

## **AGENDA**

### **BASEHOR CITY COUNCIL WORK SESSION**

**February 11, 2008**

**6:00 p.m.**

**Basehor City Hall**

1. Review specific funding options offered by KDOT as part of the 24-40 Corridor management fund.
2. Review the final report of the US 24-40 Corridor Study 2007
3. Review chapters 2-4 of the Code of the City of Basehor
  - a. Chapter 2 Animal Control
  - b. Chapter 3 Beverages
  - c. Chapter 4 Buildings and Construction

## AGENDA ITEM INFORMATION FORM

**Agenda Item:** Review specific funding options offered by KDOT as part of the 24-40 Corridor Management fund.

**Department:** Administration and Planning

**Background/Description of Item:**

Access or signal lights in the Basehor area on 24-40 Highway remain an item of great concern. The last formal response sent to KDOT was Resolution 2008-01, which spelled out the desire of the City to have signals at one-mile spacing and still keep the signal at 155<sup>th</sup> Street.

KDOT is planning on coming to the work session prepared to state what funding is available for Basehor if the Corridor Management plan is signed.

KDOT has expressed willingness to provide funding for access points and reverse frontage roads if the city will agree to the desired spacing on signalized intersections. They also agree with right-in/right-out access points at approximately ½ mile spacing between intersections.

The big question still remains the signal at 155<sup>th</sup> Street and whether KDOT will allow that signal to remain with signals at 150<sup>th</sup> and 158<sup>th</sup>, and if so, indefinitely or temporarily.

Thomas Dow, Bureau of Traffic Engineering at KDOT, has agreed to come to the city council work session.

**Funding Source:**

**Recommendation:** Offer feedback to KDOT on the options acceptable to the City of Basehor.

Prepared by: Carl E. Slaugh, City Administrator  
Council Date: Feb. 11, 2008

CITY OF BASEHOR, KANSAS

RESOLUTION NO. 2008- 01

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS REGARDING THE PLACEMENT OF FUTURE SIGNAL LIGHTS ON U.S. HIGHWAY 24-40 HIGHWAY IN THE BASEHOR, KANSAS AREA.

WHEREAS, the City of Basehor is a partner in the U.S. Highway 24-40 Corridor study to help set guidelines for future use of the corridor, and

WHEREAS, the goal of the City is to help achieve a balance between access to promote economic development, safety factors and smooth flowing freeway-style traffic, and

WHEREAS, there is already a signal light at 155<sup>th</sup> Street and businesses have built up around that signal light and the high school, post office, fire department, police station and City Hall are on 155<sup>th</sup> Street, making it the main street of Basehor, and

WHEREAS, additional signal lights and full access intersections will be required to accommodate traffic flow and promote economic development,

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

1. The Basehor city council requests that the signal light at 155<sup>th</sup> Street and U.S. 24-40 Highway remain.
2. The Basehor city council requests additional full access intersections at 142<sup>nd</sup>, 150<sup>th</sup>, 158<sup>th</sup>, 166<sup>th</sup>, and 178<sup>th</sup> Streets as the city develops and the need exists.

ADOPTED THIS 10<sup>th</sup> DAY OF JANUARY 2008



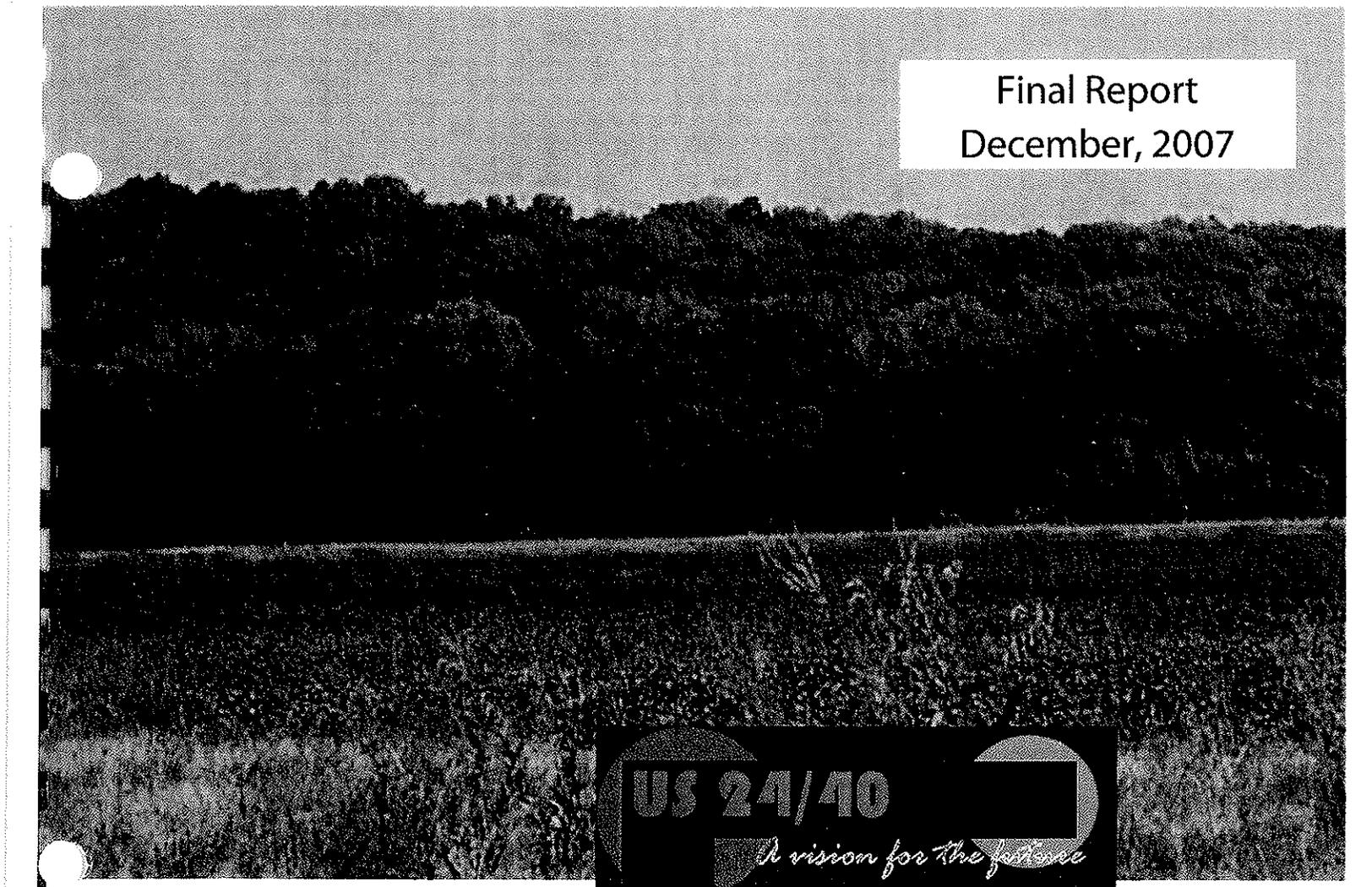
ATTEST:

CITY OF BASEHOR, KANSAS

By:   
Mayor

  
City Clerk

Final Report  
December, 2007



US 24/40

*A vision for the future*

# The US 24/40 Corridor Study 2007

## Executive Summary

### Background

Economic growth in southern Leavenworth County over the past decade has been strong. As both the number of business and residences has continued to increase, the need for better management of the public infrastructure has also increased. The Kansas Department of Transportation (KDOT) has invested transportation funds in the improvement of US-24/40 through Leavenworth County to upgrade the highway from two lanes to four lanes. Because of the significant public investment in providing this improvement, it is important that the intended function of the highway be preserved as a safe and efficient transportation corridor. The improvement of the highway to four lanes has improved the mobility and safety of motorists in Leavenworth County.

Citizens of Leavenworth County have recognized that US 24/40 is a transportation resource that must be preserved for that purpose. The US 24/40 Corridor Study was initiated by state, regional, county and city officials and staff to preserve the transportation investment made in US 24/40. The project was initiated through the cooperation of the cities of Basehor and Tonganoxie, Leavenworth County, KDOT, and the Mid-America Regional Council (MARC). This consortium selected the firm of Bucher, Willis and Ratliff Corporation (BWR), in cooperation with Jane Mobley Associates, Richard Caplan and Associates, and ETC Institute to assist them in the completion of the US 24/40 Corridor Study.

### Purpose

The purpose of the study was to protect and preserve the transportation investment within the corridor by implementing sound corridor land use and transportation planning and management principles. Throughout the 14 month study duration, the public was invited through several different forums to provide meaningful input in developing community values to be embodied in the study. Those values included the desires to maintain a high level of mobility and safety on the highway, to preserve the rural drive experience of US 24/40, and to foster orderly economic growth in southern Leavenworth County.

The study defined guidelines for managing traffic, access, land development densities, and design standards and set forth an implementation plan to achieve the study recommendations.

### Study Area

The Study Corridor encompassed one mile either side of US 24/40 from Honey Creek Road on the west to K-7 on the east. Figure ES-1 depicts the study corridor. A larger area of Leavenworth County was considered with respect to its influence on the study corridor. This larger planning area included all of Leavenworth County south of Dempsey Road, as depicted in Figure ES-1.

*(This page left blank intentionally)*



*(This page left blank intentionally)*

## Recommendations

The recommendations that came out of the public involvement and technical review included development of:

- A plan for development densities by “transects” that help the county and the cities relate their land use plans and zoning policies to the corridor plan,
- Policies for development densities,
- A long range plan for access and traffic management,
- Identification of short range opportunities for access and traffic management,
- Policies for access and traffic management, and
- Design guidance for buildings, landscaping and buffers, lighting, signage, and drive experience.

An implementation plan identifies both short term and ongoing long term activities to achieve the recommendations. An important element of the implementation plan is the continuation of a project management team comprised of the partner jurisdictions that will continue to oversee the plan progress.

## Development Plans and Policies

The land density recommendations have been tied to land density zones (or “transects”) that reflect the current long range land use plans of Leavenworth County, the city of Basehor, and the city of Tonganoxie. While it is anticipated that the zone boundaries will change over time, the underlying philosophy is to encourage development to occur contiguous to the two cities where new development can be supported by city services. The transects describe land use patterns (rural-to-urban, and back again urban-to-rural) and complement city and county land use and zoning policies.

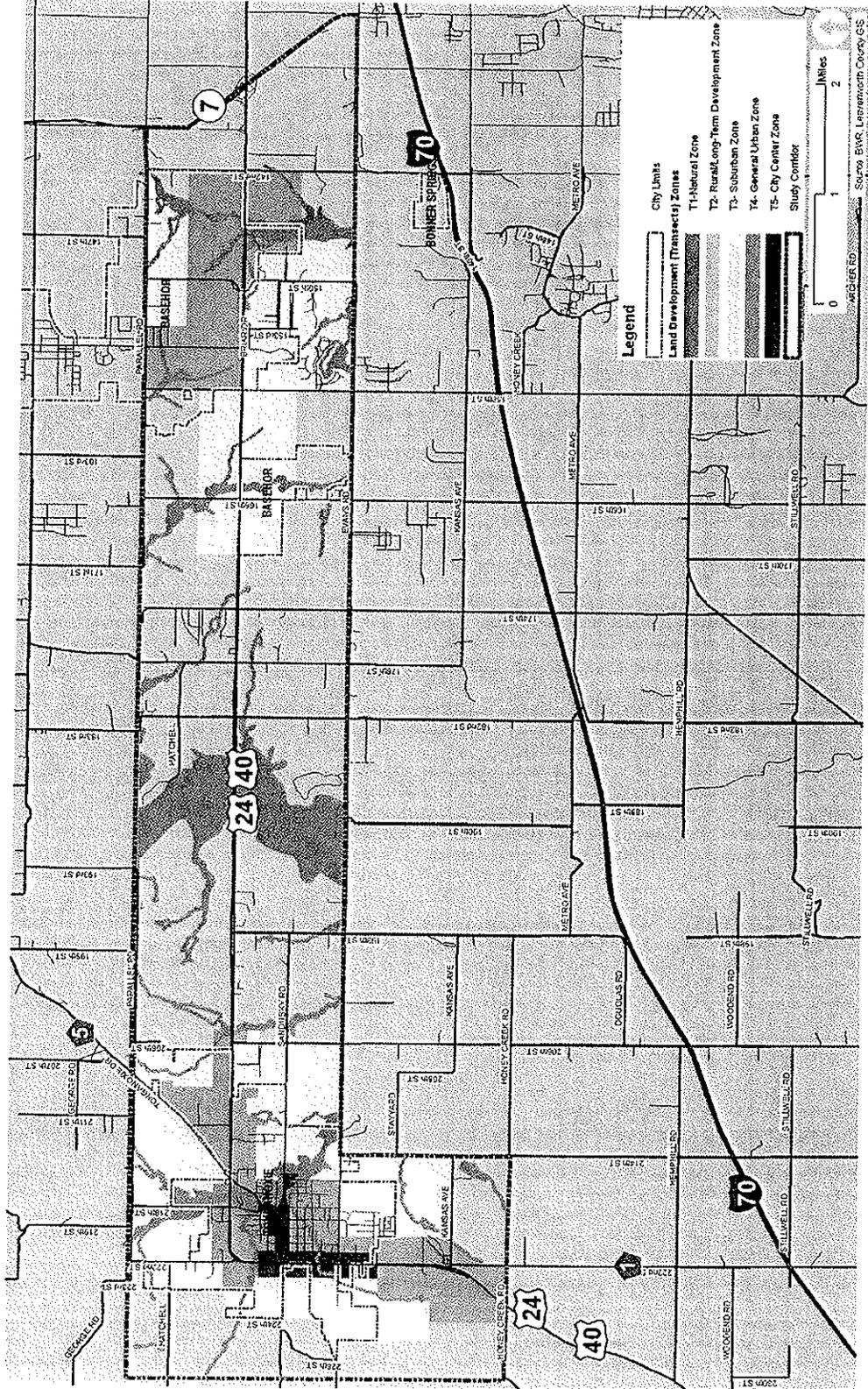
The local land use polices and regulations relate to transects—but, they serve different purposes. Transects are not local regulatory policies, rather, they are planning constructs that help frame the corridor land use analysis. As the land uses along 24/40 “transect” from urban-to-rural and back to urban, the development impacts change. The local land use regulations impose local land use authority. The transects “frame” or describe the land use transitions, but they do not regulate the way local zoning and subdivision ordinances do.

