

CHAPTER 1.

**ADMINISTRATION**

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

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**ARTICLE 1. GENERAL PROVISIONS <sup>1</sup>**

**1-101. CODE DESIGNATED.**

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

**1-102. DEFINITIONS AND RULES OF CONSTRUCTION**

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

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

Generally.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) Month - shall mean a calendar month.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

past and present.

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

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

### **1-103. EXISTING ORDINANCES.**

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

(Code 1983; Code 2008, § 1-103)

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

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

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

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

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

(Code 1983; Code 2008, § 1-104)

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

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

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

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

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

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

(Code 1983; Code 2008, § 1-105)

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

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

~~(Code 1983; Code 2008, § 1-106)~~

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

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

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

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

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

(Code 2008, § 1-107)

### **Sec. 1-107a. Supplementation of Code. <sup>3</sup>**

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

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

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

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

(1) Arrange the material into appropriate organizational units.

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

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

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

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

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

## **1-108. ORDINANCES.** <sup>4</sup>

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

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

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

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

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

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

**1-110. SAME; PUBLICATION.**

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


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

**1-111. SAME; ORDINANCE BOOK.**

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

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

**1-112. RESOLUTIONS, MOTIONS.**

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

**1-113. CITY RECORDS.**

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

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



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

**1-114. ALTERING CODE.**

It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Westwood to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body.  
(Code 1983, 1-110; Code 2008, § 1-114)

**1-115. SCOPE OF APPLICATION.**

Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense.  
(Code 1993, 1-111; Code 2008, § 1-115)

**1-116. GENERAL PENALTY; CONTINUING VIOLATIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **1-117. SEVERABILITY.**

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

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

## **ARTICLE 2. GOVERNING BODY**

### **1-201. GOVERNING BODY.**

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

(Code 2008, § 1-201)

### **1-202. SAME; POWERS GENERALLY.**

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

(Code 2008, § 1-202)  
(K.S.A. 12-103)

### **1-203. SAME; MEETINGS.**

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

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

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

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

### **1-204. QUORUM.**

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

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

### **1-205. POWERS OF THE COUNCIL.**

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

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

### **1-206. POWERS OF THE MAYOR.**

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

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

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

### **1-207. PRESIDENT OF THE COUNCIL.**

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

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

### **1-208. ADMINISTRATIVE POWERS.**

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

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

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

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

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

### **1-210. COMPENSATION.**

The salary of councilmembers shall be \$250.00 per month, for each council member, and \$700.00 per month for the mayor.

(Code 1983, 1-212; Code 2008, § 1-210; Ord. 661; Ord. 944)

### **1-211. EXPENSES.**

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

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

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

(Code 2008, § 1-211)

### **1-212. COMMITTEES. <sup>6</sup>**

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

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

### **1-213. PROPERTY INVENTORY RECORD. <sup>7</sup>**

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

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

There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Westwood, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2004, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. No fewer than three copies of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by

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

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

the Code of the City of Westwood, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. Changes to said Code shall include, but not be limited to, the change to the quorum requirement set out in Charter Ordinance 13.

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

### **1-215. CODE OF ETHICS.**

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

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

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

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

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

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

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

every other citizen.

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

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

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

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

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

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

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

### **Sec. 1-216. Term of office.**

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

(Ord. No. 1019, § 2, 4-8-2021)

## **ARTICLE 3. OFFICERS AND EMPLOYEES**

### **1-301. APPOINTMENT.**

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

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

(K.S.A. 15-204)

### **1-302. QUALIFICATIONS.**

The officer elected and appointed shall be qualified as follows:

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

### **1-303. EMPLOYEES.**

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



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

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

### **1-304. REMOVAL.**

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

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

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

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

### **1-305. VACANCY IN OFFICE.**

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

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

### **1-306. TERM OF OFFICE.**

All appointive officers shall hold office for an indefinite term.

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

### **1-307. CITY CLERK.**

The duties of the city clerk shall be as follows:

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

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

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

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

~~1-308. FISCAL RECORDS.~~<sup>9</sup>

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

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

The city clerk shall:

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

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

The city clerk shall:

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

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

(Code 2008, § 1-310)

**1-311. ASSISTANT CITY CLERK. (REPEALED)**

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

**1-312. CITY TREASURER. (REPEALED)**

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

**1-313. CHIEF OF POLICE. (REPEALED)**

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

**1-314. SAME; POWERS. (REPEALED)**

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

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

(Code 2008, § 1-315)

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

(Code 2008, § 1-316)

