforce and remedy any noncompliance of the terms and conditions of this franchise shall not constitute a waiver of rights nor a waiver of the other party's obligations as provided herein.

g. Force Majeure. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other disasters beyond franchisee's or the City's control.

h. Severability. Any section, subsection, sentence, clause, phrase, or portion of this franchise ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

22. **Repeal of Other Ordinances.** All other ordinances, agreements and resolutions or parts thereof inconsistent or in conflict with the terms hereof shall be canceled, annulled, repealed, and set aside; provided, that this franchise ordinance shall not take effect or become in force until the requirements for adopting a franchise ordinance under Kansas statute have occurred.

23. **Effectiveness.** This franchise ordinance is made under and in conformity with the laws of the State of Kansas. Before the final passage of this ordinance, it shall be read at three [3] regular meetings of the Governing Body. After final passage, this ordinance shall take effect and be in force after the expiration of sixty [60] days from the date of final passage by the Governing Body and after publication in the official City newspaper for two [2] consecutive weeks following final passage, unless a proper protest is filed, or franchisee fails to provide written acceptance within the sixty [60] day period.

First Reading:	July 2, 2001	**Second Reading:**	July 16, 2001
Third Reading:	August 6, 2001	**Effective Date:**	October 5, 2001

Passed by the Governing Body this 6th day of August, 2001.

Approved by the Mayor this 6th day of August, 2001.

Peggy Dunn, Mayor

ATTEST:

Martha Heizer, City Clerk

APPROVED AS TO FORM:

Lisa R. Wetzler, Assistant City Attorney

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8. **Description of Service.** Franchisee shall on a semi-annual basis provide the City with a description of new local telecommunications services offered within the City during the prior six-month period. In the event franchisee offers new services [other than telecommunications services, extended area service, unbundled network elements, nonregulated services, carrier and end user access and long distance], franchisee shall notify the City of such services on a semi-annual basis.

9. **Franchisee Information.** Franchisee shall, at its own expense, annually submit to the City the following information:

   a. A report of the franchisee's gross revenues as referenced by Section 5 herein [only if franchisee is providing service within the City]; and

   b. A summary of the previous year's development of franchise facilities, including but not limited to, the location of facilities during the year, and franchisee's plan of development of facilities for the next year – Note: in lieu of this requirement, franchisee's right-of-way director may meet in person with the City's Public Works Director to discuss these issues; and

   c. Information as to the number of subscribers in the City of Leawood [only if franchisee is providing service within the City]. Note: this requirement does not include giving the identification of the subscribers.

10. **Subscriber Rates.** Franchisee's charges to subscribers will comply with all applicable federal and state regulations. Upon request, franchisee shall file with the City Clerk a schedule of current rates in effect when such rates are not on file and publicly available from the KCC. When provided so by state or federal law, the City may at any time fix a reasonable schedule of maximum rates to be charged to the City and its residents.

11. **Use of Facilities by Other Service Providers.** On a semi-annual basis, franchisee shall notify the City of the identity of local service providers that have been granted a certificate of convenience to offer local telecommunications services within the State of Kansas. Franchisee shall also provide the City on a semi-annual basis of the identity of entities with which franchisee has entered into an interconnection and/or resale agreement within the State of Kansas.

12. **Transfer of Franchise.** Pursuant to the written permission of the City, which shall not be unreasonably withheld, franchisee shall have the right to assign this franchise, and the rights and privileges herein granted to [illegible]

17. **Performance and Maintenance Bond Requirements.** Franchisee shall at all time maintain in full force and effect a corporate surety bond in a form approved by the Cit Attorney, in an amount of $50,000, for a term consistent with the term of this franchis ordinance plus one additional year, conditioned upon franchisee's faithful performance o the provisions, terms and conditions conferred herein. An annual bond automatical renewed yearly during this period shall satisfy this requirement.

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19. **Forfeiture of Franchise.** In case of the failure of franchisee to comply with any of the provisions of this franchise ordinance, or if franchisee should do or cause to be done any act or thing prohibited by or in violation of the terms of this franchise ordinance, franchisee shall forfeit all rights and privileges granted by this franchise and all rights hereunder shall cease, terminate and become null and void, provided, however, said forfeiture shall not take effect until the City shall carry out the following procedures:

   a. For violations concerning the use of the right-of-way and/or [illegible] as described in Section 3 of this franchise ordinance and [illegible] by the Public Works Director to be a public nuisance and/or [illegible] the following procedure shall apply. The City shall provide written notice by [illegible] to franchisee of any such violation, setting forth in detail the [illegible] default or failure complained of. Franchisee shall have [illegible] [10] days subsequent to receipt of such notice to inform the City [illegible] of the action franchisee shall take to correct the violation. Such correction shall be completed within thirty [30] days subsequent to receipt of notice unless otherwise agreed to by the City. If, at the end of such period, the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated. If franchisee fails to take corrective action within the 30-day period set forth above, nothing herein shall preclude the City from maintaining an action against franchisee to recover damages as a result of [illegible] action, including, but not limited to, reasonable costs of corrective action undertaken by the City.

   b. For all other violations of the franchise ordinance, the following procedure shall apply. The City shall provide written notice by certified mail to franchisee of any such violation, setting forth in detail the conditions of neglect, default or failure complained of. Franchisee shall have ninety [90] days after the mailing of such notice in which to comply with the conditions of this franchise. If at the end of such period the City deems that the conditions of such franchise have not been complied with by franchisee and that such franchise is subject to cancellation by reason thereof, the City shall enact an ordinance setting out the grounds upon which said franchise is to be canceled and terminated.

   c. If within thirty [30] days after the effective date of an ordinance to terminate the franchise, in accordance with 19(a) or 19(b) herein, the franchisee shall not have instituted an action in the District Court of Johnson County, Kansas, to determine whether or not the franchisee has violated the terms of this franchise and that the franchise is subject to cancellation by reason thereof, such franchise shall be canceled and terminated at the end of such thirty-day period. If within such thirty [30] day period the franchisee does institute an action, as above provided, and prosecutes such action to final judgment with due diligence, then, if the court finds that the franchise is subject to cancellation by reason of the violation of its terms, this franchise shall immediately terminate after such final judgment is rendered and all available appeals exhausted.

In addition to any other remedy available herein or and at law or equity, either party shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this franchise ordinance and/or to abate nuisances maintained in violation thereof.

20. **Revocation of Franchise.** In addition to all other revocation rights and powers herein or otherwise enjoyed by the City, the City shall have the additional and separate right to revoke this franchise and all rights and privileges of the franchisee as a result of and in response to any of the following events or reasons:

   a. Any provision of this franchise ordinance is adjudged by a Court of Competent Jurisdiction to be invalid or unenforceable and said judicial act and declaration is deemed by the Governing Body to constitute such a material consideration for the granting of this franchise ordinance as to cause the same to become null and void; or

   b. Franchisee commits an act of fraud or deceit against the City in obtaining the grant of this franchise herein conferred, or upon being granted franchisee commits such an act against the City.