So what is the ultimate goal or “test” of an effective corridor plan? (After all, the plan covers only a 2-mile wide swath through south Leavenworth County.) The plan has engaged the entire regional community and the local jurisdictions. The corridor issues have spill-over effects and implications beyond the 2-mile corridor. Local jurisdictions are asked to adopt the plan recommendations through amendments to their own land plans and zoning and subdivision regulations (such as in overlay districts). Indeed, some of the solutions can be effective only if implemented at the local levels. For example, local street grid systems and parallel collector streets must be planned and platted outside the US 24/40 Highway right-of-way. The corridor study shows how these local street grids can (and must) relate to the highway, and how to adopt these local land use plans and policies.

The transects represent development that continues from T-1 (natural) to T-5 (City center). **Figure ES-2** depicts the transect zones for the corridor.

*(This page left blank intentionally)*

Figure ES-2: Transect Plan



*(This page left blank intentionally)*

## Traffic and Access Management

The recommended long range (2030) traffic and access management plan must envision the transportation system needed to support the future land development. For US 24/40 to retain a high level of mobility and safety, a supporting system of arterial and collector streets will be needed to complement US 24/40. Figure ES-3 depicts the major street system that will be needed in the future. It also depicts the locations where full access to the highway will be permitted. Only right turns will be permitted at those locations where the major streets intersect US 24/40 and where full access has not been designated. It is anticipated that only those locations with full access will be permitted to have a traffic signal, and then only when the intersection meets appropriate warrants and only in consultation between local jurisdictions and KDOT.

Transportation policies governing highway access must be adopted to maintain the integrity of US 24/40 as an effective transportation facility. These traffic and access management policies have been summarized in the following statements:

- New entrance permits onto US 24/40 should be provided for public streets only.
- Streets with entrance permits onto US 24/40 must connect to all adjacent properties.
- Proposed plats of all properties within the two mile corridor must provide street connections to all the adjacent properties.
- The first access onto any street intersecting US 24/40 shall not be less than 400 feet away from the edge of the US 24/40 pavement.
- Traffic signals will be installed only where necessary and permitted by KDOT, and only where full access is allowed.
- All new intersections with US 24/40 should include right and left turning lanes off and onto US 24/40 as applicable.
- A traffic study shall be performed by a licensed traffic engineer for each requested access to US 24/40.

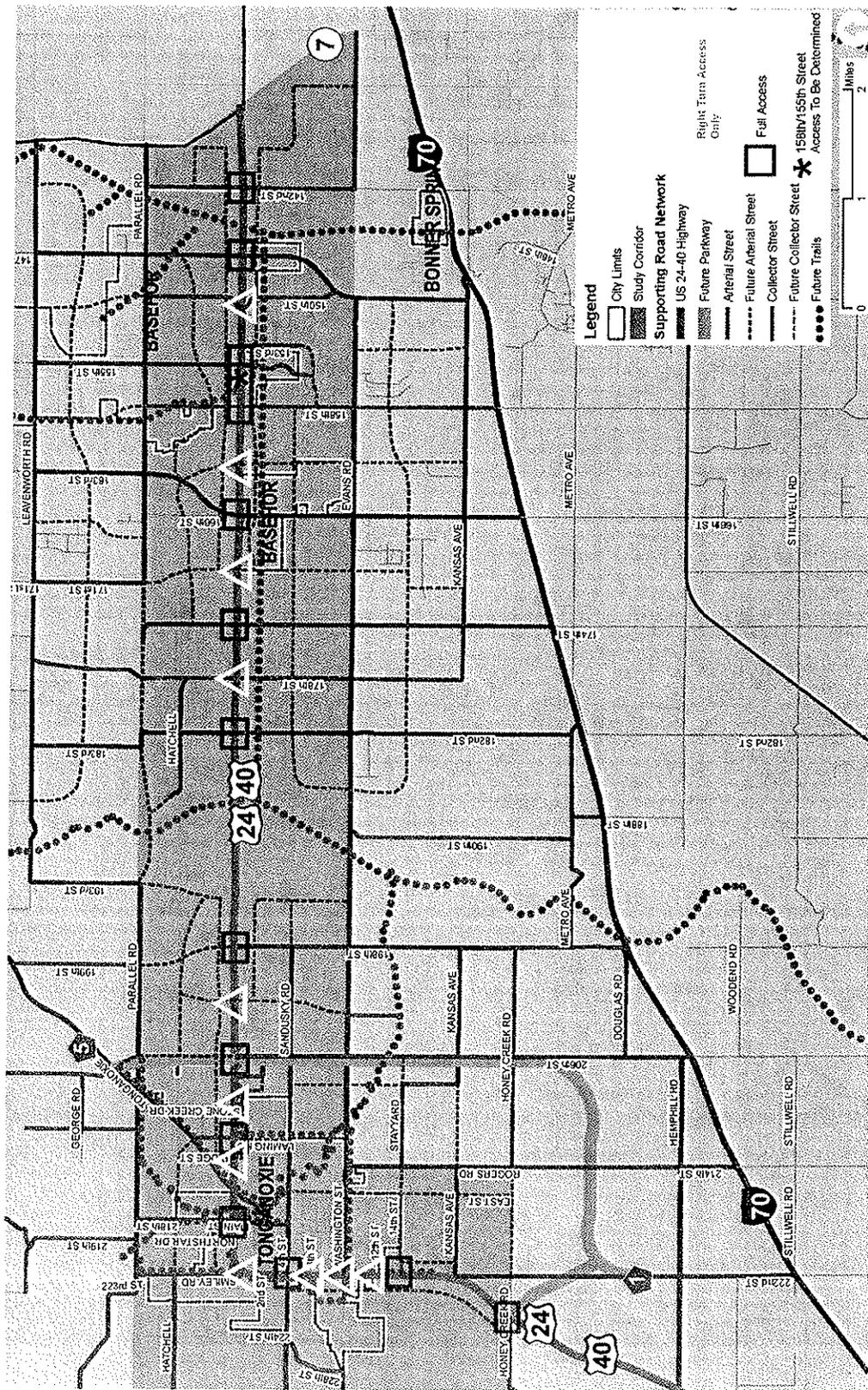
The recommendations of the long range traffic and access management plan are that full access will be limited to only the following intersecting streets in the corridor:

- County Road 1
- 14th Street
- 4th Street
- Main Street
- Laming Road
- 206th Street
- 198th Street
- 182nd Street
- 174th Street
- 166th Street
- 158th Street or 155th Street (still to be determined)
- 147th Street
- 142nd Street

Other recommendations of the long range traffic and access management plan on the corridor include:

- Medians will be constructed the full length of the corridor, with two lanes in each direction by such time that traffic volume thresholds reach the demand for four lanes throughout.
- Existing access in between the full access points will be restricted to right turn only by such time that alternative traffic circulation has been provided for through reverse frontage roads.
- Reverse frontage roads will be constructed to provide alternative traffic circulation and access for properties fronting US 24/40.

Figure ES-3 Long Range (2030) Access and Major Roadway Plan



*(This page left blank intentionally)*

## Design Policies

The citizens of southern Leavenworth County and the cities of Basehor and Tonganoxie were interested not only in managing the function of their transportation system and development patterns, but also in better directing the future form of transportation and land use in the corridor. One of the outcomes of the study was to identify design guidelines appropriate to the rural and urban development zones. Guidelines were developed for:

- Drive experience
- Pedestrian experience
- Median landscape treatments
- Buffers and screening
- Roadway lighting
- Parking lot lighting
- Building lighting
- Monument signs
- Wall signs
- Pole signs
- Gateway monuments
- Commercial building design
- Industrial building design
- Local and regional commercial building design
- Light industrial building design
- Moderate and high density residential building design

## Implementation

An implementation plan was developed to identify the specific responsibilities for activating the plan. It is the intent of the plan that the corridor study report be adopted by reference as part of the Leavenworth County, city of Basehor, and city of Tonganoxie comprehensive plans. Following the adoption of this Corridor Study by the local governments, it is anticipated that the partner agencies will sign an interlocal agreement which will outline the intent of the agencies to support the corridor study recommendations. It is this common commitment of the partner jurisdictions to carry out the Corridor Study which will ensure that the recommendations are completed in accordance with the expectations of the citizens of Leavenworth County, Basehor, and Tonganoxie. It is expected that the partner agencies will continue to meet at regular intervals to review the progress towards implementing the plan.

## Existing Conditions: Traffic and Transportation

### Introduction

Roadways fulfill two primary functions: mobility and access. Mobility is basically the ability to move quickly from place to place. Access refers to gaining entrance to a property. Generally, these two purposes of a roadway are in competition with each other. One of the challenges for the Corridor Study was for the stakeholders in southern Leavenworth County to reach agreement, or at least give consent, as to the proper balance of the access and mobility functions in the corridor, now, and in the future as the corridor changes.

The corridor is critical to the growth of development in southern Leavenworth County. It serves as a unique transportation resource that serves as the most important thoroughfare for southern Leavenworth County, Basehor, and Tonganoxie. Because of the great cost of constructing the US 24/40 Highway facility, it is important to protect and enhance the highway's primary function of mobility, and to carefully manage its function of access. However, US 24/40 must also provide access to the supporting system of roads that can in turn also provide access to properties, most probably through signalized intersections.

Roads must provide access and mobility, but must also do so in a safe manner. Wherever there are occasions for vehicles to come into contact with other vehicles—as when one vehicle is traveling at a different speed or a different direction from another vehicle—there is a potential for a collision. These possible conflicts most often occur at intersections, where vehicles change both speed and direction. Because collision experience is most often related to intersections, reduction in the number of intersections can also provide reduction in accidents. As traffic volumes increase in the future, the number of accidents may also increase, unless the number of access points is correspondingly decreased.

A review of the corridor's existing mobility, access, and safety also included consideration of occasional on demand transit and bicycle use. No special accommodations to US 24/40 are needed to support the County's existing on demand dial-a-ride service. No specific accommodations have been provided for bicycle use along US 24/40.

### Roadway Capacity Analysis

The capacity of a roadway to carry traffic depends not only on the number of lanes, but also on the number of traffic signals and driveways along the road. For example, a freeway can carry more traffic per lane than a city street because freeway access is completely controlled, as opposed to a city street, which has frequent intersections.

The Transportation Research Board has produced methodologies to quantify the quality of roadway operations for multi lane highways, two lane highways, and urban streets in the *Highway Capacity Manual* (HCM). The HCM describes the quality of roadway operation in terms of level of service (LOS) for multi lane highways, two lane highways, and urban streets.

These grades of operation are expressed in terms of LOS A through LOS F, for the best operation through the worst. Because these types of roadways are so different in their characteristics, the equations used to determine the LOS are different. However, in all cases, LOS can be somewhat correlated with traffic volumes, number of lanes, and speeds. Traffic volumes, number of lanes, and speeds vary significantly on US 24/40 Highway throughout the corridor. For example, slower speeds of 30 mph to 55 mph in Tonganoxie result in a LOS B as opposed to the LOS A in the rural section of US 24/40 where the posted speed is 65 mph. Furthermore, it can be expected that the character of US 24/40 will change over time from a highway into an urban highway with traffic signals.

**Figure 2-1** depicts the 2006 daily traffic volumes on US 24/40 Highway and the posted speed limit sections in the corridor. Using the methodologies from the HCM for the different sections of the highway, LOS for each section has been identified in **Figure 2-2**. Figure 2-2 also depicts the ratio of the traffic volume to the highway's capacity to carry traffic at LOS C. The capacity of the highway to carry traffic was determined for the number of vehicles that can be accommodated under LOS C conditions. In general, the sections of the highway in west Tonganoxie and south of Tonganoxie where speeds and/or number of lanes are reduced currently operate at LOS C. This section can accommodate an additional 1200 vehicles per day and still remain at level of service C without widening of the highway. It is recommended that traffic volumes in west Tonganoxie and south of Tonganoxie on US 24/40 continue to be monitored with respect to the need to widen the existing two lane highway section. Through the remainder of Tonganoxie and through Basehor the LOS is B. The rural section of the highway between Basehor and Tonganoxie currently operates at LOS A. These four lane sections provide ample capacity to remain at a high level of service.

## Roadway Access

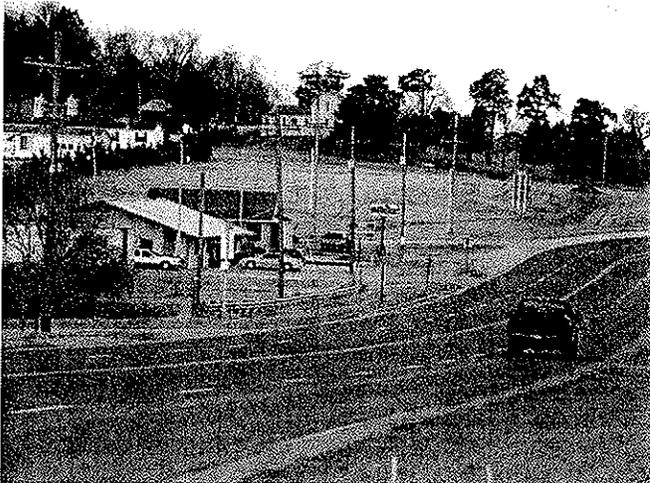
One of the challenges for the Corridor Study was for the stakeholders in southern Leavenworth County to reach agreement, or at least consent, as to the proper balance of the access and mobility functions in the corridor now, and in the future as the corridor changes. The existing access patterns along US 24/40 originated in response to the adjacent land developments requesting access in the way most economical for the property development: direct access onto the adjacent highway. Having once obtained the access permits, those properties have thereafter continued to have direct access onto US 24/40. One of the purposes of this study and the resultant plan is to establish the appropriate balance between access and mobility in the corridor. US 24/40 Highway must provide sufficient mobility to move traffic from the regional business and residential centers to the land developments along the corridor, and the supporting roadway system must provide access to those developments.

