

AGENDA

BASEHOR CITY COUNCIL WORK SESSION

January 14, 2008

6:00 p.m.

Basehor City Hall

- 1. Discussion regarding overdue accounts.**
- 2. Discussion regarding annexation proposals.**
- 3. Review draft of Municipal Code, Chapter 1**

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider action to collect overdue accounts.

Department: Administration

Background/Description of Item:

Ord. 491, passed May 11, 2006, established a collection procedure for delinquent accounts and set up penalties of \$45.00 per month on accounts more than 30 days overdue.

The collection methods currently being pursued include the state set-off program, placing bill on property tax rolls and withholding the issuance of building permits.

Under the set-off program the State of Kansas Dept. of Administration will collect certain debts by deducting them from state income tax refunds. This works well for overdue accounts for someone who would have a Kansas income tax return.

Property tax assessments work well for those who remain within Leavenworth County with the assessment applied to the individual who incurred the debt or to a property that goes to foreclosure with the debt applied to a future owner in the same manner as delinquent taxes.

Withholding future building permits works for builders who continue to build within the city limits will work for many of the overdue accounts.

The overdue accounts or outstanding accounts receivable list has gotten smaller over the past year with two accounts overdue more than one year and seven over 30 days.

Funding Source:

Recommendation: Consider methods used to collect overdue accounts and efforts for recovery.

Prepared by: Carl E. Slaugh, City Administrator
Council Date: January 7, 2008

CITY OF BASEHOR
Outstanding Accounts Receivable As Of 1/03/2008

		Oldest Unpaid Inv.
Hollingsworth Estates-Kansas Townhomes	1,610.44	(4/10/07) (2003 from Sanibel)
Rusty West/Post Office	1,574.26	(8/4/05)
Leavenworth County-Cedar Falls Lift Station	744.99	(2/14/07)
Gorup Funeral Home -Jason Gorup	2,439.24	(7/24/07)
Chism, Gregory-3209 N. 156th St. Code Enfcmt.	345.00	(9/14/07)-Sent to Setoff program
High Point Downs-Marc Conklin/Cottonwood	385.45	(10/05/07)
Holst, Gary - The Medicine Store	763.20	(10/30/07)
Basehor Community Library	85.00	(12/14/07)
Little Angels Learning Center-Delladio	170.00	(12/14/07)
Metzger Meadows II/Ed McIntosh/Benchmark	200.00	(12/14/07)
WCJ Phase II Grocery Store/Benchmark	403.75	(12/14/07)
 Accts Receivable Balance	 8,721.33	

(Published in *Basehor Sentinel* May 11,2006)

ORDINANCE NO. 491

AN ORDINANCE ESTABLISHING A COLLECTION PROCEDURE FOR DELINQUENT ACCOUNTS DUE AND OWING CITY OF BASEHOR.

WHEREAS, the Governing Body of the City of Basehor, Kansas, has determined that it should establish a collection procedure for delinquent accounts due and owing the City; and

WHEREAS, the Governing Body of the City of Basehor, Kansas, has determined that interest and fees should be assessed against the delinquent customers in such instances; and

WHEREAS, it is in the best interest of the City of Basehor, Kansas, to assess such interest and fees against the delinquent customers; and

WHEREAS, the Governing Body deems it necessary to adopt this Ordinance in order to provide a uniform and consistent collection policy with regard to such delinquent accounts; and .

WHEREAS, the Governing Body acknowledges that there are specific collection procedures already established for certain City activities such as sewer and solid waste accounts, and that this Ordinance will only apply to those situations where the City of Basehor has not established a specific collection policy.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS;

Section 1: Assessment and Notification

The administration and collection of delinquent accounts due and owing to the City of Basehor shall be the responsibility of the Administration Department of the City of Basehor.

The Administration Department is hereby authorized, pursuant to provisions of this Ordinance, to initiate appropriate collection activities with regard to any individual or entity that is thirty (30) days delinquent in regard to any sum of money that is due and owing to the City of Basehor.

Any sum of money due and owing the City of Basehor shall be considered delinquent if it is not paid in full on or within thirty days (30) from the date of the City invoice or statement.

Prior to initiating any collection activity the Administration Department shall send a notice to the delinquent customer describing the amount that is due and owing to the City of Basehor and shall inform the delinquent customer that said account is delinquent and is being charged simple interest of twelve percent (12%) per annum commencing on the date thirty (30) days from the date of the first invoice or statement.

The notice shall also inform the delinquent customer that there is a late payment fee of forty five dollars (\$45.00) assessed to each billing cycle of a delinquent account.

Section 2: Procedure

From the date of the adoption of this Ordinance, every statement of account or invoice issued by the City of Basehor shall disclose that all charges are due immediately upon receipt of the invoice or statement of account. It shall further state that if the invoice or statement of account is not paid within thirty (30) days of the date of the invoice or statement of account that the unpaid balance of the account will bear simple interest at the rate of twelve percent (12%) per annum.

That each invoice or statement of account shall also disclose that a late payment charge of Forty Five Dollars (\$45.00) shall be charged for each billing cycle for which a delinquent statement is being sent out to the delinquent customer.

Section 3: Enforcement

If the account remains delinquent for a period of more than Sixty (60) days, the Administration Department shall have the discretion to pursue collection of the delinquent account by any legal means. It may initiate a collection suit in small claims court; it may turn the delinquent account over to a collection agency; or it may turn the delinquent account over to the City Attorney for collection.

Furthermore, the administration department on behalf of the City of Basehor may refuse to provide future City services to the delinquent customer including but not limited to the issuance of building permits, occupancy permits, or any other City service until said delinquent account is paid in full with all interest and fees.

That this Ordinance shall take effect and be in full force from and after its passage, approval and publication in the official City newspaper of the City of Basehor, Kansas.

AGENDA ITEM INFORMATION FORM

Agenda Item: Consider approval of agreement to participate in State of Kansas Accounts Receivable Setoff Program as a means of collecting delinquent accounts.

Department: Administration

Background/Description of Item:

*On June 4, 2007, a public hearing was held to hear concerns from property owners with delinquent sewer and solid waste accounts prior to placing the delinquent account on the tax rolls.

*Two property owners appeared with objections to paying delinquent bills for previous homeowners. At the conclusion of the public hearing, I was directed to check into other means of collection from the prior property owners.

*The county clerk's office informed me the only way to collect the money was to place the delinquent bill on the property taxes. She also informed me I did not need to go through a public hearing process for sewer bills; however, I would need to hold a public hearing for trash pickup delinquencies.

*I spoke with Sandy Jacquot, legal counsel for League of Kansas Municipalities, and she advised me that the City could not legally collect debt from the current owner for a previous owner, and the City would have to forgive the amount and suggested adding that amount to our delinquent debt on our budget.

*I spoke with Kansas Department of Revenue regarding the State's Setoff Program. According to their representative we CAN go back on the previous owners. Any delinquent bill over \$25 can be submitted for collection.

Currently we do not require the property owner to provide us with their social security number or drivers license number. If the Council decides to participate in the Setoff Program, it will be necessary to change our forms and require property owners to provide us with society security number, driver's license number, and date of birth.

The Setoff Program charges 23.4% administrative fee for collection without the aforementioned information and 18.4% if we have the necessary data.

I am asking Council to approve the attached agreement, as well as, direct my staff to automatically file delinquent accounts that are not placed on the property tax rolls.

I also recommend we continue using the County as our main method of collection since it is the quickest method of collection and does not require additional fees.

Funding Source:

Recommendation: Consider approval of agreement with State of Kansas Dept. of Administration for collection of bad debt and authorize administrative staff to automatically file bad debts for utility billing, municipal court fines, and any other debt authorized by the Accounts Receivable Setoff Program

Prepared by:
Council Date:

Mary A. Mogle, City Clerk
June 18, 2007

Narrative – City Council
January 14, 2008
Dustin Smith, Planning Director

Discussion on Annexation

The attached plan was provided to the City Council at a previous work session and provides a list of policies associated with annexation as well as a plan of action for annexation based on statutory provisions.