**1-317. CITY ENGINEER. (REPEALED)**

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

**1-318. PROPERTY MAINTENANCE OFFICIAL. (REPEALED)**

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

**1-319. BUILDING OFFICIAL. (REPEALED)**

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

**1-320. MUNICIPAL COURT CLERK. (REPEALED)**

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

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

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

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

**1-309. CONFLICT OF INTEREST.**

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

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

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

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

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

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

### ARTICLE 3A. OATHS AND BONDS

#### 1-3A01. OATH.

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

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

Affirmation: " I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of (enter name of office or position). This I do under the pains and penalties of perjury. (Code 2008, § 1-3A01; Ord. No. 1026, § 3(1-3A01), 5-12-2022) (K.S.A. 75-4308, 54-104, 54-106)

#### 1-3A02. OATHS FILED.

All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed with the city clerk. (Code 1983, 1-316; Code 2008, § 1-3A02; Ord. No. 1026, § 3(1-3A02), 5-12-2022)

#### ~~1-3A03. BOND OF MAYOR, COUNCIL MEMBERS.~~<sup>10</sup>

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

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

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

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

#### **1-3A04. SURETY BONDS; APPOINTIVE OFFICERS.**

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

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

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

(K.S.A. 78-111)

#### **1-3A05. SURETY BONDS; PREMIUMS.**

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

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

#### **1-3A06. SURETY BONDS; APPROVAL.**

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

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

#### **1-3A07. SURETY BONDS; FILING.**

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

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

3A06), 5-12-2022)

### **1-3A08. BLANKET BOND.**

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

## **ARTICLE 4. INVESTMENT OF PUBLIC FUNDS**

### **1-401. AUTHORITY TO INVEST.**

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

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

### **1-402. INCOME FROM INVESTMENTS.**

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

### **1-403 through 1-408. REPEALED.**

## **ARTICLE 5. PERSONNEL POLICY AND EMPLOYEE BENEFITS**

### **1-501. PERSONNEL POLICIES AND GUIDELINES.**

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

### **1-502. SOCIAL SECURITY.**

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

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

(K.S.A. 40-2301)

### ~~1-503. EMPLOYEES RETIREMENT; RESOLUTION.~~<sup>11</sup>

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

~~(Code 2008, § 1-503)~~

### **1-504. COMPENSATION.**

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

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

## **ARTICLE 6. OPEN RECORDS**

### **1-601. POLICY.**

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

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

(Code 1993; Code 2008, § 1-601)

### **1-602. RECORD CUSTODIANS.**

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

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



by this city for inspecting and copying open public records.

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

(Code 2008, § 1-602)

### **1-603. LOCAL FREEDOM OF INFORMATION OFFICERS.**

The Local Freedom of Information Officer shall:

(a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;

(b) be available to assist the city and members of the general public to resolve disputes relating to the Kansas Open Records Act;

(c) respond to inquiries relating to the Kansas Open Records Act;

(d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act.

(Code 2008, § 1-603)

### **1-604. PUBLIC REQUEST FOR ACCESS.**

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

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

### **1-605. FACILITIES FOR PUBLIC INSPECTION.**

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

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

**1-606. PROCEDURES FOR INSPECTION.**

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

**1-607. APPOINTMENT OF OFFICIAL CUSTODIANS.**

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

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

**1-608. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.**

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

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

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

### **1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS.**

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

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

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

### **1-611. FEE ADMINISTRATION.**

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

### **1-612. FEES TO BE CHARGED.**

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

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

### ~~**1-613. FEE SCHEDULE.**~~<sup>12</sup>

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

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

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

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

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

### **1-614. PREPAYMENT OF FEES.**

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

### **1-615. PAYMENT.**

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

## **ARTICLE VII. EMERGENCY PREPAREDNESS**

### **SECTION 1. DEFINITIONS.**

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

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

## **SECTION 2. EMERGENCY PROCLAMATION; ACTION.**

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

(a) To impose a curfew upon all or any portion of the city requiring all persons in such designated curfew areas to remove themselves from the public streets, alleys, parks or other public places or buildings; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters, city authorized or requested law enforcement officers and personnel, and such other individuals and/or individuals performing specified activities may be exempted from such curfew;

(b) To order the closing of any public buildings and business establishments anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms;

(c) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic;

(d) To call upon regular and auxiliary law enforcement, peacekeeping and/or public safety agencies and organizations within or without the city to assist in preserving and keeping the peace, and to ensure the public health, safety and welfare within the city. (Ord. No. 1008, § 2, 3-26-2020)

## **SECTION 3. EMERGENCY PROCLAMATION; EFFECTIVE WHEN.**

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

## **SECTION 4. EMERGENCY PROCLAMATION; TERMINATION.**

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

## **SECTION 5. EMERGENCY PROCLAMATION; VIOLATION, PENALTY.**

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

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

(Ord. No. 1008, § 5, 3-26-2020)

**SECTION 6. ADOPTING JOHNSON COUNTY EMERGENCY OPERATIONS PLAN.**

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

(Ord. No. 1008, § 6, 3-26-2020)

**SECTION 7. ADOPTING NATIONAL INCIDENT MANAGEMENT SYSTEM.**

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

(Ord. No. 1008, § 7, 3-26-2020)