The Kansas Department of Transportation (KDOT) has developed an access management policy for the highways under its jurisdiction, the *Corridor Management Policy*. This policy contains a matrix of minimum allowable access spacing based on type of highway, land uses being served, traffic volumes, and vehicle speeds. The matrix provides minimum allowable access spacing for US 24/40 Highway that varies from 135 feet in the low speed developed sections to 2640 feet in the high speed undeveloped sections. It must be emphasized that these distances are *minimums* to be applied to accommodate the need for property access under past development patterns. This study provides Leavenworth County and the cities of

Basehor and Tonganoxie an opportunity to establish access management guidelines that will better serve the corridor in terms of appearance, mobility, and safety. US 24/40 is classified as a B Route by the *Corridor Management Policy* in that a corridor study has been completed for the route.

It must be further emphasized, that as development patterns change and traffic volumes increase, application of the KDOT minimum spacing criteria throughout the corridor will result in a deterioration of mobility on US 24/40 Highway. An enhancement of mobility on the highway does not necessarily mean that existing driveways will be closed for the current property owners, or that future developments and redevelopments will not have access. What it means is that as new development or redevelopment occurs, access permits will be more restrictive than the minimums outlined in the *Corridor Management Policy*. New access will be provided as necessary to support the developments in the corridor, but will be shared between multiple parcels, so that new shared public access locations may eventually be spaced one quarter, one half, or even one mile apart. It is recommended that KDOT, the cities, and the county pursue access management opportunities throughout the corridor, as described in Section 7 of this report.

KDOT maintains an inventory of existing access locations along US 24/40 Highway which is summarized in **Table 2-1**. Most of these access points (122 of 153) serve individual properties as the picture below shows. Ideally, an important facility such as US 24/40 Highway should be dedicated to primarily providing mobility to the public, with necessary access provided to public streets, rather than serving as a multi-million dollar facility to serve a few properties. None of the 122 private access points meet the minimum spacing requirements of the *Corridor Management Policy*. Of the public access points, the spacing between Washington and Grace, 4<sup>th</sup> and 5<sup>th</sup>, and Village Terrace and Woodfield in Tonganoxie also do not meet the minimum spacing requirements in the *Corridor Management Policy*.



(Example Private Access)

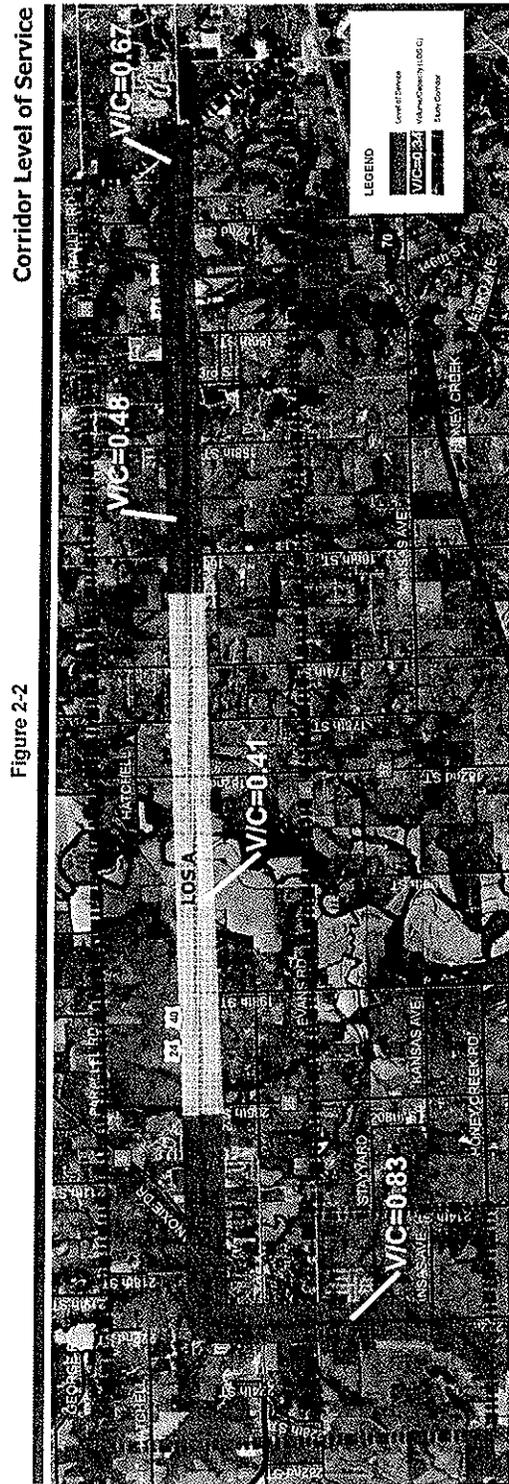
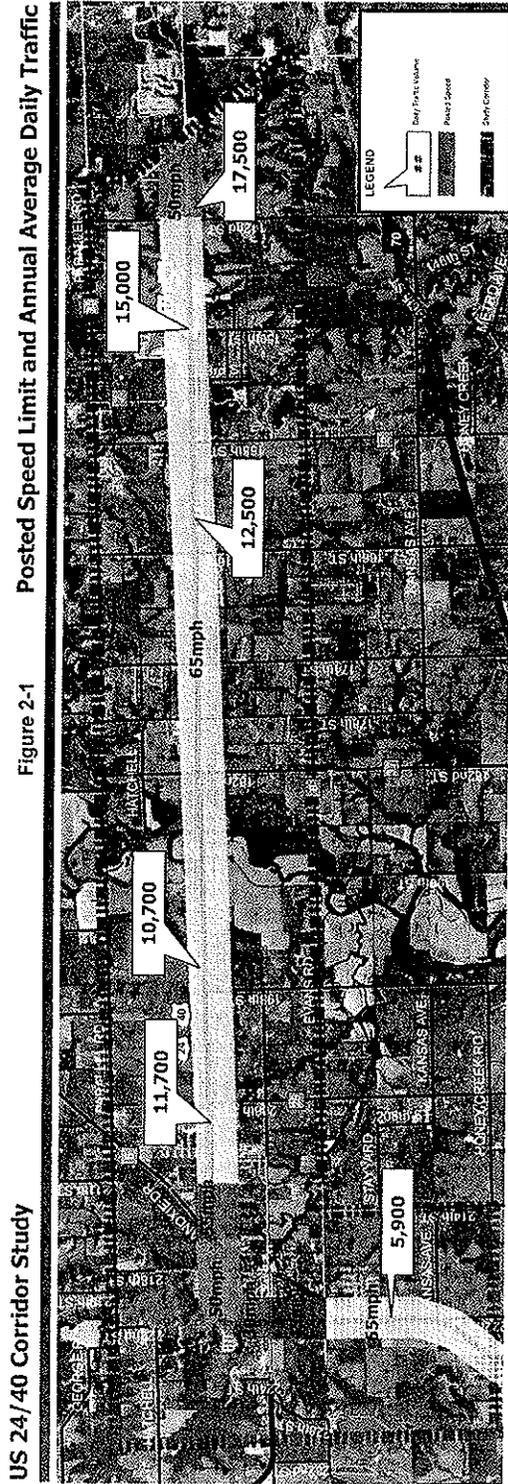
Table 2-1: Driveways by Type and Surface Width

| Driveway Surface         | Number of Driveways by Surface Width |        |        |                           |        | Sub-Total |
|--------------------------|--------------------------------------|--------|--------|---------------------------|--------|-----------|
|                          | 12 ft.                               | 18 ft. | 24 ft. | 36 ft.                    | 48 ft. |           |
| Private Access Driveways |                                      |        |        |                           |        |           |
| Asphalt                  | 61                                   | 12     | 16     | 1                         |        | 90        |
| Concrete                 | 8                                    | 2      | 4      |                           |        | 14        |
| Gravel                   | 13                                   | 2      |        |                           | 1      | 16        |
| Turf                     | 2                                    |        |        |                           |        | 2         |
|                          |                                      |        |        | Total Private             |        | 122       |
| Public Access Driveways  |                                      |        |        |                           |        |           |
| Asphalt                  |                                      | 5      | 22     |                           |        | 27        |
| Gravel                   | 3                                    |        | 1      |                           |        | 4         |
|                          |                                      |        |        | Total Public              |        | 31        |
|                          |                                      |        |        | Total Number of Driveways |        | 153       |

Source: KDOT

The Institute of Transportation Engineers (ITE) publication *Traffic Engineering Handbook* identifies spacing of access appropriate to maintaining safety. When the speed differentials between vehicles slowing to turn and through vehicles continuing down the road are high, the potential for severe collisions is greater. For posted speeds of 30 mph, ITE recommends all access spacing be no less than 210 feet, and no less than 550 feet for a posted speed of 55 mph. Those spacing standards equate to 25 driveways per mile and 10 driveways per mile, respectively. Sections of US 24/40 Highway through both Basehor and Tonganoxie exceed the number of recommended access points per mile.

Where the density of access points is greater than the ITE density thresholds, collision potential can be somewhat mitigated through a variety of access management strategies, including construction of raised medians, center two way left turn lanes and right turn lanes, consolidation of driveways, and improvement of driveway design standards.



**Blank page – back of 11 x 17**

## Traffic Safety Analysis

Roads must not only provide access and mobility, but should do so safely. Wherever there are occasions for vehicles to come into contact with other vehicles, such as when one vehicle is traveling at a different speed or a different direction from another vehicle, there is a potential for a collision. These possible conflicts most often occur at intersections where vehicles change both speed and direction. **Figure 2-3** illustrates the number of ways in which vehicles can potentially conflict. The figure illustrates that a full access intersection provides 36 ways that a collision can occur, while more restrictive access reduces the number of potential conflict points.

KDOT provided a summary of three years of vehicle collision experience for the corridor. Three years is a typical time frame appropriate for reviewing and evaluating collisions history. A review of the collision history on US 24/40, and a review of the corridor, were conducted for the years 2003, 2004, and 2005. The records show 260 collisions. Of the 260 collisions, 3 resulted in fatalities, 56 resulted in injuries, and the remaining 201 resulted in property damage only; 147 involved only one vehicle. Typically, single vehicle collisions are not related to highway access. The contributing causes for the 113 multi-vehicle collisions have been summarized in **Table 2-2**.

**Table 2-2: Multi-Vehicle Collision Contributing Factors**

| Contributing Factors                    | Number of Collisions |
|---|----------------------|
| Under influence of alcohol              | 3                    |
| Failed to yield                         | 23                   |
| Disregarded signs, signals, or markings | 3                    |
| Too fast for conditions                 | 1                    |
| Improper turn                           | 1                    |
| Wrong side or wrong way                 | 5                    |
| Following too close                     | 10                   |
| Improper lane change                    | 5                    |
| Asleep                                  | 3                    |
| Inattention                             | 29                   |
| Ill                                     | 1                    |
| Mobile phone or electronic distraction  | 2                    |
| Glare                                   | 1                    |
| Cargo                                   | 2                    |
| Unspecified                             | 24                   |

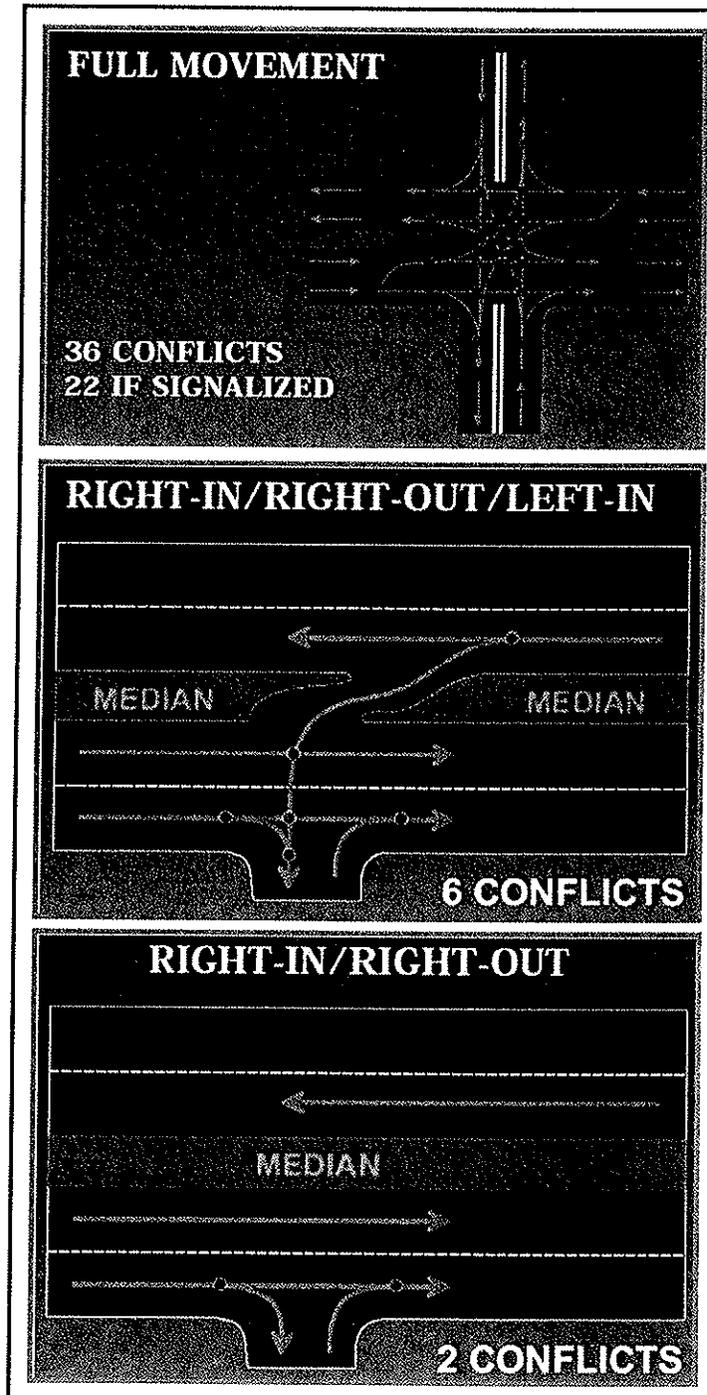
KDOT evaluates collision experience on highways in terms of the number of accidents per million vehicle miles traveled (VMT). Using the statewide collision experience as a basis, they have determined different average collision rates for different types of highways. The study section of US 24/40 contains three types of highways: two lanes, four lanes undivided, and four lanes divided. The number of collisions per million VMT has been determined for each of the three sections of US 24/40 and compared to the statewide average, and to the driveway density on a per mile basis. **Table 2-3** summarizes these comparative rates for the three section of US 24/40.