The City Administrator asked for a plan of action pursuant to the annexation of those subdivisions that are adjacent to the City and are on the city's sewer system, or have short-term plans to connect to city sewer. These include Cedar Lakes Estates, Cedar Falls, Glenwood and Theno Estates Subdivisions. The method and applicable statutes for each subdivision is as follows:

1. Cedar Falls (Unilateral)

- a. It appears that, according to K.S.A 12-520 (a)(1), the City could annex all of the platted lots in Cedar Falls in one ordinance because Lot 46 is contiguous to the existing city limits.
- b. When property is platted, the lot only has to be contiguous to the city; there are no requirements for a percentage of the land to be contiguous to the existing city limits as with unplatted land.
- c. County approval will not be required for annexation of Cedar Falls.

2. Cedar Lake Estates (Unilateral)

- a. It appears that, according to K.S.A 12-520 (a)(1), the City could annex all of the platted lots in Cedar Lake Estates in one ordinance because Lot 46 is contiguous to the existing city limits.
- b. When property is platted, the lot only has to be contiguous to the city; there are no requirements for a percentage of the land to be contiguous to the existing city limits as with unplatted land.
- c. County approval will not be required for annexation of Cedar Lake Estates.

3. Victory Crest/Theno Estates (Voluntary)

- a. Unilateral annexation of Victory Crest is not possible at this time because it is not contiguous to the City of Basehor.

- b. The property can be annexed voluntarily (i.e. with the consent of the property owners) and would not require approval by the County Commission.
- c. Several of the lots have been sold in Victory Crest and are no longer owned by the original developer. Therefore, according to K.S.A. 12-520 (d), even if the city voluntarily annexed all of Victory Crest that is still owned by Mr. Theno, the lots that have been sold could not be annexed unilaterally until such time that the main portion of the city was extended to connect with Victory Crest.

4. Glenwood Estates (Voluntary/Conditional)

- a. No portion of Glenwood Estates can be annexed unilaterally at this time because no portion of the subdivision adjoins any portion of the "city proper". However, we can make annexation into the city a condition of their connecting to city sewer when the Glenwood sewer lagoons are decommissioned.

**Proposed Annexation Plan
2007 – 2020**

Objectives of Annexation

Prior to the annexation of any property, the City shall determine that the annexation serves at least one of the following objectives:

1. The annexation will provide additional area for expansion of the City and maintenance of the economic viability.
2. The annexation will direct growth according to the city's growth plans.
3. The annexation will block encroachment of other cities.
4. The annexation will keep rural development from occurring within close proximity to the existing city boundaries (i.e. 2.5 acre lots) that will impede the future development of the city.
5. The annexation will enhance the concept of economy of scale.
6. Provision of services to area that may have failing on-site sewer systems (i.e. environmental benefit.)
7. The annexation will make the city boundary more straight and harmonious.

Policy 1: All annexation requests should include properties in their entirety and will not except property containing any structures that will create an unincorporated enclave or which will not coincide with any of the conditions in K.S.A. 12-520.

Action 1a: Pursue the annexation of property that will connect current island annexations with the main portion of the city, especially those properties along US 24/40 that can easily be provided sewer service.

Policy 2: As part of the annexation of property, the City will include one-half of the street right-of-way adjacent to said property.

Policy 3: Maintenance responsibilities for any portion of annexed right-of-way will be addressed as part of an existing or future agreement with the County.

Policy 4: Properties that will be connected to the city's sewer system will be required to annex into the city, unless the Governing Body determines that such annexation is not in the city's best interest.

Policy 5: In considering whether to annex existing subdivisions, the Governing Body shall evaluate the condition of the public improvements existing within said subdivision.

Policy 6: Properties that are adjacent to the existing city limits and are less than 21 acres will not be annexed unless:

- a. It is necessary pursuant to K.S.A. 12-520 or other State Statute.
- b. The property has a proposed development plan or is included in a proposed development plan.
- c. The Governing Body finds it in the best interest of the City.
- d. The property owner requests annexation and the Governing Body finds it in the best of the City to do so.

I. Short-Term Unilateral Annexation (Voluntary, if possible)

A. County exclaves

1. Property north of, and adjacent to, Library property on 158 Street.
2. Property on Parallel Road, between Prairie Gardens 2nd and 3rd Plats
3. Property within Falcon Lakes.

A. Other property adjacent to the City

1. The commercial area south of 24/40 between 150 street and 155 Street.

B. Property that will come onto the City' sewer system.

1. Glenwood Subdivision – when they connect and after Plant expansion.
2. Ginger Creek Subdivision – when it comes onto city system.

II. Long-Term Unilateral Annexation (Voluntary, if possible)

A. Properties in the US 24/40 corridor between 158 Street and 166 Street, in succession as follows:

- a. Property south of, and adjacent to, Prairie Gardens, 1st Plat (parcel #1820300000034000).
- b. Parcel #1820300000033000
- c. Parcel #1820300000032000
- d. Parcel #1820300000032010
- e. Parcel #1820300000031000
- f. Parcel #1820300000030000
- g. Parcel #1820300000029000
- h. Parcel #1820300000028000
- i. Parcel #1820300000027000
- j. Parcel #1820300000026000
- k. Parcel #1820300000025000
- l. Parcel #1820300000024000
- m. Parcel #1820300000023000
- n. Parcel #1820300000022000
- o. Parcel #1820300000021000
- p. Parcel #1820300000020000

Map 1:

IV. Short-Term or Long-Term annexation of property adjacent to the main portion of the City that is less than 21 acres

1. Properties south of West Heights property
 - a. 18.72 acres
 - b. 1.06 acres
 - c. 1.51 acres
 - d. .84 acres.

2. Properties north of Parallel on east side of 147 Street (if Mussett property development extends sewer to within reasonable distance)
 - a. 13.76 acres north of, and adjacent to High View Industrial Park, and.

 - b. The adjacent 8.97 acres on the north.

*Note – some of the properties listed above may be placed in more than one category.

CHAPTER 5

UNILATERAL ANNEXATION OF LAND WITHOUT LANDOWNER CONSENT

5.1 STATUTORY REQUIREMENTS

K.S.A. 12-520 authorizes cities to annex certain qualifying land with or without the consent of the property owners. K.S.A. 12-520(a) identifies the following six conditions which permit cities to annex land unilaterally without the written consent of the property owners:¹

- (1) The land is platted and some part of the land adjoins the city;
- (2) The land is owned by or held in trust for the city or any agency thereof;²
- (3) The land adjoins the city and is owned by or held in trust for any governmental unit other than the city;
- (4) The land lies within or mainly within the city and has a common perimeter with a city boundary line of more than 50%;
- (5) The land is less than 21 acres in size, and if annexed, will make the city boundary straight or harmonious and some part adjoins the city; or
- (6) The tract is less than 21 acres in size and is situated so that two-thirds of any boundary line adjoins the city.³

With the exception of the second condition, involving city-owned land, each of the above-noted conditions permitting unilateral annexation requires that the land (or tract) adjoin the city.⁴

K.S.A. 12-520(a)(7) also permits a city to annex adjoining land without first receiving county approval, but only if the owners of the land petition for or consent to annexation. Consent annexations are not subject to the resolution, notice, public hearing and service plan requirements that apply to annexations under K.S.A. 12-520(a)(1) & (3)-(6).⁵ Unilateral consent annexations under K.S.A. 12-520 are treated separately in Chapter 7 of this manual as they are different in kind from annexations under the other six conditions for unilateral annexation allowed under K.S.A. 12-520(a).

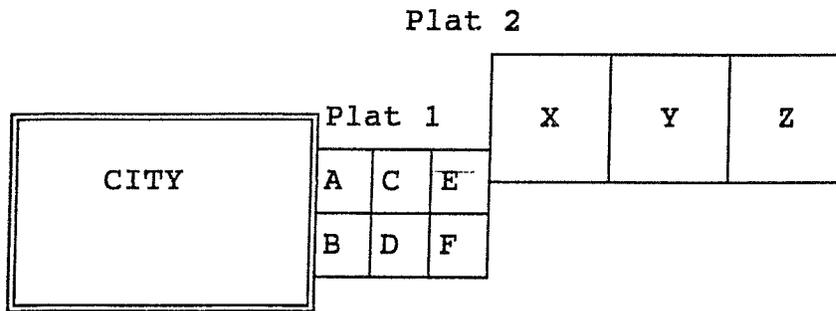
5.1.1 PLATTED LAND. K.S.A. 12-520(a)(1) provides that the city may annex land unilaterally by ordinance if "the land is platted, and some part adjoins the city."

POLICY JUSTIFICATION. The policy justification for permitting the unilateral annexation of platted land adjoining the city is that when a property owner subdivides such land, the act of subdivision reveals that the owner contemplates and desires that the land become part of the incorporated city.⁶ Because the land adjoins the city, the land most likely already enjoys the benefits of the city and is properly subject to annexation by unilateral act of the city.

SUBSTANTIVE REQUIREMENTS. For land to be subject to annexation under K.S.A. 12-520(a)(1), it must consist of:

- (1) A portion of a single unit or one or more single units of real property;⁷
- (2) That has or have been mapped or drawn to scale showing a division or divisions;⁸
and
- (3) Is shown on a document filed with the office of the register of deeds.

The city may annex platted land that is owned entirely by a single owner or platted land held in multiple ownership. When a city seeks to annex platted lands held in multiple ownership, a question arises as to whether the individual lots within the subdivision must individually adjoin the city boundary. The question arises with respect to one subdivision as well as to two or more contiguous subdivisions. Figure 5-1 is a diagram of two subdivisions (Plat 1 and Plat 2) contiguous to one another and one of which (Plat 1) adjoins the city boundary.



(Figure 5-1)

A city may annex a contiguous body of platted land, consisting of one or more tracts, without regard to ownership of the tracts, so long as some part of the platted land adjoins the city.⁹ In Figure 5-1, the two subdivisions, as well as the nine tracts, constitute a contiguous body of land and tracts A and B adjoin the city. Thus, under K.S.A. 12-520(a)(1) a city could annex all nine tracts of land in one ordinance.

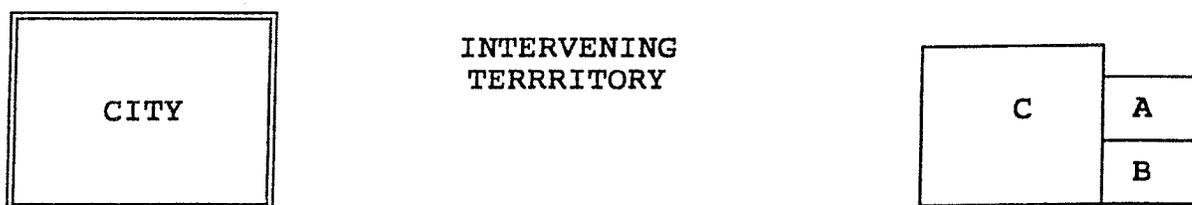
In Figure 5-1, all nine of the tracts (A, B, C, D, E, F, X, Y and Z) were platted. If any one of the nine tracts were unplatted, then the entire body of land could not be considered platted for purposes of K.S.A. 520(a)(1) and the city could not annex the unplatted tract under that particular statute. As discussed in more detail in Chapter 8,¹⁰ if the other eight platted tracts were contiguous to one another and still adjoined the city, they could still be annexed as platted land. In addition, if the unplatted tract met one of the other conditions under K.S.A. 12-520(a) for unilateral annexation, all nine tracts could be annexed in one ordinance pursuant to K.S.A. 12-520(f).

5.1.2 LAND OWNED BY THE CITY. K.S.A. 12-520(a)(2) is the only one of the six conditions for unilateral annexation under K.S.A. 12-520(a) where the land proposed to be annexed does not have to adjoin the city. The policy justification for this condition is to allow cities to locate facilities, such as airports, water or sewage treatment plants, industrial parks and recreational facilities, outside the city proper while, at the same time, provide that such land be under the jurisdiction of the city.

This section permits a city to unilaterally annex land if "the land is owned by or held in trust for the city or an agency thereof." This condition, although listed as one of the conditions for the unilateral annexation of land, does not follow the procedure for unilateral annexation of land under

any of the other qualifying conditions under K.S.A. 12-520(a). Instead, it follows the procedure for consent annexations of adjoining land based on the theory that the city has consented to the annexation of its own land. No resolution, notice or public hearing is required as part of such an annexation.¹¹

There is a limitation for future and concurrent annexations upon this city-owned land that does not adjoin the city. K.S.A. 12-520(d) provides that "tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for purposes of this section until the adjoining land or land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory." This provision is substantially the same as the limitation on the county-approved annexation of non-adjoining land contained in K.S.A. 12-520c(b). The illustration below explains this statutory limitation.



"A" AND "B" ARE TRACTS ADJOINING THE CITY-OWNED LAND.

THE CITY-OWNED LAND WAS ANNEXED PURSUANT TO K.S.A. 12-520(a)(2).

(Figure 5-2)

Although they obviously touch upon land which is part of the city, tracts A and B in figure 5-2 do not adjoin the city after the city annexes that city-owned land. Tracts A and B will only adjoin the city if and when the territory in between the city proper and the annexed city-owned land (the intervening territory) is itself annexed.

5.1.3 LAND OWNED BY A GOVERNMENTAL UNIT OTHER THAN THE CITY. K.S.A. 12-520(a)(3) permits a city to annex land unilaterally if "the land adjoins the city and is owned by or held in trust for any governmental unit other than another city. . ." Thus, a city may annex land if it adjoins the city, and the land is owned by another governmental entity such as a county, the state¹² or the federal government.¹³

There are four statutory exceptions to the right of a city to unilaterally annex county owned land without the consent of the county. The exceptions are for county owned land which has primary use as:

- (1) An airport or other aviation related activity;
- (2) A zoological facility;
- (3) A recreation park; or
- (4) An exhibition and sports facility.

If a city does wish to annex county-owned land that is being used for any of the above purposes, that city could either follow the K.S.A. 12-521 procedure for county board approved

annexations or attempt to accomplish a landowner consent annexation pursuant to K.S.A. 12-520(a)(7).

The next three sections deal with the unilateral annexation of unplatted land that adjoins the city. As noted below, if a city desires to unilaterally annex adjoining unplatted land exceeding 21 acres in area, without the consent of the owner, the land must be "within or mainly within" the city.

5.1.4 LAND WITHIN OR MAINLY WITHIN THE CITY AND HAS A COMMON PERIMETER OF MORE THAN 50%. A city may annex land unilaterally under K.S.A. 12-520(a)(4) if "the land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%."

POLICY JUSTIFICATION. The rationale behind this condition is:

it is generally the fact that such land is actually and practically a part of the city. Its proximity to a city and its being surrounded by a city gives it the value of city land and it thus partakes of the benefits of the city. Moreover, such land is generally served by city conveniences as light, gas, schools, etc., and while there would be no duty upon the police or fire departments of the city to serve such land, both of these classes of protection would generally be enjoyed by the land within (or mainly within), surrounded or mainly surrounded by, a city.¹⁴

Thus, a city should be able to annex the land unilaterally to distribute the city's burdens to all lands that receive city benefits.

REQUIREMENTS. Kansas law since 1903 has allowed a city to annex land within or mainly within the city. Early statutory provisions only required that the land be within or mainly within the city and did not require that the land have a common perimeter of more than 50%. "Within" was judicially defined as being inside the limits of the city, and "mainly within" was defined as "having a common perimeter of more than 50%."¹⁵ The definitions of "within" and "mainly within" were strictly interpreted by the courts.¹⁶ In one case, land was held to be "mainly within" the city when the land proposed to be annexed had a common boundary with the city of 63.72%¹⁷ In another case the court said land was "mainly within" the city where three of the four boundaries of the land proposed to be annexed coincided with the city boundaries.¹⁸

When K.S.A. 12-519 et seq. was enacted in 1967 it only required that "the land has a common perimeter with the city boundary of more than 50%."¹⁹ Several years later the City of Overland Park attempted to use this provision to annex a large area of land. Overland Park contended this provision meant that it was sufficient if the perimeter of the land proposed to be annexed adjoined the city boundary on two of its sides. The State of Kansas argued the provision meant the land had to be within or mainly within the city. While the case was on appeal to the Kansas Supreme Court, the state legislature amended the provision to read: "the land lies within or mainly within the city and has a common perimeter with the city boundary line of more than fifty percent." The court then noted that the legislature did not intend to change the procedures for annexation of unplatted land, but the fact that the legislature did amend the provision could be interpreted as a sign that the City of Overland Park was attempting to use this provision in a manner not intended. Construing all of the past and present annexation statutes together against their common background, the court concluded that they presented a consistent pattern indicating

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12-520**Chapter 12.--CITIES AND MUNICIPALITIES****Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE**

12-520. Conditions which permit annexation; ordinance; actions challenging validity. (a) Except as hereinafter provided, the governing body of any city, by ordinance, may annex land to such city if any one or more of the following conditions exist:

(1) The land is platted, and some part of the land adjoins the city.