**Table 2-3: Comparison of Collision Rates and Driveway Density**

| Type of Section   | Length of Section (miles) | Collision Rate (per million VMT) | Statewide Average (per million VMT) | Driveway Density (number per mile) |
|-------------------|---------------------------|----------------------------------|-------------------------------------|------------------------------------|
| 2 Lanes           | 1.496                     | 2.897                            | 1.641                               | 22.73                              |
| 4 Lanes Undivided | 1.741                     | 2.511                            | 2.378                               | 26.42                              |
| 4 Lanes Divided   | 8.609                     | 1.324                            | .0988                               | 8.48                               |

The comparison of these statistics would seem to indicate that there is a relationship between access management through the provision of medians and reduction in the number of driveways, with a lesser collision rate. In all cases, the US 24/40 collision rates are higher than the state average. Also, fewer driveways per mile, combined with a median (an access management tool), gives the lowest collision rate on the corridor. As traffic volumes increase in the future, it could be expected the number of accidents will also increase. However, implementation of this Corridor Study will provide opportunities to offset rising accident rates through the applications of medians, driveway reductions, and other access management tools. It is recommended that KDOT, the cities, and the county actively pursue opportunities for improved access management, as presented in Section 7 of this report.

Figure 2-3: Potential Conflicts



Applications of full or partial medians reduce the number of potential conflict points.

## **Transit Service**

The US 24/40 Highway Corridor is currently not serviced by any form of public transportation. Countywide, the form of public transportation available is a paratransit (i.e., demand responsive or dial-a-ride type of transportation service) provided by the Leavenworth County Council on Aging. The dial-a-ride service is available for medical, education, personal business, shopping, employment, meals, and recreational trip purposes. Advance reservation is required. Service is available only during weekdays between 8:00 a.m. to 3:00 p.m. It is available for residents in Leavenworth County including the cities of Leavenworth, Lansing, Fort Leavenworth, Tonganoxie, Easton, Basehor, Linwood, and Reno.

Furthermore, the land use patterns indicate a significant portion of the residents in the corridor must work outside the corridor. This commuting pattern provides opportunities for carpooling. It is recommended that KDOT, the cities, and the county promote carpooling as opportunities to do so arise.

## **Bicycle Level of Service Analysis**

US 24/40 Highway varies from a 4-lane divided section west of K-7 Highway to Tonganoxie where it changes to a 5-lane section from Laming Road to just south of 2<sup>nd</sup> Street. The highway then becomes a 4-lane section with no medians to just south of 5<sup>th</sup> Street before it transitions to a 2-lane undivided section to the west end of the study area. The highway has paved shoulders on both sides that vary in width from 10 feet along the 4-lane divided section to 4 feet along the 2-lane undivided section. Bicycle operation along the highway is not encouraged.

Currently, there are no marked bicycle lanes and no off-road regional trail accommodations in the corridor. However, there are paved County roads throughout the corridor that would provide some level of accommodation to bicyclists and limited segments of local bicycle trails that can connect into future regional trails. It is recommended that the cities and county promote bicycling outside the venue of US 24/40 as a highway corridor.

## Roadway Right-of-Way Inventory

The width of existing right-of-way for US 24/40 Highway is of interest because right-of-way provides a limitation on the number of through and auxiliary lanes which can be added to the existing highway without acquiring private property. In the rural sections of the highway, acquisition of right-of-way, while costing money, generally does not cause a significant devaluing of the remaining property. Within the developed sections of the corridor, right-of-way acquisition could affect building setbacks, parking areas, driveways, sidewalk, utilities, and other infrastructure features. This not only increases the cost of the right-of-way but may also impact the usability of the remaining property. Thus, an awareness of whether additional right-of-way will be required for improvements to US 24/40 Highway is relevant to the feasibility and costs of providing future improvements to the corridor.

Highway right-of-way widths vary throughout the corridor from approximately 100 feet to more than 400 feet wide. Generally, a greater right-of-way width is required where ditches provide surface drainage than where enclosed storm sewers are used with curbs. The rural portions of US 24/40 Highway carry surface drainage in ditches, and thus the highway requires wider right-of-way widths. The four and five lane sections of the highway generally have sufficient right-of-way width to accommodate any additional auxiliary lanes which may be needed in the immediate future. More than 4 through lanes are not anticipated within the 2030 planning horizon of this study.

The existing highway sections of less than four lanes plus a median or center turn lane will require acquisition of additional right-of-way for any widening of the highway. Acquisition of right-of-way in the four lanes without median or center turn lane section or in the two lane section may involve total property takings because of the existing building setbacks in those sections. Consequently, proposals for widening should be considered only as needed to enhance safety or for needed traffic capacity. Right-of-way needs through these sections can be minimized through the construction of a curb and gutter roadway template instead of the shoulder and ditch template used through the rest of the corridor for the highway. It is recommended that as development proposals are submitted to the cities and county for review and approval, additional right of way be dedicated to support the short range and long range traffic and access management recommendations described in Section 7 of this report.

# Existing Conditions: Economic Market Assessment

## Introduction

The US 24/40 Corridor Study examined existing conditions as they related to economic and commercial market assessments, existing land use, and existing traffic conditions. The traffic analysis included an inventory of existing access to the highway and traffic circulation. To formulate recommendations for land use development, traffic controls, access management, and related public policies, this study assessed economic market trends, both near-term and long-term.

## Economic Conditions and Market Assessment

Growth over the past decade in the corridor has been strong. The number of business establishments, employment opportunities, and the size of the local civilian labor force outpaced both Leavenworth County and the Kansas City metropolitan area as a whole.

### Existing Economic Conditions

#### Total Business Establishments

Business growth in the corridor from 1994 to 2004 is summarized in **Table 3-1**. During that period the number of business establishments grew rapidly as evidenced by:

- Leavenworth County doubled the State of Kansas in the rate of growth for new business establishments.
- The number of businesses in the corridor grew at more than double the rate of Leavenworth County – 48% in the area compared to 17% for the county.
- The percentage of the county's business establishments among the corridor's communities has increased from 19% to 24%.
- The Basehor area nearly doubled the number of business establishments while Tonganoxie grew by over 21%.

**Table 3-1: Total Business Establishments 1994 – 2004**

|  | 1994   | 1998   | 2004   | 1994 – 2004 |
|--|--------|--------|--------|-------------|
| Basehor (66007; northern portion of 66012)           | 76     | 116    | 143    | 88%         |
| Tonganoxie (66086)                                   | 115    | 124    | 140    | 22%         |
| 24 / 40 Corridor Planning Area Total                 | 191    | 240    | 283    | 48%         |
| Leavenworth County                                   | 1,001  | 1,089  | 1,175  | 17%         |
| US 24 / 40 Planning Area Share of Leavenworth County | 19%    | 22%    | 24%    | N / A       |
| Kansas   | 69,802 | 74,019 | 75,827 | 8%          |

Source: U.S Bureau of Economic Analysis.

### Local Civilian Employment

The number of local jobs in the corridor grew more rapidly than the number of businesses from 1994-2004 as demonstrated by **Table 3-2**.

- Employment opportunities in Leavenworth County grew at double the rate of growth of the Kansas City metropolitan area (MSA).
- The number of employment opportunities in the corridor grew at more than three times the rate of Leavenworth County – 75% in the corridor compared to 23% for the County.
- The percentage of Leavenworth County's total employment opportunities found among the corridor's communities increased from 11% to 15%.
- The Basehor area has five times the county's employment growth while Tonganoxie grew by 43% during the same period, almost double the employment growth for Leavenworth County as a whole.

**Table 3-2: Local Civilian Employment 1994 – 2004**

|   | 1994    | 1998    | 2004      | 1994 – 2004 |
|---|---------|---------|-----------|-------------|
| Basehor (66007; northern portion of 66012)        | 602     | 791     | 1,295     | 115%        |
| Tonganoxie (66086)                                | 751     | 856     | 1,071     | 43%         |
| 24 / 40 Corridor Planning Area Total              | 1,353   | 1,647   | 2,366     | 75%         |
| Leavenworth County                                | 12,411  | 14,079  | 15,210    | 22%         |
| 24 / 40 Planning Area Share of Leavenworth County | 11%     | 12%     | 15%       | N / A       |
| Kansas City MSA                                   | 877,600 | 966,500 | 1,011,040 | 15%         |

Source: U.S. Bureau of Economic Analysis

### South Leavenworth County Labor Force Characteristics

Growth of labor force during the 1990's as reported by the US Census is summarized in **Table 3-3**. Noteworthy highlights include:

- The South Leavenworth County labor force grew by 25.6% during the 1990's versus 13.7% in Leavenworth County as a whole and 23.2% in the Kansas City metropolitan area.
- Area residents are most commonly employed in the growing services sector.
- The growth in the percentage of residents in the services sector exceeded regional growth rates.
- The percentage of residents employed in manufacturing and the retail sector declined in comparison to the metropolitan area.

**Table 3-3: South Leavenworth County Labor Force Characteristics**

| Employment Sector   | 1990    | 2000      | So. LV County Change | 1990 – 2000 KC Metro Area Change |
|---------------------|---------|-----------|----------------------|----------------------------------|
| Industrial          | 1,556   | 1,924     | 23.7%                | 26.3%                            |
| Manufacturing       | 133     | 118       | (11.3%)              | (7.6%)                           |
| Services            | 958     | 1,325     | 38.3%                | 29.7%                            |
| Retail              | 726     | 869       | 19.7%                | 21.9%                            |
| TOTAL South County  | 3,373   | 4,236     | 25.6%                | ---                              |
| Leavenworth County  | 28,960  | 32,941    | 13.7%                | ---                              |
| Total KC Metro Area | 946,780 | 1,166,799 | ---                  | 23.2%                            |

Source: U.S. Census

**Table 3-4** summarizes 2006 data from the Kansas Department of Revenue (KDOR) which identified a total of 307 business establishments in Basehor and Tonganoxie that report collecting sales tax that year. These figures, along with actual square footage of buildings by use category described later in this study, is the most accurate tally of local business activity. These figures do include home based businesses. These total 136 retail business establishments categorized in the retail, personal services and food and beverage categories according to the Department of Revenue. Currently, approximately 65 percent of these businesses are in Tonganoxie and 35 percent in Basehor.

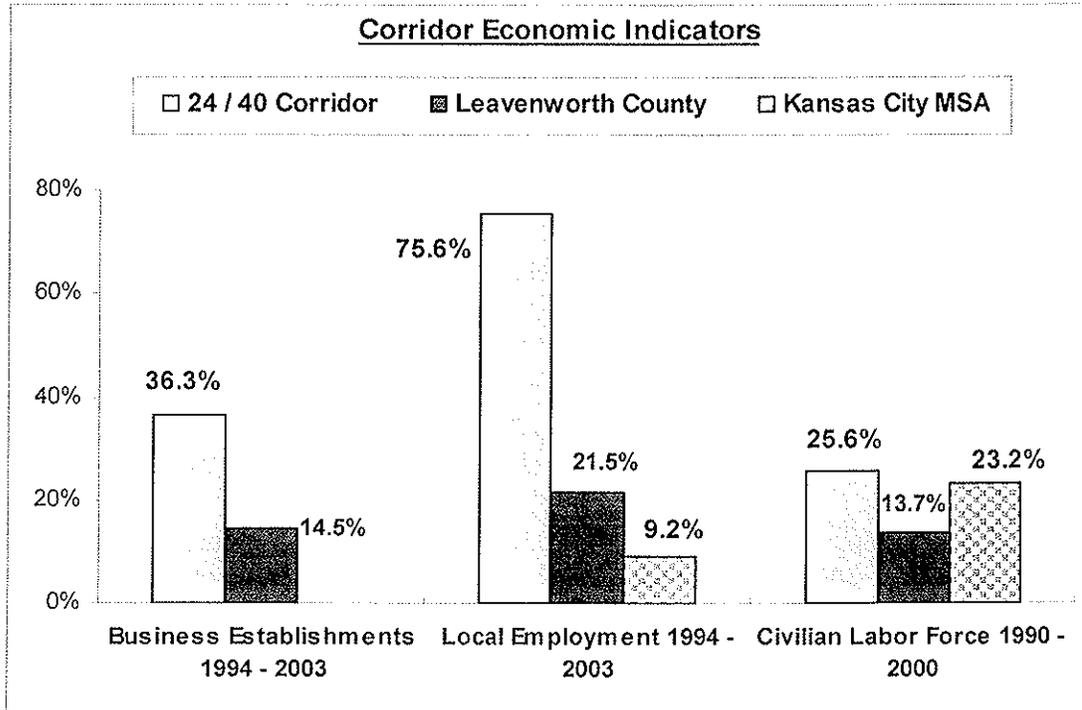
**Table 3-4: US 24/40 Corridor Cities Business Establishments 2006**

| Business Category  | Basehor    | Tonganoxie | Total      |
|--|------------|------------|------------|
| Retail Trade   | 16         | 63         | 79         |
| Personal Services  | 17         | 17         | 34         |
| Food and Beverage Services   | 6          | 17         | 23         |
| Manufacturing  | 4          | 8          | 12         |
| All Others (includes real estate, banks, light industry, wholesale trade and others) | 64         | 94         | 159        |
| <b>TOTAL ESTABLISHMENTS</b>  | <b>108</b> | <b>199</b> | <b>307</b> |

Source: Kansas Department of Revenue 2006

**Figure 3-1** summarizes the economic indicators and identifies how the corridor has been outpacing Leavenworth County as a whole and the Kansas City metropolitan area over the past decade. Nevertheless, there is a need to diversify the corridor's economy if the area is to more fully realize its potential.

Figure 3-1: US 24/40 Corridor Economic Indicators



### Market Assessment

The corridor's position in the regional retail, office and industrial markets was assessed to ascertain the appropriate amount of new development and related traffic impacts to plan for through 2030. The analysis evaluated the most relevant local, state and federal published data.

In addition to the prevailing economic conditions, a wide range of demographic and economic factors will influence corridor demand and absorption of new commercial and industrial development including:

- Retail Pull Factor and Household Income
- Educational Attainment of the Labor Force
- Building Leasing Rates
- Local Property Tax Rates
- Competition with Other Highway Corridors

Therefore, the corridor and/or the cities of Basehor and Tonganoxie were compared to other cities and corridors in the Kansas City metropolitan area to help assess the corridor's competitive position in the region.