(2) The land is owned by or held in trust for the city or any agency thereof.

(3) The land adjoins the city and is owned by or held in trust for any governmental unit other than another city, except that no city may annex land owned by a county which has primary use as a county-owned and operated airport, or other aviation related activity or which has primary use as a county owned and operated zoological facility, recreation park or exhibition and sports facility without the express permission of the board of county commissioners of the county.

(4) The land lies within or mainly within the city and has a common perimeter with the city boundary line of more than 50%.

(5) The land if annexed will make the city boundary line straight or harmonious and some part thereof adjoins the city, except no land in excess of 21 acres shall be annexed for this purpose.

(6) The tract is so situated that 2/3 of any boundary line adjoins the city, except no tract in excess of 21 acres shall be annexed under this condition.

(7) The land adjoins the city and a written petition for or consent to annexation is filed with the city by the owner.

(b) No portion of any unplatted tract of land devoted to agricultural use of 21 acres or more shall be annexed by any city under the authority of this section without the written consent of the owner thereof.

(c) No city may annex, pursuant to this section, any improvement district incorporated and organized pursuant to K.S.A. 19-2753 et seq., and amendments thereto, or any land within such improvement district. The provisions of this subsection shall apply to such improvement districts for which the petition for incorporation and organization was presented on or before January 1, 1987.

(d) Subject to the provisions of this section and subsection (e) of K.S.A. 12-520a, and amendments thereto, a city may annex, pursuant to this section, any fire district or any land within such fire district.

(e) Whenever any city annexes any land under the authority of paragraph 2 of subsection (a) which does not adjoin the city, tracts of land adjoining the land so annexed shall not be deemed to be adjoining the city for the purpose of annexation under the authority of this section until the adjoining land or the land so annexed adjoins the remainder of the city by reason of the annexation of the intervening territory.

(f) No city may annex the right-of-way of any highway under the authority of this section unless at the time of the annexation the abutting property upon one or both sides thereof is already within the city or is annexed to the city in the same proceeding. The board of county commissioners may notify the city of the existence of any highway which has not become part of the city by annexation and which has a common boundary with the city. The notification shall include a legal description and a map identifying the location of the highway. The governing body of the city shall certify by ordinance that the certification is correct and declare the highway, or portion of the highway extending to the center line where another city boundary line abuts the opposing side of the highway, annexed to the city as of the date of the publication of the ordinance.

(g) The governing body of any city by one ordinance may annex one or more separate tracts or lands each of which conforms to any one or more of the foregoing conditions. The invalidity of the annexation of any tract or land in one ordinance shall not affect the validity of the remaining tracts or lands which are annexed by the ordinance and which conform to any one or more of the foregoing conditions.

History: L. 1967, ch. 98, § 2; L. 1974, ch. 56, § 4; L. 1980, ch. 62, § 1; L. 1986, ch. 70, § 2; L. 1987, ch. 66, § 2; L. 1993, ch. 147, § 1; L. 2005, ch. 166, § 11; L. 2005, ch. 186, § 6; July 1.

Kansas Legislature

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12-520a**Chapter 12.--CITIES AND MUNICIPALITIES****Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE**

12-520a. Resolution; hearing; notice; publication; sketch of area; criteria considered at hearing; consent, effect. (a) The governing body of any city desiring to annex land under the authority of K.S.A. 12-520, and amendments thereto, shall adopt a resolution stating that the city is considering the annexation of the land. The resolution shall:

(1) Give notice that a public hearing will be held to consider the annexation of the land and fix the date, hour and place of the public hearing. Unless the governing body of the city determines adequate facilities are not available, the public hearing shall be held at a site located in or as near as possible to the area proposed to be annexed. The hearing shall be held at the time determined by the governing body to be the most convenient for the greatest number of interested persons;

(2) describe the boundaries of the land proposed to be annexed; and

(3) state that the plan of the city for the extension of services to the area proposed to be annexed, which is required under the provisions of K.S.A. 12-520b, and amendments thereto, is available for inspection during regular office hours in the office of the city clerk.

(b) The date fixed for the public hearing shall be not less than 60 nor more than 70 days following the date of the adoption of the resolution fixing the date of the hearing.

(c) A copy of the resolution providing for the public hearing shall be mailed by certified mail to each owner of land proposed to be annexed not more than 10 days following the date of the adoption of the resolution. The resolution shall be published in the official newspaper of the city not less than one week and not more than two weeks preceding the date fixed for the public hearing. A sketch clearly delineating the area in such detail as may be necessary to advise the reader of the particular land proposed to be annexed shall be published with the resolution. A copy of such sketch also shall be mailed to the owner of the property with the resolution.

(d) A copy of the resolution providing for the public hearing shall be sent by certified mail not more than 10 days following the date of the adoption of the resolution to:

(1) The board of county commissioners;

(2) the governing body of the township where the land to be annexed is located;

(3) any special assessment district or governmental unit providing municipal services to the area proposed to be annexed including, but not limited to, sewer districts, rural water districts, fire districts or improvement districts;

(4) any utilities having facilities within the area proposed to be annexed;

(5) the governing body of any school district in the area proposed to be annexed;

(6) any city, county, township or joint planning commission having jurisdiction over the area proposed to be annexed; and

(7) any other political or taxing subdivision located within the area proposed to be annexed.

(e) At the public hearing, a representative of the city shall present the city's proposal for annexation, including the plan of the city for the extension of services to the area proposed to be annexed. Following the explanation, all interested persons shall be given an opportunity to be heard. The governing body may recess, for good cause shown, the hearing to a time and date certain, which shall be fixed in the presence of persons in attendance at the hearing.

At such hearing or at any continuation of such hearing, the city shall determine the advisability of the annexation. As a guide in determining the advisability of such annexation, the city shall consider the:

(1) Extent to which any of the area is land devoted to agricultural use;

(2) area of platted land relative to unplatted land;

(3) topography, natural boundaries, storm and sanitary sewers, drainage basins, transportation links or any other physical characteristics which may be an indication of the existence or absence of common interest of the city and the area proposed to be annexed;

(4) extent and age of residential development in the area to be annexed and adjacent land within the city's boundaries;

(5) present population in the area to be annexed and the projected population growth during the next five years in the area proposed to be annexed;

(6) extent of business, commercial and industrial development in the area;

(7) present cost, methods and adequacy of governmental services and regulatory controls in the area;

(8) proposed cost, extent and the necessity of governmental services to be provided by the city proposing annexation and the plan and schedule to extend such services;

- (9) tax impact upon property in the city and the area;
 - (10) extent to which the residents of the area are directly or indirectly dependent upon the city for governmental services and for social, economic, employment, cultural and recreational opportunities and resources;
 - (11) effect of the proposed annexation on the city and other adjacent areas, including, but not limited to, other cities, sewer and water districts, improvement districts, townships or industrial districts and, subject to the provisions of K.S.A. 12-521a, and amendments thereto, fire districts;
 - (12) existing petitions for incorporation of the area as a new city or for the creation of a special district;
 - (13) likelihood of significant growth in the area and in adjacent areas during the next five years;
 - (14) effect of annexation upon the utilities providing services to the area and the ability of those utilities to provide those services shown in the detailed plan;
 - (15) economic impact on the area; and
 - (16) wasteful duplication of services.
- (f) No resolution, notice and public hearing required under the provisions of this section shall be required as a prerequisite to the annexation of land owned by or held in trust for the city or any agency thereof or land all of the owners of which petition for or consent thereto in writing.
- (g) Any resolution, adopted pursuant to this section, which includes territory subsequently incorporated pursuant to K.S.A. 15-115 et seq., and amendments thereto, shall be invalid.

History: L. 1974, ch. 56, § 2; L. 1984, ch. 66, § 1; L. 1987, ch. 66, § 3; L. 1993, ch. 147, § 2; L. 2005, ch. 155, § 2; July 1.

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12-520b**Chapter 12.--CITIES AND MUNICIPALITIES****Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE**

12-520b. Plans for extension of services; reports, contents; statement of plans for extension of municipal services to area; consent, effect. (a) The governing body of any city proposing to annex land under the provisions of K.S.A. 12-520, and amendments thereto, shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the adoption of the resolution provided for in K.S.A. 12-520a, and amendments thereto, prepare a report setting forth such plans. The report shall include:

(1) A sketch clearly delineating the land proposed to be annexed and the area of the city adjacent thereto to show the following information:

(A) The present and proposed boundaries of the city affected by such proposed annexation;

(B) the present streets, water mains, sewers and other city utility lines, and the proposed extension thereof;

(C) the general land use pattern in the areas to be annexed.

(2) A statement setting forth a plan of sufficient detail to provide a reasonable person with a full and complete understanding of the intentions of the city for extending to the area to be annexed each major municipal service provided to persons and property located within the city and the area proposed to be annexed at the time of annexation and the estimated cost of providing such services. The plan shall state the estimated cost impact of providing such services to the residents of the city and the residents of the area proposed to be annexed. The plan shall state the method by which the city plans to finance the extension of such services to such area. Such plan shall include a timetable of the plans for extending each major municipal service to the area annexed. The plan shall state the means by which the services currently provided by a township or special district in the area to be annexed shall be maintained by the city at a level which is equal to or better than the level of services provided prior to annexation. The plan shall state those services which shall be provided immediately upon annexation and those services which may be provided upon petition of the landowners to create a benefit district.

(b) The preparation of a plan for the extension of services required by subsection (a) shall not be required for or as a prerequisite to the annexation of land of which all of the owners petition for or consent to such annexation in writing.

History: L. 1974, ch. 56, § 3; L. 1987, ch. 66, § 4; April 9.

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12-520c**Chapter 12.--CITIES AND MUNICIPALITIES****Article 5.--ADDITIONS, VACATION AND LOT FRONTAGE**

12-520c. Annexation of land not adjoining city, when; resolution to county commissioners; findings by board spread upon journal; effect; appeals to district court. (a) The governing body of any city may by ordinance annex land not adjoining the city if the following conditions exist:

- (1) The land is located within the same county as such city;
 - (2) The owner or owners of the land petition for or consent in writing to the annexation of such land; and
 - (3) The board of county commissioners of the county find and determine that the annexation of such land will not hinder or prevent the proper growth and development of the area or that of any other incorporated city located within such county.
- (b) No land adjoining any land annexed by any city under the provisions of this section shall be deemed to be adjoining the city for the purpose of annexation under any other act or section of this act until such adjoining land or the land annexed under this section shall adjoin the remainder of the city by reason of the annexation of the intervening territory.
- (c) Whenever the governing body of any city deems it advisable to annex land under the provisions of this section such governing body shall by resolution request the board of county commissioners of the county to make a finding as required under subsection (a) (3) of this section. The city clerk shall file a certified copy of such resolution with the board of county commissioners who shall, within thirty (30) days following the receipt thereof, make findings and notify the governing body of the city thereof. Such findings shall be spread at length upon the journal of proceedings of said board. The failure of such board to spread such findings upon the journal shall not invalidate the same.

Any owner or city aggrieved by the decision of the board of county commissioners may appeal from the decision of such board to the district court of the same county in the manner and method set forth in K.S.A. 19-223. Any city so appealing shall not be required to execute the bond prescribed therein.

History: L. 1974, ch. 56, § 5; March 28.

To: Carl Slaugh, City Administrator

From: Mary Mogle, City Clerk

Date: December 7, 2007

RE: Consider changes to proposed Municipal Code

Chapter I. ADMINISTRATION

1-102(i) Should this read four (4) since that is a legal quorum for Basehor?

1-107 "Basehor" is misspelled.

1-212 No changes to code. Recommend incorporating into Personnel Policies and Guidelines manual.

1-301 Amend or rescind per Council discussion on 11/19/007 ("at-will")

1-302

1-303

1-306(a) (c) (d) City treasurer performs these duties.

Add "City Prosecutor" duties per Ordinance 519.

1-401 Change Personnel Policy (adopted 12/3/07) to read "Uniform Personnel Policies and Guidelines of the City of Basehor" per proposed Municipal Code.

1-503 Risk Management company suggested having one blanket bond in the amount of \$50,000 for designated positions rather than each position being bonded for \$50,000. (cost saving measure)

1-610 Revise to read same as our "no cash" policy. Currently we deposit all monies 3-5 times per week.

1-804 Add clause regarding collection fees:
\$100 – Ad Valorem Tax rolls
Percentage – State Setoff program

Chapter III. BEVERAGES

3-202, 3-203 Start enforcing building and fire inspections prior to issuing or renewing Liquor and Cereal Malt Beverage License

Chapter XV. UTILITIES

15-103 (a) (c) Add "...city clerk or designee".

15-106 Currently bill landlord only. Law has changed. Mr. Thompson was in the process of reviewing the new law when he was replaced.

15-107 Remove. We no longer maintain petty cash funds.

15-108

15-109

Add section requiring lessors/lessees to file a service agreement when purchasing or renting property.

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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Basehor, Kansas," and may be so cited. The Code may also be cited as the "Basehor City Code." (Code 1989)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City - shall mean the City of Basehor, Kansas.
 - (b) Code - shall mean "The Code of the City of Basehor, Kansas."
 - (c) Computation of Time. - The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (d) County - means the County of Leavenworth in the State of Kansas.
 - (e) Delegation of Authority. - Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
 - (f) Gender. - Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body - shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.
 - (h) In the city - shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
 - (i) Joint authority. - All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
 - (j) Month - shall mean a calendar month.

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

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

(m) Officers, 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.

(n) 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.

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

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

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

(r) Shall, may - "Shall" is mandatory and "may" is permissive.

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

(t) Signature, subscription - includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

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

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

(w) Tenant or occupant - 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.

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

(y) Writing or written - may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(z) Year - means a calendar year, except where otherwise provided.
(Code 1989)

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 1989)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1989)

- 1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1989)
- 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 1989)
- 1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Basehor is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Basehor is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Basehor is hereby repealed." (Code 1989)
- 1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 1989)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1989)
- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1989)
- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing

the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1989)

- 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 1989)
- 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. (K.S.A. 12-120:121; Code 1989)
- 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 Basehor 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 1989)
- 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 1989)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
 - (b) Imprisonment in jail for not more than 179 days; or,
 - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 1999)
- 1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1989)

ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and city council to be elected as set out in Chapter 6 of this code. (Code 1989)
- 1-202. POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and council as governing body of the city. (K.S.A. 12-103; Code 1989)
- 1-203. SAME; MEETINGS. (a) Effective June 6, 2005, regular meetings of the governing body of the City of Basehor shall be held on the 1st Monday and the 3rd Monday of each month at 7:00 p.m. In the event that 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 subsequent Thursday not observed as a holiday as a meeting day.
- (b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
- (c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
- (d) Effective June 13, 2005, a work session of the governing body of the City of Basehor shall be held on the 2nd Monday of each month at 6:00 p.m. In the event that the regular work session 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 subsequent Thursday not observed as a holiday as a meeting day.
- (e) Effective June 6, 2005, a work session of the governing body of the City of Basehor shall be held prior to the regular meeting on the 1st and 3rd Monday of each month from 6:00 p.m. to 6:55 p.m. to address any questions the governing body members may have concerning certain agenda items. In the event that the regular work session 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 subsequent Thursday not observed as a holiday as a meeting day.
(K.S.A. 15-106; Ord. 458, Sec. 1; Code 2007)
- 1-204. SAME; QUORUM. In all cases, it shall require four of the council members-elect to constitute a quorum to do business.
(K.S.A. 15-106; C.O. No. 7; Code 1999)
- 1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:
- (a) Have the superintending control of all officers and affairs of the city;
 - (b) Take care that the ordinances of the city are complied with;
 - (c) Sign the commissions and appointments of all officers elected or appointed;

- (d) Endorse the approval of the governing body on all official bonds;
 - (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
 - (f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
 - (g) Sign all orders and drafts drawn upon the city treasury for money.
- (K.S.A. 15-301; Code 1989)

1-206. **PRESIDENT OF THE COUNCIL.** The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. 15-310; Code 1989)

1-207. **ADMINISTRATIVE POWERS.** The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor. (Code 1989)

1-208. **VACANCIES IN GOVERNING BODY; HOW FILLED.** In case of a vacancy in the office of mayor by reason of resignation, death or removal from office or from the city, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of councilman becoming mayor.