### Retail Pull Factor and Household Income

Household income influences the amount spent in a community for retail purposes. A city's retail "pull factor" indicates how a city retail market is performing. A "pull factor" is a measure of the market share captured in a community by all of the retail businesses and is used to

compare the magnitude of sales activity to the level of business activity on a per capita basis. A pull factor above 1.00 indicates that the community is attracting business while one that is below 1.00 indicates that the community is losing business to other places.

**Table 3-5** compares Basehor and Tonganoxie's retail pull factors to seven nearby competing cities, as well as to Leavenworth County and adjoining counties. All of the cities except Bonner Springs and all of the counties except Johnson County experience some level of sales leakage.

- Basehor is in the lower half of the peer cities while Tonganoxie ranks third highest among the nine cities.
- Basehor's median household income is highest among the nine cities while Tonganoxie's median household income ranked fifth.

**Table 3-5: Retail Pull Factor and Median Household Income Comparison**

| City; County              | Pull Factor FY 2004 | Median Household Income 2000 |
|---------------------------|---------------------|------------------------------|
| Edwardsville              | 0.25                | \$42,875                     |
| Eudora                    | 0.33                | \$41,713                     |
| De Soto                   | 0.39                | \$46,426                     |
| <b>Basehor</b>            | <b>0.46</b>         | <b>\$52,831</b>              |
| Gardner                   | 0.74                | \$50,807                     |
| Leavenworth (city)        | 0.84                | \$40,681                     |
| <b>Tonganoxie</b>         | <b>0.91</b>         | <b>\$44,278</b>              |
| Spring Hill               | 0.95                | \$45,052                     |
| Bonner Springs            | 1.79                | \$43,234                     |
| <b>Leavenworth County</b> | <b>0.60</b>         | <b>\$48,114</b>              |
| Wyandotte County          | 0.83                | \$33,748                     |
| Douglas County            | 0.96                | \$53,991                     |
| Johnson County            | 1.45                | \$72,987                     |

Source: Kansas State Research and Extension Services; U.S. Census.

Although the corridor can realize secondary benefits from its proximity to the Village West area around the Kansas Speedway in western Wyandotte County, the corridor will be challenged to compete with that commercial area to the east and the Lawrence area to the west for major retail development. Nevertheless, as evidenced by Gardner and Spring Hill's comparative pull factor in Johnson County, both Basehor and Tonganoxie have the opportunity to grow their pull factor by as much as 10 percent to 1.00 for Tonganoxie and up to a pull factor of approximately 0.55 for Basehor. This is especially achievable for Tonganoxie because of the future Kansas Turnpike Interchange at County Rt. 1 that will serve Tonganoxie and Leavenworth County. These potential retail growth levels are factored into the retail demand projections presented later in this study.

#### **Education Attainment of the Labor Force**

An important characteristic considered by companies is an evaluation of the educational level of the local population. The percentage of high school and college graduates in a community

influences the type and the amount of new business in a developing area, such as the US 24/40 Corridor. The level of education among residents reflects the skills of the local work force and determining the type of new businesses that may be attracted to the corridor.

The commonly considered component used to measure educational levels is the percentage of the population that is high school and college graduates, which is summarized in **Table 3-6**. Based on the 2000 U.S. Census, the corridor's two cities high school graduate rates exceed the average in Leavenworth and Wyandotte Counties. However, the percentage of college graduates of the two cities is lower than the percentages of nearby Johnson and Douglas Counties, while higher than Wyandotte County.

**Table 3-6: Education Attainment 2000**

| City; County           | High School Graduates<br>% of Population | College Graduates<br>% of Population |
|------------------------|--|--------------------------------------|
| <b>24/40 Corridor:</b> |  |                                      |
| Basehor                | 90.7%                                    | 14.5%                                |
| Tonganoxie             | 88.6%                                    | 16.0%                                |
| Leavenworth County     | 86.5%                                    | 23.1%                                |
| Douglas County         | 92.4%                                    | 42.7%                                |
| Johnson County         | 94.9%                                    | 47.4%                                |
| Wyandotte County       | 74.0%                                    | 12.0%                                |

Source: 2000 U.S. Census

### Building Leasing Rates

Located between two larger cities, Lawrence and Kansas City, the US 24/40 Corridor communities will compete with neighboring communities that have existing buildings, business parks with existing infrastructure and aggressive business recruitment efforts. Both Basehor and Tonganoxie have active marketing and professional recruitment efforts through the Leavenworth County Development Corporation and area commercial realtors. Both cities contain large vacant parcels of land suitable for new commercial development.

**Table 3-7: Industrial Building Lease Rate Comparisons July 2006**

| Location               | Range of Asking Rate<br>Per Square Foot | Median Asking Rate<br>Per Square Foot |
|------------------------|---|---------------------------------------|
| <b>24/40 Corridor:</b> |   |                                       |
| Basehor                | \$6.75 - \$7.25                         | \$7.00                                |
| Tonganoxie             | \$4.00 - \$6.00                         | \$5.00                                |
| Wyandotte County       | \$2.85 - \$12.50                        | \$6.61                                |
| Johnson County         | \$3.25 - \$12.50                        | \$8.32                                |
| Douglas County         | \$1.25 - \$12.00                        | \$5.00                                |

Source: Kansas City Area Development Council; Block & Company, Inc.; Grubb & Ellis.

**Table 3-7** provides a summary of vacant commercial/manufacturing buildings offered for lease in July 2006 and indicates the median asking price per square foot was lower in the corridor cities than in nearby Wyandotte and Johnson Counties. As a result, existing buildings in the corridor offer a price competitive advantage compared to their neighboring cities.

#### Local Property Taxes Rates

The cost of doing business, especially property taxes, can induce or discourage private investment and is routinely considered by developers in site selection. Property tax rates are more of a factor than income or sales taxes. State and federal income tax rates and business taxes are, of course, uniform among Kansas communities. Retail sales tax rates, though slightly varied among communities, are not a determining factor in where retail businesses choose to locate, although shoppers are not indifferent to varying sales tax rates.

**Table 3-8** summarizes total 2006 property tax rates for the nine area cities. Basehor had the lowest local property tax among the nine area small cities. These cities are likely competitors to the corridor communities for new commercial and industrial development.

- Tonganoxie and Basehor's property tax rates are 5 and 13 percent lower than the average of nine similar sized cities in the area with whom the corridor's cities compete.
- These tax rates provide the corridor's communities with a competitive advantage for those businesses whose location decisions are influenced by personal and real estate property tax rates. Of course, all of the communities in Kansas have the potential to offer property tax abatements for manufacturing-related development.

**Table 3-8: Area Cities Total Property Tax Rates for 2006**

| Rank; City              | Total Tax Rate | City vs. Average |
|-------------------------|----------------|------------------|
| <b>1. Basehor</b>       | <b>117.107</b> | <b>(13%)</b>     |
| 2. Eudora               | 119.815        | (10%)            |
| <b>3. Tonganoxie</b>    | <b>125.451</b> | <b>(5%)</b>      |
| 4. De Soto              | 127.872        | (3%)             |
| 5. Leavenworth (city)   | 136.153        | 3%               |
| 6. Spring Hill          | 136.242        | 3%               |
| 7. Gardner              | 138.001        | 5%               |
| 8. Bonner Springs       | 139.841        | 6%               |
| 9. Edwardsville         | 148.399        | 11%              |
| <b>COMBINED AVERAGE</b> | <b>133.098</b> | <b>N / A</b>     |

Source: League of Kansas Municipalities.

#### Competition with Other Highway Corridors

For purposes of projecting the future development potential in the corridor, the corridor was measured against five other actively developing highway corridors in the metropolitan area. In addition to retail pull factors, educational attainment levels, lease rates and property tax

rates, transportation and demographic related factors also influence the amount of type of development along highway corridors.

Attracting new commercial development is also influenced by:

- Average daily traffic counts,
- Access and proximity to Interstate highways,
- Availability and access to rail,
- Ease of access to passenger air service,
- Size of labor market, and
- Population growth rates.

The wider availability and more accessibility to transportation options, the better an area's opportunity is to attract new business.

For purposes of evaluating the US 24/40 Corridor, five other highway corridors ranging in length from 8 to 25 miles located in growing, suburban settings were considered. Two of the corridors are shorter in distance than the US 24/40 Corridor, and the remaining three are longer. Several of the highway corridors have more limited access than US 24/40 Highway which can influence some business most dependent on transportation and/or commuter patterns.

**Table 3-9** summarizes the five corridors and their characteristics. While no two corridors are the same nor exactly comparable to the US 24/40 Corridor, these comparisons illustrate the competition for attracting new business development and how the US 24/40 Corridor compares today to these growth corridors.

The US 24/40 Corridor compares favorably in the following areas:

- The corridor is closer to KCI than four of the five other corridors, and
- Basehor's population growth in the past decade was higher than that of Spring Hill and Liberty.

The US 24/40 Corridor has the following competitive disadvantages:

- Lower average daily traffic count
- Further from the Interstate Highway system
- No direct rail access and
- A smaller labor pool than the other corridors.

In addition, proposed developments along the US 71 and M-152 highway corridors in Missouri are routinely eligible for a broader range of financial incentives from cities and/or the state than are available in Kansas communities. All of these factors were considered in projecting the amount of commercial and industrial land that can be absorbed in the next two decades in the US 24/40 Corridor.

**Table 3-9: Area Highway Corridor Comparison**

| <b>Corridor</b>                             | <b>US 24 / 40</b>   | <b>K - 7</b>  | <b>K - 10</b>   | <b>US 71</b>   | <b>US 169</b>  | <b>MO 152</b>   |
|---|---|---|---|--|--|---|
| <b>County(s)</b>                            | Leavenworth   | Leavenworth - Johnson   | Douglas - Johnson   | Jackson - Cass, MO   | Johnson - Miami  | Platte -Clay, MO  |
| <b>Connecting Cities</b>                    | Tonganoxie - Basehor  | Lansing - Olathe  | Lawrence - Overland Park  | Grandview - Raymore  | Olathe - Spring Hill   | Parkville - Liberty   |
| <b>Transportation Profile</b>               |   |   |   |  |  |   |
| <b>Closest Point to KCI</b>                 | 11+ miles   | 25 miles  | 25 miles  | 9 miles  | 8 miles  | 19 miles  |
| <b>Peak Average Daily Traffic</b>           | 15,000 vehicles   | 27,500 vehicles   | 32,585 vehicles   | 69,956 vehicles  | 29,600 vehicles  | 19,502 vehicles   |
| <b>Closest Point to KCI</b>                 | 26 miles  | 26 miles  | 31 miles  | 35 miles   | 41 miles   | 5 miles   |
| <b>Direct Interstate Access</b>             | No; 2 miles to I-70 via K-7   | Yes; I-70   | Yes; I-435  | No; 3 miles to I-435   | Yes; I-35  | Yes; I-29   |
| <b>Rail Access</b>                          | No  | No  | Limited   | Yes  | Yes  | No  |
| <b>Demographic Profile</b>                  |   |   |   |  |  |   |
| <b>Largest Corridor City</b>                | Tonganoxie  | Olathe  | Overland Park   | Grandview  | Olathe   | Liberty   |
| <b>Largest City Population</b>              | 3,317   | 105,274   | 160,368   | 24,549   | 105,274  | 29,042  |
| <b>2005 Corridor Labor Pool</b>             | 33,255  | 364,117   | 352,001   | 393,114  | 305,217  | 159,737   |
| <b>Fastest Growing Corridor City</b>        | Basehor   | Olathe  | DeSoto  | Raymore  | Spring Hill  | Liberty   |
| <b>1990 - 2000 City's Population Growth</b> | 38.7%   | 45.2%   | 99.1%   | 99.3%  | 24.5%  | 22.7%   |
| <b>Other Major Asset(s)</b>                 | <ul style="list-style-type: none"> <li>▪ Lower taxes</li> <li>▪ Proximity to Village West</li> <li>▪ More affordable housing than Johnson County</li> </ul> | <ul style="list-style-type: none"> <li>▪ Access to K-10 and I-70</li> <li>Established business parks in Shawnee and Olathe</li> </ul> | <ul style="list-style-type: none"> <li>▪ Access to KU and other higher ed. facilities</li> <li>Active inter-governmental association</li> </ul> | <ul style="list-style-type: none"> <li>▪ Intermodal Facility under development</li> <li>▪ Missouri incentive programs</li> </ul> | <ul style="list-style-type: none"> <li>▪ Proximity to Johnson County Executive and New Century Airports</li> </ul> | <ul style="list-style-type: none"> <li>▪ Proximity to KCI</li> <li>▪ Missouri incentive programs</li> </ul> |

Source: U.S. Census; KDOT; MODOT; RICHARD CAPLAN & ASSOCIATES; Bucher, Willis & Ratliff Corporation

### Projected Corridor Market Demand

The economic opportunities and ability to diversify the corridor's area economy through new commercial development constructed over the next two decades will be influenced by local public policies, US 24/40 Highway improvements, new interchange access to I-70, and other critical choices made by community leaders. Therefore, two alternative scenarios were prepared to project the amount of new commercial and industrial development. These scenarios incorporate a combination of the Tonganoxie Comprehensive Plan, U.S. Census population growth rates since 2000, and Mid-America Regional Council population projections for census tracts in the US 24/40 Corridor area in Southern Leavenworth County. Together, these assumptions project that the corridor's combined population will grow by approximately 6,000 to 6,750 new residents by the year 2030.

The two alternative growth scenarios are:

- Moderate Growth Scenario – This scenario assumes the corridor will continue to plan for the future by designating new business districts, marketing the corridor's communities, and constructing infrastructure as needed to accommodate growth.
- High Growth Scenario – This scenario further assumes the communities along the corridor and the County will more aggressively promote the US 24/40 Corridor, aggressively targeting financial incentives to attract new development, and invest and construct the necessary infrastructure in advance to accommodate this growth.

The corridor's proximity to Village West in Kansas City, Kansas with its generous development incentive practices means Basehor, Tonganoxie, and the County are in an aggressive environment. Financial incentives for industrial development and major office users have become the norm in the world of economic development. The use of incentives will help determine whether the corridor experiences a moderate or high growth scenario. The use of financial incentives to entice companies is most appropriately tied to:

- waiving or significantly discounting local permit fees,
- property tax abatement, and
- public financing considered with private investments.