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 the remaining councilmen shall appoint some suitable elector to fill the vacancy until the next election for that office. In case any person elected refuses to qualify within 30 days after his election, he shall be deemed to have refused to accept such office and a vacancy shall be deemed to exist. Thereupon, the mayor may, with the consent of the remaining councilmen, appoint some suitable elector to fill said vacancy.
(C.O. No. 1, Sec. 4)

1-209. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1989)

1-210. **EXPENSES.** Each member of the governing body shall be reimbursed for mileage and expenses at the rate as provided in the employee handbook, which is incorporated into the code by reference at section 1-401. (Code 1999)

1-211. **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 Basehor, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2006, 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 the Code of the City of Basehor, 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. (Code 2007)

1-212.

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 proper channels of the governmental structure, that public office not be used for personal gain, and that the public have confidence in the integrity of its government. In recognition of those goals, a Code of Ethics for all city officials and employees is adopted. The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city.

(b) Code of Ethics Established. The requirements herein set forth shall constitute a Code of Ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the city.

(1) Interest in Contract or Transaction. No public officer or employee having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the city shall:

(A) Have or thereafter acquire an interest in such contract or transaction; or
(B) Have an interest in any business entity representing, appearing on behalf of, whether paid or unpaid, any involved in such contract or transaction; or advising or persons

(C) Have solicited, accepted or granted a present or future gift, favor service or thing of value from or to a person involved in such contract or transaction. The prohibition against gifts or favors shall not apply to:

(i) An occasional non-pecuniary gift, insignificant in value; or
(ii) An award publicly presented in recognition of public service; or
(iii) Any gift which would have been offered or given to him or her if he or she were not an officer or employee.

A public officer or employee does not violate the provisions of this subsection when he or she has such an interest but abstains from any action, participation or vote involving the contract or transaction. Any person abstaining shall, upon realization of such conflict, as soon as reasonably possible, state that he or she has conflict, leave the room until all discussion and action on the transaction has concluded and direct any recording secretary to reflect such abstention and departure from the proceedings.

(2) Pre-Acquisition of Interest. No public officer or employee, with respect to any contract or transaction which is or may be the subject of an official act or action of the city, shall acquire an interest in or be affected by such contract or transaction at a time when the public employee believes or has reason to believe that it will directly or indirectly be affected by an official act or action of the city. A

public officer or employee does not violate the provisions of this subsection if he or she abstains from any action, participation or voting on the contract or transaction.

(3) Disclosure of Information. No public officer or employee shall disclose or reveal any information or discussion which would violate the provisions of the Kansas Open Meetings Act, K.S.A. 75-4319, as amended, or the Kansas Open Records Act, K.S.A. 45-221, as amended. Any violation of these acts shall be deemed violations of this Code of Ethics.

(4) Incompatible Service. No public officer or employee shall engage in or accept private employment or render service for private interest 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 unless otherwise permitted by law, and unless disclosure is made as provided in this Code of Ethics.

(5) Appearances. No public officer or employee shall appear on behalf of any person or business entity, other than himself or herself, his or her spouse or minor children regarding a personal matter, before any city agency, board, commission, council or municipal court. However, a member of the city council may appear before city agencies on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civil obligations.

(6) Interest in Public Contract. No public officer or employee shall, in his or her capacity as such officer or employee, make or participate in the making of a contract with any person or business by which he or she is employed or in whose business he or she has an interest, and no such person or business shall enter into any contract where any public officer or employee, acting in such capacity, is a signature to or a participant in the making of such contract and is employed by or has an interest in such person or business. A public officer or employee does not make or participate in the making of a contract if he or she abstains from any action in regard to the contract. This subsection shall not apply for:

(1) A contract awarded through a process of public notice and competitive bidding; or

(2) Contracts for property or services for which the price or rate is fixed by law.

(7) Participation in Noncontract Transactions. A public officer or employee shall not participate or take any official action on any transaction involving the city which is noncontractual in nature when such public officer or employee has an interest, as defined in Section 1-J6-1 of this Title, in such transaction, person or business entity involved in the transaction. A public officer or employee does not participate or act if he or she abstains from all participation in the transaction.

(8) Public Property. No public officer or employee shall request or permit the unauthorized use of city owned vehicles, equipment, materials or property for personal convenience or profit.

(9) Special Treatment. No public officer or employee shall grant any special consideration treatment or advantage to any citizens beyond that which is available to every other citizens.

(10) Later Case Interest. No public officer or employee shall, after the termination of service or employment with the city, appear before any board, commission, committee, agency, council or municipal court of the city in relation

to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under his or her action consideration.

(11) Statements to the Press or Public. No public officer shall make any statements or solicit anything from the press or public that may be construed as that officer is representing the city. Such statements and solicitations shall only be made by the majority vote of the city council. Nothing in this subsection is intended to restrict or modify any of the duties which are created by state statute for any of the elected city councilmembers or the mayor of the city.

(c) Exceptions to Code. It shall not be deemed a violation of the standards of the Code of Ethics or constitute an interest if:

(1) The interest of a public officer or employee in a person or business entity is a contractual obligation of less than \$500.00 which has not been preceded by any other obligation, discharged or existing, between the parties and which is not the first in a series of two or more loans or debts which either of the parties is under an obligation to make or incur.

(2) The interest is a commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this state to engage in the making of such loans.

(3) The interest is a contract for a commercial retail sale, even though over the value of \$500.00.

(d) Disclosure of Interest.

(1) Disclosure of Interest in Legislative Action:

(A) Any member of the city council who has an interest in any proposed legislation before the city council shall disclose on the record of the city council the nature and extent of such interest.

(B) Any other official or employee who has an interest in any proposed legislative action of the city council and who participates in discussion with or gives an official opinion or recommendation to the city council shall disclose on the record of the city council the nature and extent of such interest.

(2) Disclosure of Interest Statement.

(A) Statement Required:

(i) The following persons holding the municipal offices or positions and all persons recommended for appointment by the mayor and all candidates for election to any of such offices or positions shall file a Disclosure of Interest Statement and, when elected or appointed, shall file every June 30th thereafter:

(1) Mayor and members of the city council.

(2) Members of the city planning commission.

(3) Members of the board of zoning appeals.

(4) Members of the board of appeals (UBC).

Any person required to file a Disclosure of Interest Statement shall file on a form prepared by the city clerk and city attorney for such purposes. Such form shall require disclosure of information necessary to determine an interest as defined by Section 1-6 of this Title. The form shall be filed and stamped received and dated by the city clerk who shall be the custodian of all such forms which shall be open to the public.

(ii) Any member of the commission or boards in subsections (i)(1):(4) above which has entered into a relationship which is private and confidential in nature and which can be supported by written documentation (such documentation shall be

submitted to the city attorney) which reasonably justifies the necessity for privacy and confidentially as determined by the city attorney may file disclosure of that portion of the member's statement with the city attorney. All such disclosures filed pursuant to this exception shall be closed to the public and remain confidential with the city attorney, unless it becomes necessary to reveal such disclosure information to prohibit or investigate violations of this article

(e) Verification of Financial Statement. A person required to file a financial disclosure statement must verify, in writing, under penalty of perjury, that the information in the statement is true and complete, as far as he or she knows.

(f) Advisory Opinions. Where any public officer or employee has doubt as to the applicability of any provision of this Code of Ethics to a particular situation or as to the definitions of terms used herein, he or she may apply to the city attorney for an advisory opinion. The officer or employee shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of the Code of Ethics before such advisory opinion is made.

Such opinion, until amended or revoked, shall be binding on the city, the city council and the city attorney in any subsequent actions concerning the public officer or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinions shall not be binding in any action initiated by any private citizen.

(g) Enforcement.

(1) The city attorney shall have the primary responsibility for the enforcement of this Code of Ethics. He or she shall have the power to investigate any complaint, to initiate any suit and to prosecute any criminal or civil action on behalf of the city where such action is appropriate.

(2) The city council may direct the city attorney to investigate any apparent violation of the Code of Ethics, or it may employ or appoint any qualified attorney to investigate any violation or series of violations of this Code of Ethics by one or more persons.

(3) Any person who believes that a violation of any portion of the Code of Ethics has occurred may file a complaint with the city attorney or with the city council who may thereafter, proceed with appropriate action. However, nothing in the Code of Ethics shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.

(4) The city attorney shall present his or her investigative findings to the mayor of the city if an alleged violation regards a city employee or to the city council if the person is an elected or appointed member.

(h) Violations And Penalties.