Other financial incentives should be targeted to those businesses which best diversify the local economy and generate the most new employment opportunities. Assistance may include participating with employer's relocation expenses. Financial participation to relocating businesses is sometimes based on the amount of new private investment and/or the number and wage levels of new jobs created.

### Existing Commercial and Industrial Development

**Table 3-10** summarizes the amount of commercial square footage in 2006 according to data supplied by the Leavenworth Appraiser's Office.

- Basehor and Tonganoxie had a combined total of nearly one million square feet of retail, office and industrial development in 2006.
- Tonganoxie had 66 percent of this total non-residential development.

These totals were compared on a per capita basis to several cities in Johnson County where valid square footage data is available, as well as to Wyandotte and Johnson Counties and the Kansas City metropolitan area. They serve as an important factor in projecting the commercial and industrial growth that the corridor can expect to achieve with improvements to the corridor, as well as new access to Interstate 70.

**Table 3-10: Corridor Cities Commercial Square Feet by Use 2006**

|                               | <b>Retail</b>     | <b>Office</b>     | <b>Industrial</b> | <b>TOTAL</b>   |
|-------------------------------|-------------------|-------------------|-------------------|----------------|
| Basehor                       | 80,525            | 79,596            | 155,156           | 315,277        |
| Tonganoxie                    | 344,490           | 101,202           | 173,313           | 619,005        |
| <b>TOTAL</b>                  | <b>425,015</b>    | <b>180,798</b>    | <b>328,469</b>    | <b>934,282</b> |
| <b>Square Feet Per Capita</b> | <b>60 sq. ft.</b> | <b>26 sq. ft.</b> | <b>47 sq. ft.</b> | <b>N / A</b>   |

Source: Leavenworth County Appraiser's Office.

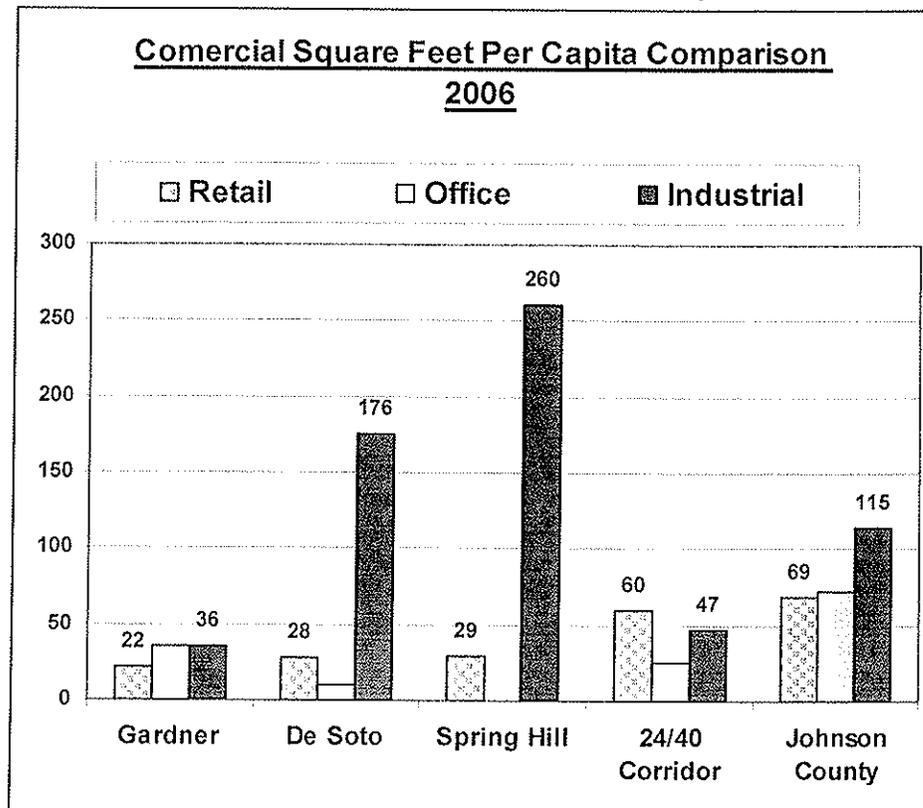
**Table 3-11** and **Figure 3-2** summarize the amount of retail, office, and industrial square footage in selected areas in 2006. Overall, Basehor lags in the comparison to other cities and the region in retail, office and industrial development per capita while Tonganoxie falls below the norm in the office and industrial comparisons. As the corridor is enhanced with new transportation improvements and new residential subdivisions are completed and occupied, the area will approach the metropolitan area averages per capita.

**Table 3-11: Commercial Development Comparison in Square Feet, 2006**

| <b>Jurisdiction</b>                            | <b>Retail Space per Capita (s.f.)</b> | <b>Office Space per Capita (s.f.)</b> | <b>Industrial Space per Capita (s.f.)</b> |
|--|---------------------------------------|---------------------------------------|---|
| De Soto  | 28                                    | 10                                    | 176                                       |
| Gardner  | 22                                    | 35                                    | 36  |
| Shawnee  | 57                                    | 17                                    | 80  |
| Spring Hill                                    | 29                                    | N / A                                 | 260                                       |
| Johnson County                                 | 69                                    | 73                                    | 115                                       |
| Wyandotte County                               | N / A                                 | N / A                                 | 248                                       |
| Kansas City Metropolitan Area                  | N / A                                 | 43                                    | 125                                       |
| <b>24/40 Corridor:</b>                         |                                       |                                       |   |
| Basehor  | 24                                    | 27                                    | 47  |
| Tonganoxie                                     | 91                                    | 24                                    | 46  |
| <b>Combined Average Square Feet per Capita</b> | <b>60</b>                             | <b>26</b>                             | <b>47</b>                                 |

Source: Block & Company, Inc.; Johnson County Appraiser's Office; Colliers International; Leavenworth County Appraiser's Office.

Figure 3-2: Commercial Development Comparison in Square Feet, 2006



Based on an analysis of these comparisons, transportation factors, demographic characteristics and economic conditions, the demand for retail, office and industrial space and acreage for the corridor through 2030 were projected and are provided in **Table 3-12**. The corridor's commercial market is defined as the area encompassing the cities of Basehor and Tonganoxie. A small amount of this projected square footage may occur along unincorporated sections of the US 24/40 Highway. These projections result in the US 24/40 corridor communities absorbing between 975,000 and 1.3 million square feet of new retail, office and industrial development. Based on common site planning criteria, this will absorb a total of approximately 104 to 140 acres. Approximately 84 to 116 these acres are estimated to be located immediately in the corridor.

It should be noted that not all of the retail and office projected demand for Basehor and Tonganoxie will be located along US 24/40 Highway as both cities have other areas of their community suitable for commercial development, such as Downtown Tonganoxie and an area anticipated for Downtown Basehor, as well as a new industrial site identified in the Basehor Comprehensive Plan east of the proposed Downtown.

**Table 3-12: Corridor Cities Projected Commercial Demand through 2030**

| Major Land Use                             | Moderate Growth Scenario                | High Growth Scenario                      | Estimated Corridor Capture Rate; Acreage |
|--|---|---|--|
| <b>Retail</b>                              | 400,000 sq. feet<br>(40 acres)          | 425,000 sq. feet<br>(42 acres)            | 75% – 90%<br>(30 – 40 acres)             |
| <b>Office</b>                              | 190,000 sq. feet<br>(19 acres)          | 225,000 sq. feet<br>(23 acres)            | 75% - 90%<br>(16 to 21 acres)            |
| <b>Industrial</b>                          | 385,000 sq. feet<br>(45 acres)          | 650,000 sq. feet<br>(75 acres)            | 60% – 75%<br>(38 – 55 acres)             |
| <b>Totals:<br/>Square Feet<br/>(Acres)</b> | <b>975,000 sq. feet<br/>(104 acres)</b> | <b>1,300,000 sq. feet<br/>(140 acres)</b> | -----<br><b>(84 – 116 acres)</b>         |

Source: RICHARD CAPLAN &amp; ASSOCIATES.

### Conclusion

In summary, to be responsive to the market demands of the area's economy through 2030, the County and the communities of Basehor and Tonganoxie should plan for a total of between 975,000 and 1,300,000 square feet of new commercial development. This would consume approximately 104 to 140 acres of land. The corridor's strengths include lower municipal property tax rates and building lease rates, while its comparatively smaller labor pool and educational levels of its labor force will influence the type and amount of commercial development. The projected capture rate for each community will be influenced by availability of infrastructure, maintaining tax rates lower than their competitors, proactive community marketing, improving local transportation systems, and good land use planning, as well as good traffic controls and access management.

## Existing Conditions: Land Use and Development

### Introduction

This Chapter examines the existing conditions including existing development, infrastructure, and land use pattern for the corridor and the larger Study Area. Land use categories used throughout the corridor are identified and defined. An inventory of existing land uses describes both the amount of land in each land use category and the distribution of uses throughout the Study Area.

### Development Patterns and Existing Land Use

The use of land in a community is not a random process. Numerous distinct variables influence the way a given piece of land is used. Some of the variables are influenced by factors beyond the control of the community, including economic factors such as the demand for new development, the cost of property, and the cost of construction. Environmental factors such as soil conditions, topography, and the location of floodplains or other natural limitations are largely pre-determined. Other variables, however, are within the control of the community including traffic patterns, the capacity and location of public utilities, the delivery of municipal services, and the physical appearance of development. Unfortunately, these variables are not constant, but they have an impact on the use of land and on each change in land use.

Viewed as a whole, the use of individual pieces of property forms a pattern of land use that describes the character of the corridor in several ways. It will help to explain where residents live and work, how they obtain goods and services, and where they seek recreation. It will also aid in analyzing the strengths and challenges of the communities in the area and South Leavenworth County as a whole. Finally, and perhaps most importantly, examining the pattern of existing uses is the starting point in the process of formulating policies for the future development within and around the corridor.

**Table 4-1** and **Figure 4-1** identify the generalized land use in the Corridor Planning area as well as the entire Study Area. Data was obtained from the Leavenworth County GIS database which incorporates appraisal information and is known to be current as of July 2006. This detailed information was aggregated into the following categories:

1. Single Family Residential
2. Multifamily Residential
3. Hotel
4. Light Industrial/Warehousing
5. Heavy Industrial and Manufacturing
6. Transportation and Utilities
7. Retail Commercial

8. Service Commercial
9. Office
10. Institutional
11. Cultural/Recreational
12. Agriculture-No improvements
13. Agriculture w/Farm Improvements Only
14. Agriculture w/Residential and Farm Improvements
15. Vacant

These categories can generally be defined in the following manner:

Single Family Residential: Land occupied by a single dwelling unit, including accessory buildings, the primary use being for sheltering individuals, families, or groups of persons. Examples: single-family residences, duplexes (single-family attached dwellings).

Multifamily Residential: Land occupied by more than two dwelling units, including accessory buildings, the primary use being for sheltering individuals, families, or groups of persons. Examples: apartments, manufactured housing, and nursing homes.

Hotel: Land that is occupied by a hotel.

Light Industrial/Warehousing: Land occupied by buildings or open space, the primary use being for storage, transportation, or assembly of a product. Examples: material storage, warehousing, wholesale operations and trucking.

Heavy Industrial and Manufacturing: Land occupied by buildings or open space, the primary use being manufacturing of a product. Examples: manufacturers, construction yards, heavy equipment storage.

Transportation and Utilities: Land dedicated for public utilities and land used for railroad purposes.

Retail Commercial: Land or buildings where merchandise is offered for retail sale. Examples: grocery, clothing, hardware and drug stores, restaurants.

Service Commercial: Land or buildings where services are offered. Examples: car and farm equipment sales and service, service stations, banks.

Office: Land occupied by private offices including doctors offices, veterinary offices etc. Does not include public offices such as a City Hall.

Institutional: Land or buildings occupied by agencies of the government or by religious, educational or civic groups, excluding land used for recreational purposes. Examples: schools, churches, cemeteries, city buildings, fire stations, hospitals.

Cultural/Recreational: Land occupied by cultural and recreational uses. Examples: Sports Arenas, Playing Fields, Baseball Diamonds, Museum, Bowling Alley, Library, Auditorium,

Golf Course w/Country Club, Driving Range, Swimming Pool, General Recreation Park - Wildlife Reserve, Leisure - Ornamental Park, Campground.

Agriculture-No improvements: Land which is exclusively being used for farming purposes.

Agriculture w/Farm Improvements Only: Land which is exclusively being used for farming purposes, but may have some agriculture related improvements and structures, such as a barn.

Agriculture w/Residential and Farm Improvements: Land which is primarily being used for farming purposes, but may have residential improvements on site including dwellings, greenhouses, barns, etc.

Vacant: Land which has not been developed or has been cleared of prior development.

Data shows that the corridor is more developed than the surrounding Study Area; the corridor is 65% agriculture and agriculture-related land uses, compared to 85% for the Study area. Single Family Residential land use forms the predominant non-agricultural land use in the corridor. Utilities, Institutional and multifamily residential land uses constitute a small fraction of the available land area.