(1) Any public officer or employee who willfully and knowingly violates any of the provisions of this article shall be subject to the following penalties:

(a) Warning.

(b) Reprimand.

(c) Censure.

(d) In the case of appointed members of a city board or agency, removal from such position.

(e) In the case of elected or appointed members of the city council, submission to the Attorney General of Kansas or Leavenworth County Attorney of a request for review, investigation and appropriate action pursuant to state law.

(2) Any appointed or elected official who is the subject of an alleged violation shall have the right to present evidence on his or her behalf before the city council. Nothing in this article shall be construed nor operate to eliminate any of the procedures or rights afforded to city employees pursuant to the Basehor Personnel Rules and Regulations Manual.

(3) The city council may exempt from the provisions of this article any conduct found to constitute a violation by an appointed or elected official if it finds that the enforcement of this article with respect to such conduct is not necessary in the public interest.

(4) Any contract or transaction which was the subject of an official act or action of the city in which there is an interest prohibited by this Code of Ethics or which involved the violation of a provision of this Code of Ethics shall be voidable at the option of the city.

(5) The city attorney shall have the power, where a violation of the provisions of this Code of Ethics is threatened or has occurred, to bring civil action or proceeding at law or in equity for a judgment enjoining any violation of the provisions of this article or requiring the relinquishment of any prohibited interest or the voiding of any such contract or transaction, taking into account the interests of the city and any third persons who may be injured thereby. Where the city attorney determines that the public interest may best be served by not voiding a contract or transaction entered into in violation of this article, such contract or transaction may be enforced and an action or proceeding may be brought against any public officer or employee found in violation of provisions of this article for damages not to exceed twice the damages suffered by the city or twice the profit or gain realized by the public officer or employee, whichever is greater.

(i) Distribution of Code Copies. The city clerk shall cause a copy of this Code of Ethics to be distributed to every public officer and employee of the city within 30 days. Each public officer and employee elected, appointed or engaged thereafter shall be furnished a copy before entering upon the duties of his or her office or employment.

(j) Provisions Are Supplemental. The provisions of this article are supplemental to any and all applicable federal, state, county and city laws or regulations and shall not be construed to relieve the public officer or employee from compliance with any such laws or regulations.

(Ord. 285, Sec. 1)

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTMENT. The mayor, with the consent of the council, may appoint at the first regular meeting of the governing body in May of each year, the following city officers: A municipal judge of the municipal court, a clerk, a treasurer, a marshal-chief of police, law enforcement officers and such other officers as deemed necessary. The duties and pay of the various officers shall be regulated by ordinance. (C.O. No. 5, Sec. 2)
- 1-302. EMPLOYEES. The mayor shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 1989)
- 1-303. REMOVAL. (a) The following are designated as the current full-time employees of the city: city clerk, chief of police, and any full-time police officer. No full-time employee as defined shall be discharged from employment except for good cause.
- (b) As used in this section, good cause shall include, but is not limited to, the following reasons:
- (1) Material breach or failure to carry out all the terms and conditions of an employment contract.
 - (2) Habitual drunkenness and/or habitual drug use.
 - (3) Loss of any professional license necessary to carry out the essential functions of the job.
 - (4) Theft, embezzlement, or willful destruction involving city property or funds.
 - (5) Any other unprofessional conduct such as, but not limited to, the conviction of a felony, which makes the continued job performance impractical.
 - (6) Death of the employee.
 - (7) If at any time insurance which the city routinely carries for that level of employee cannot be economically maintained on the employee.
 - (8) Failure to carry out any lawful instructions of a supervisor or acting in a manner disloyal or in conflict with the interests of the city.
 - (9) Willful acts or omissions that are materially inconsistent with duties as an employee of the city.
 - (10) Absence from work for more than seven days without approval of the employer, excluding absences for legitimate medical reasons or as provided by the Family Medical Leave Act.
- (c) Termination under this section shall be without prejudice to any rights and remedies which the city may have against the employee.
- (d) The mayor, with consent of the council, may suspend any officer or employee without pay for good cause for a cumulative period of up to 30 days. No officer or employee shall be suspended without pay for more than 30 days unless the governing body, after giving such person notice and the opportunity for a hearing, shall determine that good cause for suspension or termination exists. (C.O. No. 5, Sec. 2)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person

appointed to fill such vacancy shall serve only until the next regular time for appointment, except that officers designated as full-time regular employees as provided in the employee personnel manual shall not be subject to annual reappointment in accordance with Charter Ordinance No. 5. (C.O. No. 5, Sec. 2)

- 1-305. CITY CLERK. The city clerk shall:
- (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
 - (b) Carry on all official correspondence of the city;
 - (c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
 - (d) Enter every appointment of office and the date thereof in the journal;
 - (e) Enter or place each ordinance of the city in the ordinance books after its passage;
 - (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.
- (Code 1989)
- 1-306. SAME; FISCAL RECORDS. The city clerk shall:
- (a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;
 - (b) Assist in preparing the annual budget;
 - (c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;
 - (d) Keep an accurate account of all bonds issued by the city;
 - (e) Keep a record of all special assessments.
- (Code 1989)
- 1-307. SAME; SEAL; OATHS. The city clerk shall:
- (a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;
 - (b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
 - (c) Keep suitable files of all such oaths required to be deposited in his or her office.
- (Code 1989)
- 1-308. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 1989)

- 1-309. CHIEF OF POLICE. There is hereby established the office of the chief of police. The chief of police shall be responsible for the daily operation of the police department. Duties shall include:
- (a) Develop, maintain and implement policies and procedures of the police department;
 - (b) Supervise, evaluate and discipline employees of the police department;
 - (c) Attend meetings of the governing body as directed and advise the governing body on matters relating to the police department;
 - (d) Perform other duties as may be prescribed by the governing body and the Kansas statutes.
- (Code 1999)
- 1-310. CITY SUPERINTENDENT. There is hereby established the office of the city superintendent. The city superintendent shall be responsible for the daily operation of the public works department. Areas of responsibility include city streets, rights-of-ways, parks, wastewater facilities, city owned buildings and vehicles. Duties shall include:
- (a) Develop, maintain and implement policies and procedures of the public works department;
 - (b) Supervise, evaluate and discipline employees of the public works department;
 - (c) Attend meetings of the governing body as directed and advise the governing body on matters relating to the public works department;
 - (d) Perform other duties as may be prescribed by the governing body and the Kansas statutes.
- (Code 1999)
- 1-311. CITY TREASURER. The city treasurer shall:
- (a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;
 - (b) Publish an annual financial statement;
 - (c) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;
 - (d) Keep an accurate account of all bonds issued by the city;
 - (e) Keep a record of all special assessments;
 - (f) Keep a current inventory of enterprise funds and general assets with a valuation of \$500.00 or more;
 - (e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
- (K.S.A. 10-803; K.S.A. 12-1608; Code 1999)
- 1-312. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
- (a) Attend meetings of the governing body when so directed to attend by the governing body;

- (b) Advise the governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
 - (c) When requested by the governing body, give opinions in writing upon any such questions;
 - (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
 - (e) Approve all ordinances of the city as to form and legality;
 - (f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
 - (g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;
 - (h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
- (Code 1989)

- 1-313. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for:
- (a) The design and specifications for all city streets, sewers, water lines, public buildings and other public facilities;
 - (b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;
 - (c) The general supervision of the maintenance and repair of all public facilities.
- (Code 1989)

- 1-314. CITY PLANNER; OFFICE; DUTIES. There is hereby established the office of city planner. The city planner shall be responsible to:
- (a) Develop, maintain and implement plans, regulations and polices regarding the subdivision and development of land within and adjacent to the city;
 - (b) Attend meetings of the governing body and the city planning commission as directed and advise city officials on matters related to city planning;
 - (c) Perform other duties as prescribed by the governing body, the planning commission and the Kansas statutes.
- (Code 1999)

- 1-315. CITY ADMINISTRATOR; OFFICE CREATED; APPOINTMENT; QUALIFICATIONS. (a) There is created and established the office of city administrator. Such city administrator shall be appointed by the mayor by and with the consent of the city council, and he or she shall serve at the pleasure of the council.
- (b) The city administrator shall be appointed on the basis of his or her qualifications and ability and must be a resident of the City of Basehor, Kansas. (Ord. 434, Sec. 1; Code 2007)