**Table 4-1: Existing Land Use**

| Detailed Land Use                        | Planning Area | % of Total | Study Area     | % of Total |
|--|---------------|------------|----------------|------------|
| Single Family Residential                | 3,629         | 22%        | 19,005         | 10%        |
| Multifamily Residential                  | 221           | 1%         | 519            | 0%         |
| Hotel                                    | 2             | 0%         | 2              | 0%         |
| Light Industrial/Warehousing             | 77            | 0%         | 275            | 0%         |
| Heavy Industrial & Manufacturing         | 28            | 0%         | 390            | 0%         |
| Transportation/Utilities                 | 444           | 3%         | 1,611          | 1%         |
| Retail-Commercial                        | 35            | 0%         | 59             | 0%         |
| Service Commercial                       | 66            | 0%         | 240            | 0%         |
| Office                                   | 7             | 0%         | 22             | 0%         |
| Institutional                            | 430           | 3%         | 1,863          | 1%         |
| Cultural/Recreational                    | 345           | 2%         | 1,604          | 1%         |
| Ag Land - No Improvements                | 3,927         | 23%        | 63,375         | 34%        |
| Farm w/Residential and Farm Improvements | 6,593         | 39%        | 76,794         | 41%        |
| Farm w/Farm Improvements Only            | 749           | 4%         | 18,974         | 10%        |
| Vacant                                   | 234           | 1%         | 860            | 0%         |
| <b>Total area (acres)</b>                | <b>16,789</b> |            | <b>185,591</b> |            |
| <b>Total area (sq. miles)</b>            | <b>26</b>     |            | <b>290</b>     |            |

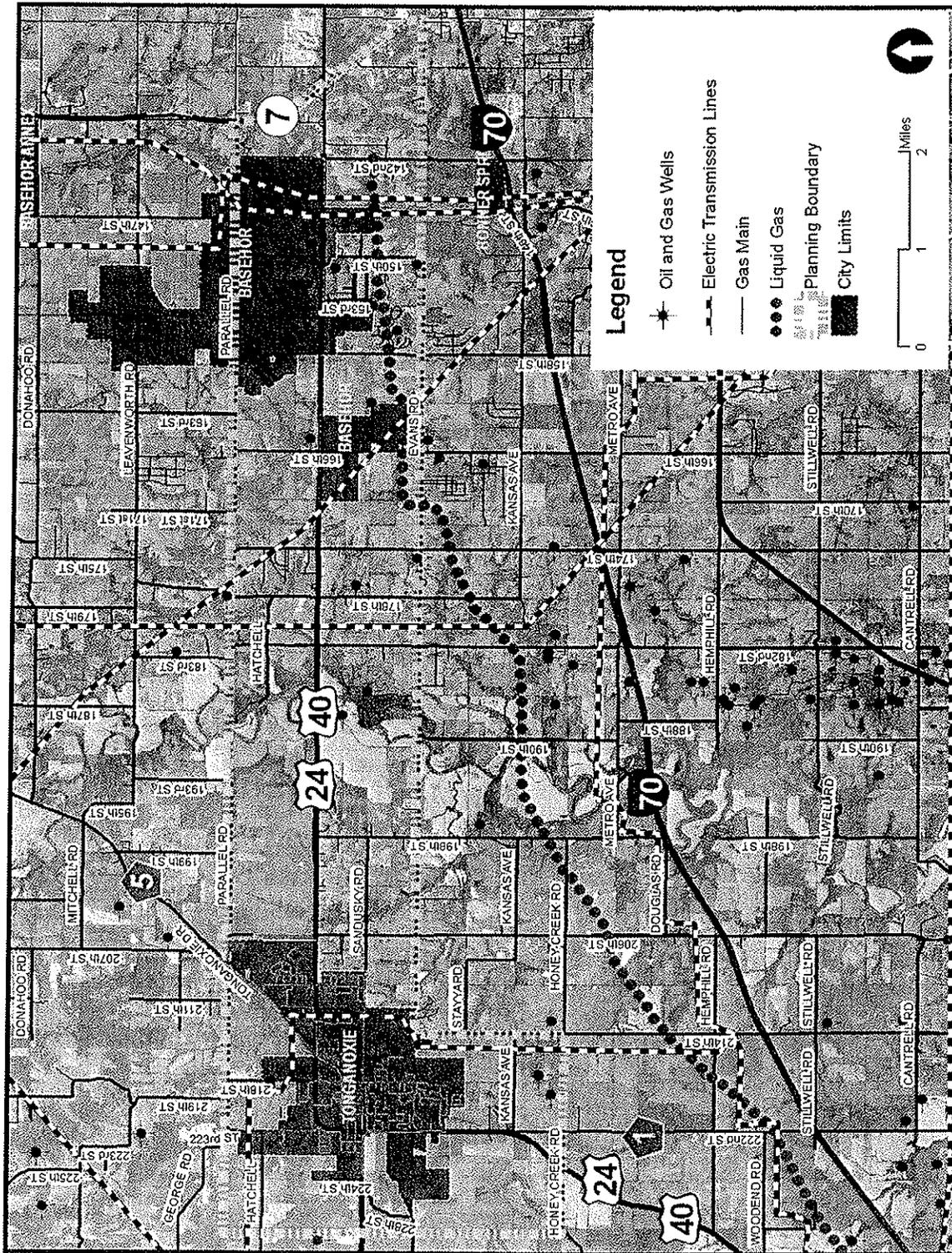
Source: Leavenworth County GIS, BWR

## Major Utility Inventory

**Figure 4-1** identifies the major existing utilities in the Leavenworth County portion of the Planning area. Several electric transmission lines crisscross the planning area. A high pressure liquid gas line crosses the southeastern part of the corridor (south of Basehor) and about 15 oil and gas wells are located within the corridor.

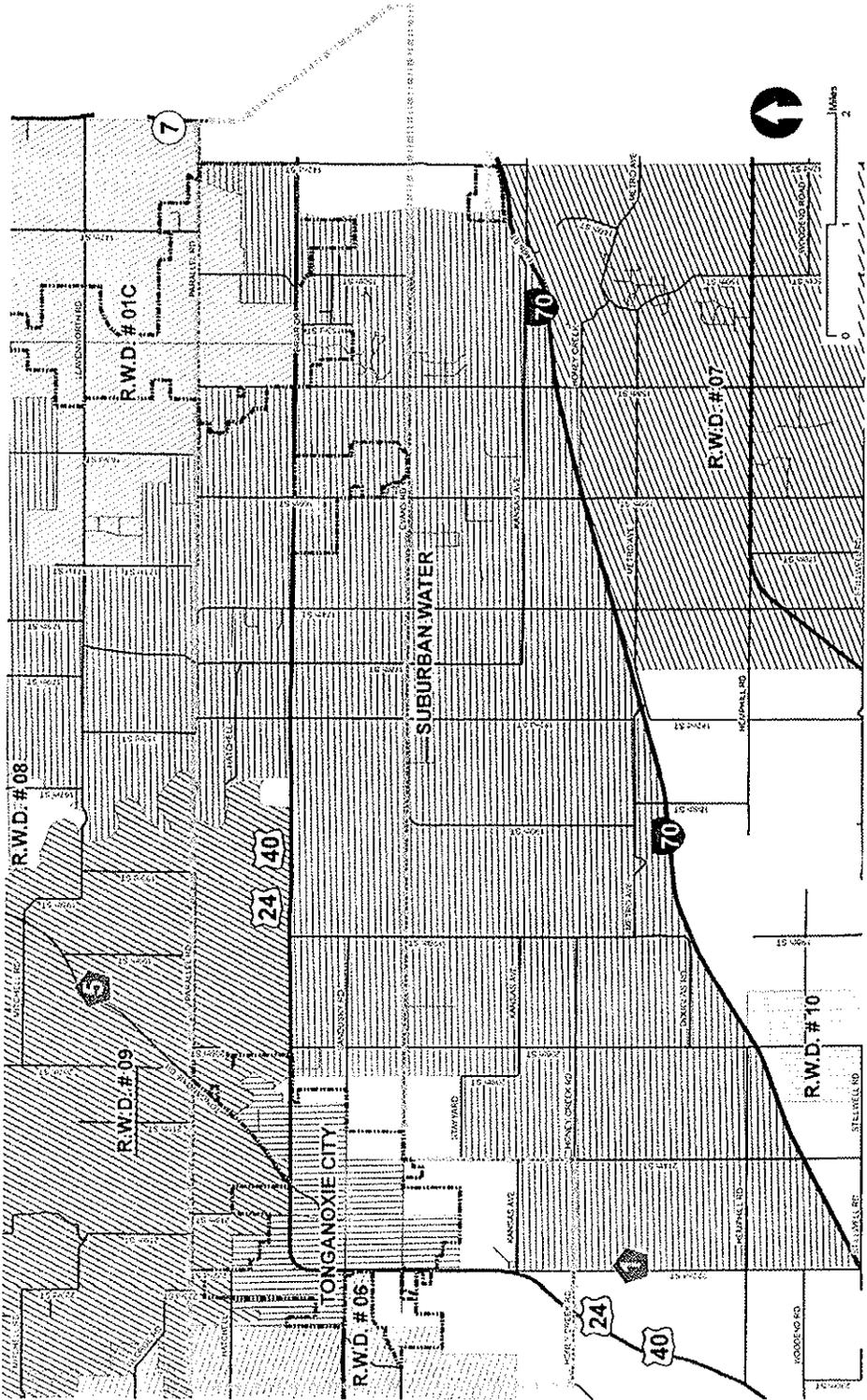
**Figure 4-2** identifies the assigned service areas for water providers in the planning area. Currently there is an area south and east of the City of Tonganoxie that does not have an assigned water provider.

Figure 4-1: Major Utilities



Source: Leavenworth County GIS, BWR

Figure 4-2: Water District Boundaries



Source: Leavenworth County GIS, BWR

## MetroGreen

MetroGreen is a regional greenway system for the Kansas City metropolitan area. It is principally comprised of linear corridors of land found along streams, roadways, and within abandoned rail corridors. The purpose of MetroGreen is to establish an interconnected system of public and private open spaces, greenways, and trails that will link the seven-county metropolitan region. The plan covers Leavenworth, Johnson, and Wyandotte counties in Kansas, and Cass, Clay, Jackson, and Platte counties in Missouri.

**Figure 4-3** identifies the MetroGreen corridors in Leavenworth County. In the US 24/40 Corridor, the MetroGreen corridors include the following:

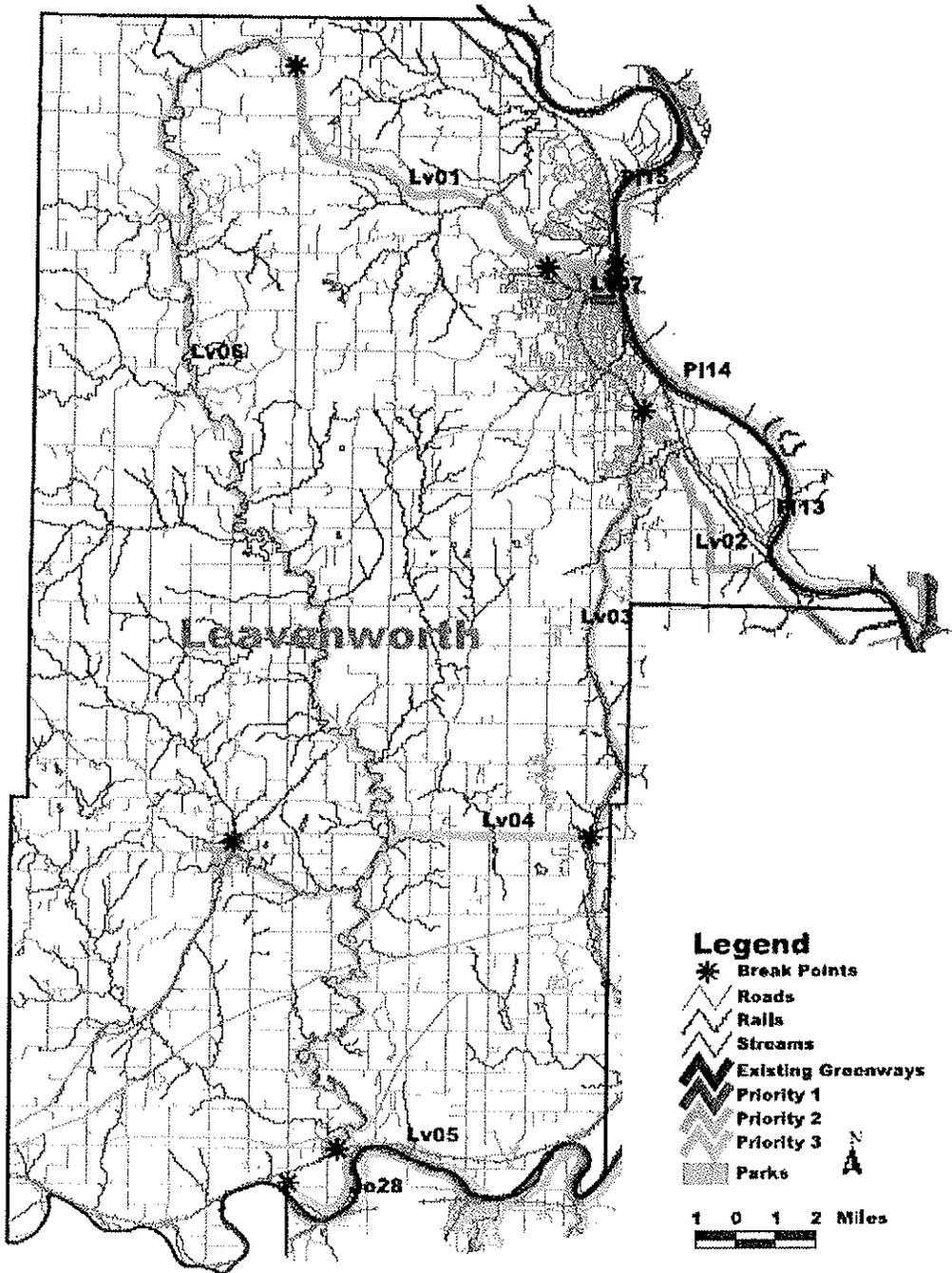
- Trail along US 24/40 Highway from a former rail corridor on the east to Stranger Creek.
- A former rail corridor through eastern Basehor.
- A stream corridor trail along Stranger Creek.
- A stream corridor trail along Tonganoxie Creek from Stranger Creek to connect with VFW Park, Magnatech Park, and Chieftain Park in Tonganoxie.

**Figure 7-2: US 24/40 Corridor Supporting Transportation System Network** in **Chapter 7** identifies the recommended greenway trail system to implement MetroGreen in the US 24/40 Corridor. Several issues need to be addressed in order to implement the greenway system in the corridor and the larger Leavenworth County planning area:

- Acquisition of land or easements,
- Regulatory updates,
- Design standards,
- Funding, and
- Maintenance.

Options and recommendations to implement the MetroGreen system are provided in **Chapter 8, Future Land Use and Development Regulations** and **Chapter 10, Implementation and Coordination Strategy**.

Figure 4-3: MetroGreen Corridors in Leavenworth County, Kansas



# Public Involvement

## Introduction

This Section summarizes the public involvement activities throughout the Corridor Planning Process, including the key community meetings that identified the critical issues and policy recommendations for the Study. The essence of the public involvement program was to provide a forum for two-way communication between the Project Management Team and the public stakeholders. The *24/40 Corridor Study* provided an opportunity for Leavenworth County, the two participant cities, and the participant agencies to educate the public as to the relationship between land use and transportation; and for participants to hear ideas and concerns of the general public about transportation and land use choices on the corridor.