- 1-316. SAME; POWERS AND DUTIES. Except as otherwise provided by law, the city administrator shall have the following powers and duties:
- (a) To manage, direct, control and supervise all the administrative departments and services of the city;

- (b) To recommend to the mayor and city council and other boards for hiring and discharging appointive officers and employees;
 - (c) To prepare and submit the annual budget of the governing body and keep such body fully, completely and timely advised as to the financial condition of the city;
 - (d) To supervise, direct and assign the duties of all appointive officers and employees;
 - (e) To exercise general supervision and control over all city purchases and expenditures in accordance with the budget and such policies as may be established by the governing body;
 - (f) To recommend to the governing body a schedule of salaries for all officers and employees;
 - (g) To care for and manage all city-owned land, property, buildings and equipment;
 - (h) To develop and prepare such planning, short-range as well as long-range, as the governing body shall request and shall submit such planning to the governing body for action;
 - (i) To attend all meetings of the governing body and such other meetings of commissions and other organizations as the governing body shall designate and shall regularly report on the status of the city and its services to the governing body;
 - (j) To make such recommendations to the governing body as are deemed necessary for effective administration of all city services;
 - (k) To be responsible for the proper and efficient discharge of the duties of all city administrative officers and employees;
 - (l) To perform such other duties as the governing body may direct.
- (Ord. 434, Sec. 2; Code 2007)

- 1-317. SAME; ORDERS AND REPORTS; RECEPTION AND ISSUANCE THROUGH ADMINISTRATOR'S OFFICE. It shall be the general practice of the governing body to issue all orders and directives to all city officers and departments and receive reports and communications there from through the office of city administrator. (Ord. 434, Sec. 3; Code 2007)
- 1-318. SAME; COMPENSATION. The city shall pay to the City Administrator during the term of employment an annual salary to be determined by the governing body. The salary shall be payable in installments at the same time as other employees to the city are paid. (Ord. 434, Sec. 4; Code 2007)
- 1-319. 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 1989, 1-315)
- 1-320. 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.

(K.S.A. 75-4301; Code 1989, 1-316)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-401.

PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Basehor." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Basehor" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 1999)

ARTICLE 5. OATHS AND BONDS

- 1-501. OATH; AFFIRMATION. 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.
(K.S.A. 75-4308, 54-104, 54-106; Code 2007)
- 1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 1989)
- 1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:
- (1) City Treasurer - \$50,000
 - (2) City Clerk - \$50,000
 - (3) Assistant City Clerk - \$50,000
 - (4) Judge of the Municipal Court - \$1,000
 - (5) Police/Court Clerk - \$50,000
 - (6) Any clerical staff or any staff collecting, processing, or having contact with revenue (i.e. money, bank transfers, investments, deposits, etc.) - \$50,000
 - (7) City Administrator - \$50,000
- (b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.
(Ord. 486, Sec. 1; Code 2007)
- 1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city.
(K.S.A. 78-111; Code 1989)
- 1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1989)

- 1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1989)

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 1989)
- 1-602. RECORD CUSTODIANS. The record custodian(s) appointed and designated pursuant to this article shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record. (Code 1989)
- 1-603. 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 1989)
- 1-604. 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 1989)
- 1-605. 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 1989)
- 1-606. 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 1989)

1-607. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.

(Code 1989)

1-608. DUTIES OF CUSTODIANS. All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records. (Code 1989)

1-609. 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 1989)

1-610. 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 whenever the amount accumulated exceeds \$20.00, but 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. (Ord. 183, Sec. 5; Code 1989)

1-611. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$15.00 per hour, per employee, engaged in the record search. A minimum charge of \$5.00 shall be charged for each such request.

(Ord. 183, Sec. 2; Code 1999)

1-612. COPYING FEE. (a) A fee of \$0.50 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(Ord. 183, Sec. 3)

1-613. 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 \$10.00.

(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.

(Ord. 183, Sec. 4)

1-614. 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. (Ord. 183, Sec. 5)

ARTICLE 7. INVESTMENT OF PUBLIC FUNDS

- 1-701. PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:
- (a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.
- (b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (Code 2007)
- 1-702. ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES. (a) The governing body shall designate the banks, savings and loan associations and savings banks which shall serve as depositories of its funds. The clerk, treasurer or other city officer or employee having the custody of city funds shall deposit such funds only at the designated banks, savings and loan associations and savings banks. Only banks, savings and loan associations and savings banks that have main or branch offices in Leavenworth County shall be designated as official depositories. No such bank, savings bank or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.
- (b) The clerk, treasurer or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in Leavenworth County if satisfactory security can be obtained therefor and if not then elsewhere. In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.
- (c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a) and the city can obtain satisfactory security therefor. (Code 2007)

1-703.

DEFINITIONS. As used in this article the following words and phrases shall mean:

(a) Bank - means any bank incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(b) Savings and loan association - means any savings and loan association incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(c) Savings bank - means any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;

(d) Main office - means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(e) Branch - means any office within this state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;

(f) Investment rate - means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the federal reserve system for the previous week.

(Code 2007)

1-704.

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

(a) In temporary notes or no-fund warrants issued by the city;

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

(1) In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or

(2) If no main or branch office of a bank, savings and loan association or savings bank is located in the city, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located;

(c) In repurchase agreements with:

(1) Banks, savings and loan associations and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If no main or branch office of a bank, savings and loan association or savings bank, is located in the city; or

(B) If no such bank, savings and loan association or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such

repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or counties in which all or part of the city is located; or

(3) If no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the State of Kansas;

(d) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto;

(e) In the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(f) In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or

(g) In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in county or counties where city is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which the City of Basehor is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.

(h) The investments authorized in subsections (d), (e), (f) or (g) of this section shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in subsection (b), cannot or will not make the investments authorized in subsection (b) available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(i) In selecting a depository pursuant to subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks,

savings and loan associations or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.
(Code 2007)

- 1-705. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2007)
- 1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk and city treasurer and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 2007)
- 1-707. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2007)
- 1-708. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2007)

ARTICLE 8. COLLECTION PROCEDURE

- 1-801. ASSESSMENT AND NOTIFICATION. (a) The administration and collection of delinquent accounts due and owing to the City of Basehor shall be the responsibility of the Administration Department of the City of Basehor.
- (b) The Administration Department is hereby authorized, pursuant to provisions of this Ordinance, to initiate appropriate collection activities with regard to any individual or entity that is thirty (30) days delinquent in regard to any sum of money that is due and owing to the City of Basehor.
- (c) Any sum of money due and owing the City of Basehor shall be considered delinquent if it is not paid in full on or within thirty days (30) from the date of the City invoice or statement.
- (d) Prior to initiating any collection activity the Administration Department shall send a notice to the delinquent customer describing the amount that is due and owing to the City of Basehor and shall inform the delinquent customer that said account is delinquent and is being charged simple interest of twelve percent (12%) per annum commencing on the date thirty (30) days from the date of the first invoice or statement.
- (e) The notice shall also inform the delinquent customer that there is a late payment fee of forty five dollars (\$45.00) assessed to each billing cycle of a delinquent account.
(Ord. 491, Sec. 1; Code 2007)
- 1-802. SAME; PROCEDURE. (a) From the date of the adoption of this Ordinance, every statement of account or invoice issued by the City of Basehor shall disclose that all charges are due immediately upon receipt of the invoice or statement of account. It shall further state that if the invoice or statement of account is not paid within thirty (30) days of the date of the invoice or statement of account that the unpaid balance of the account will bear simple interest at the rate of twelve percent (12%) per annum.
- (b) That each invoice or statement of account shall also disclose that a late payment charge of Forty Five Dollars (\$45.00) shall be charged for each billing cycle for which a delinquent statement is being sent out to the delinquent customer.
(Ord. 491, Sec. 2; Code 2007)
- 1-803. SAME; ENFORCEMENT. (a) If the account remains delinquent for a period of more than Sixty (60) days, the Administration Department shall have the discretion to pursue collection of the delinquent account by any legal means. It may initiate a collection suit in small claims court; it may turn the delinquent account over to a collection agency; or it may turn the delinquent account over to the City Attorney for collection.
- (b) Furthermore, the administration department on behalf of the City of Basehor may refuse to provide future City services to the delinquent customer including but not limited to the issuance of building permits, occupancy permits, or any other City service until said delinquent account is paid in full with all interest and fees.
(Ord. 491, Sec. 3; Code 2007)