The public workshops helped the parties reach informed consent and find practical solutions that will work for all partners in the project. The public involvement process allowed the public to:

- Have an opportunity for providing meaningful input,
- Be kept informed of project findings and recommendations, and
- Be involved in developing the corridor plan recommendations.

The public involvement process provided various forums for public participation at five key project milestones:

- Focus Session Meeting
- Planning Policy Charrette
- Visual Preference Workshop
- Draft Recommendations Open House
- Final Recommendation Presentation

A Citizen Advisory Committee composed of two dozen public representatives from public and private sectors, organized by the Project Management Team, and facilitated by the project consultant team, provided input in preparation for and/or as a part of each public meeting.

In addition, the Project Management Team and consultants, working with ETC Institute - a professional polling firm working as subconsultant to the lead consultant - conducted a *Community Opinion Survey* of corridor issues. The community opinion survey was administered to a randomly selected sample of 1,200 residents in the south half of Leavenworth County, the results of which are summarized in **Appendix A**. The 601 responses—a 50 percent response rate—helped affirm the ideas promulgated during the public workshops.

## Summary of Critical Corridor Issues

Throughout the planning process, there were several themes identified during the various public meetings, workshops, and the community survey results related to the future of the US 24/40 Corridor. These issues critical to the corridor are summarized below. The remaining

portion of this section summarizes the public comments and recommendations received throughout the planning process:

- Maintain the rural character and sense of open space along US 24/40 Highway,
- Preserve the mobility and safety of US 24/40 Highway,
- Limit direct access to US 24/40 Highway through the development of an appropriate supporting street network, including “reverse frontage” (or “backage”) roads,
- Establish good planning policies to direct urban growth to desired growth areas adjacent to the cities of Basehor and Tonganoxie and direct large-lot residential development to areas outside the cities’ future growth areas,
- Establish development standards to maintain a quality image for the corridor by addressing issues such as building placement, sign aesthetics, and good development design, and
- Preserve the Stranger Creek corridor and incorporate recreational uses such as multi-use trails.

## Focus Group Meeting

In October, 2006 a community meeting was held in Tonganoxie. The meeting included a Focus Session which provided an opportunity for residents, landowners, business and civic leaders, and other community stakeholders to identify and verify issues and opportunities that are critical to the future of the US 24/40 Corridor.

Early in the project, members of the Project Management Team identified key stakeholders who had been involved in the corridor in some public capacity and had demonstrated prior interest and involvement in the future of the corridor. The consultant team conducted informal interviews with these stakeholders, and applied the knowledge obtained as a basis for further exploration of corridor issues through the focus session process. The process of **Issues Identification** used at the Focus Session was a structured idea sharing process. Participants initially introduced themselves and shared each other’s ideas and issues to the entire group. The series of issues were organized and discussed in the context of the following categories:

- Community Identify and Image
- Access Management and Traffic
- Land Use and Development

The opening lists of issues identified in the large group were then refined, clarified and prioritized in smaller “break-out” groups. The following lists summarize the top issues as identified by the meeting participants, with the number of final votes identified behind each issue.

### **CORRIDOR IDENTITY AND IMAGE**

1. Rural and Open Space Preservation (17)
2. Site Development Standards (16)
3. Frontage Roads and Overpasses (9)
4. Lighting for Safety and Beauty (4)

**ACCESS MANAGEMENT AND TRAFFIC**

1. Geometric Improvements (14)
2. Access Management (limit signals, right locations) (13)
2. Mobility (13)
3. Need to Plan (11)
4. Safety is Key (5)
4. Allowances for Land-Use Access (5)
5. Accommodate Local Traffic (2)

Identified but Not Ranked:

Enjoy no-stress driving (0)

**LAND USE AND DEVELOPMENT**

1. Local street cross-connection north-south/east-west to serve local development while preserving highway capacity (8)
2. Contiguous development from the cities and the urban services – out to rural areas (7)
3. Recreation opportunities for bikes and pedestrians – (Multimodal) (6)
4. Maintain Sense of Place: What makes Leavenworth County/Tonganoxie/Basehor its own place/(rural) (5)
4. Site development standards to ensure quality development – landscaping (5)
4. Financing – paying for growth (5)
5. Safety at the schools (children) (4)

Identified but Not Ranked:

Control Industrial Growth/Environmentally Friendly (1)

Balance of Development – residential/commercial/industrial (0)

Business Park Development (0)

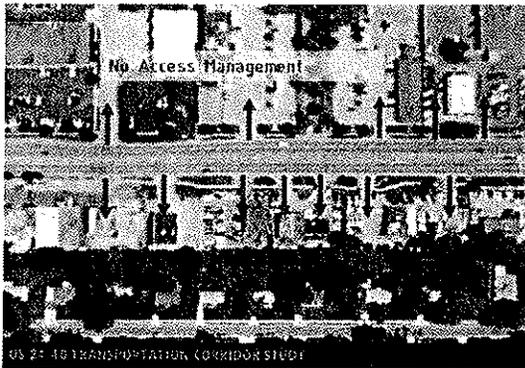
**Planning Policy Charrette**

In November, 2006 a community workshop was conducted at the Basehor-Linwood High School. The meeting included a facilitated Planning Policy Charrette to build on the critical issues identified by participants at the October Focus Session. The Charrette was a fast-paced, interactive workshop for solving problems posed to the group of participants using the critical issues.

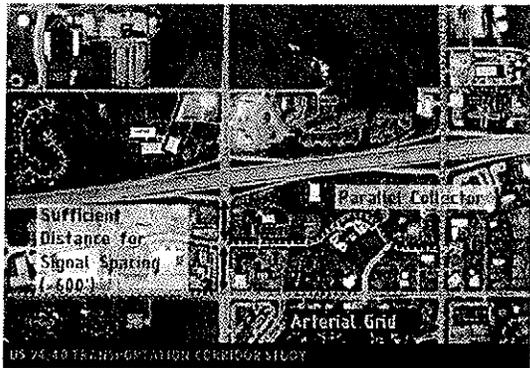
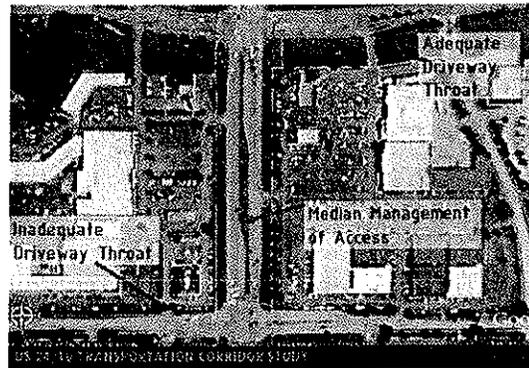
The Planning Consultant began the workshop by presenting background information related to land use, the market analysis prepared for the corridor, and access management options. Workshop participants were later placed in small work groups and charged with helping identify preferred solutions to the critical issues in the corridor. Supplies included workbooks with questions, an area map, markers, and other tools necessary to record preferences, goals, objectives, actions, and strategies for resolving these issues. The group recommendations addressed issues ranging from future land use and the preferred future development pattern, preferred access management strategies, parks and recreation, and corridor image.

Key access management concepts, as illustrated in the following photos, were presented to the participants to provide them a fuller understanding of access management.

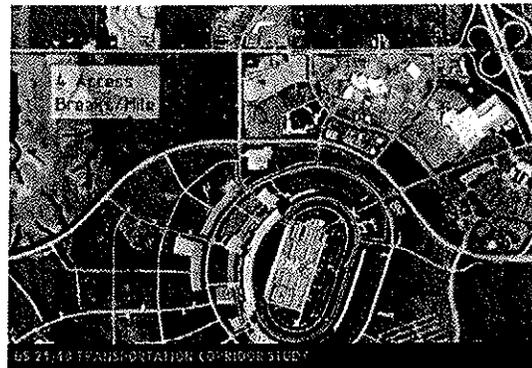
No Access Management



Access Management Issues



Transportation System Concepts

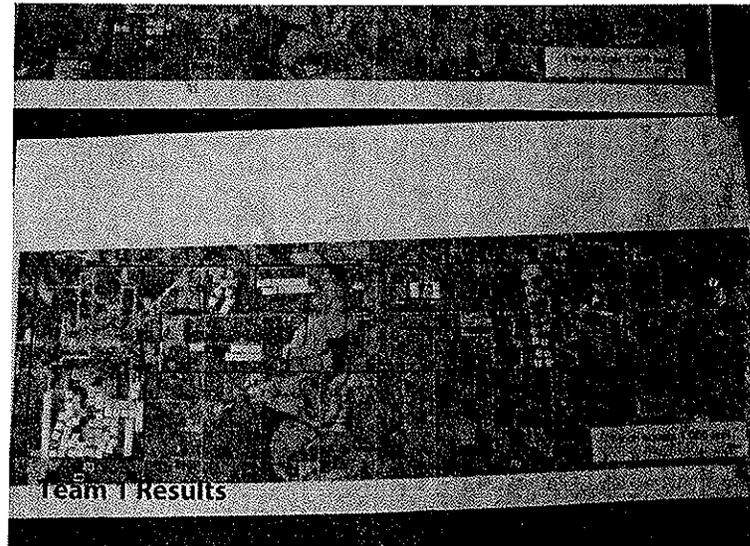


Access Management Concepts

Each group appointed a spokesperson who briefly summarized the group's key findings at the end of the session. The following summarizes the responses by the three groups:

### **TEAM 1 – SUMMARY**

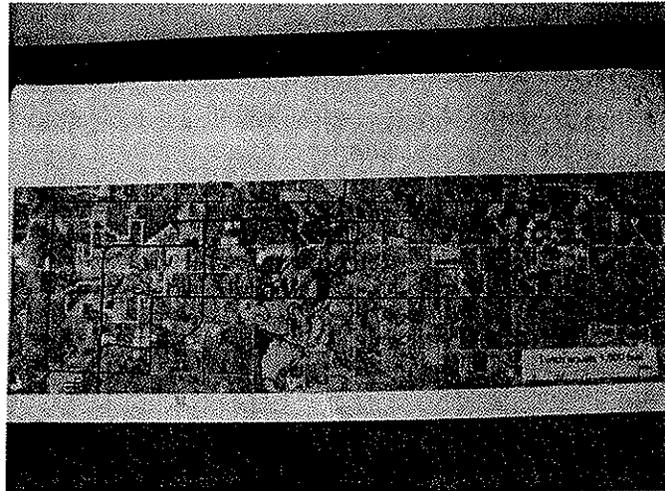
1. No heavy industrial on corridor, but light industrial okay
2. Cluster development districts (rather than allow strip commercial) and apply overlay standards with good planning policies
3. Parks and Open Space: Take advantage of Stranger Creek: Multi-Use Trails
4. Coordinate City/County Standards for: Signage, aesthetics, site plan/landscaping/higher density development
5. Landscaping for Highway-facing Development; street lighting standards, etc.



### **TEAM 2 – SUMMARY**

1. Land Use: Mixed Use – Maintain existing; attract new; emphasis on “planned development” (retail, light industrial, etc.)
2. Development Pattern: Discussion focused on land between the two cities:
  - Direct more dense residential closer to the cities
  - Direct large-lot residential farther out away from the cities
  - Industrial should be a part of planned industrial parks
  - Need to attract commercial development – employers
3. Parks & Recreation:
  - Keep floodplain area of Stranger Creek natural
  - Keep parks closer to the cities/population centers
4. Corridor Identity:
  - Setbacks should vary – depends on type of business
  - Limit metal buildings close to road/visuals matter close to road
  - Sign restrictions (size, illumination, height)
  - Similar to K-10 Corridor looks and pattern/keeps a more open feeling
  - Right-of-way for future mass transit
5. Public Realm:
  - Gateway entrances into the cities

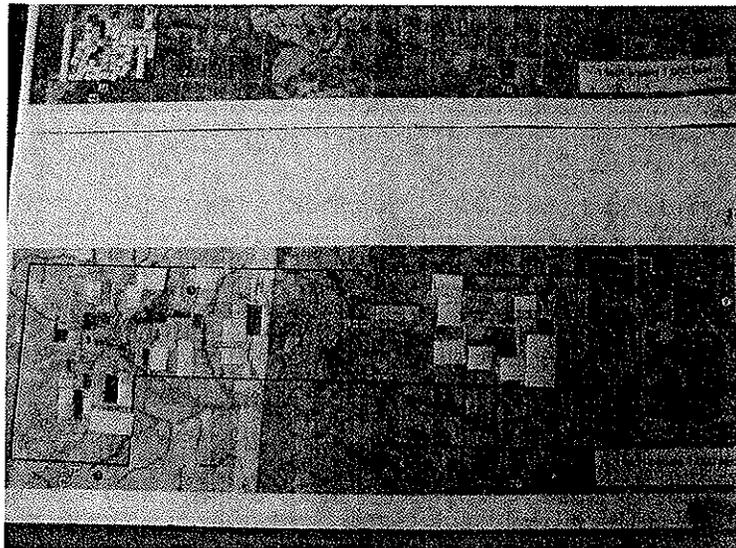
6. Traffic/Access Management:
- Stop lights every mile
  - Leavenworth and Parallel improvements



**Team 2 Results**

**TEAM 3 – SUMMARY**

1. Shared sewer project by both cities. Trails with trailheads including horse trails with bike friendly roads
2. Passive and active recreation in the Stranger Creek basin. Cities share sports park.
3. Standards for design within corridor visibility. Signage standards on corridor.
4. A street "grid" is good. Support reverse frontage roads with room for separation from highway.
5. Limit left turns/support medians. Reduce access onto 24/40 or reduce speed limit.



**Team 3 Results**

## Visual Preference Workshop Summary

In December, 2006 a Visual Preference Workshop was conducted at a community meeting at the VFW in Tonganoxie to build upon the prioritized issues and recommendations from the Focus Session and the Planning Policy Charrette. The purpose of the Workshop was to:

- Identify visual preferences to link development policy and design standards; and
- Use the visual evaluation as an important bridge between planning and implementation.

The Visual Preference Workshop was conducted by organizing images into the following categories:

### **Land Use Evaluations**

- Moderate Density Residential
- High Density Residential
- Local Commercial
- Regional Commercial
- Light Industrial
- Access Management

### **Signage Design Evaluations**

- Monument Signs
- Pole Signs
- Wall Signs

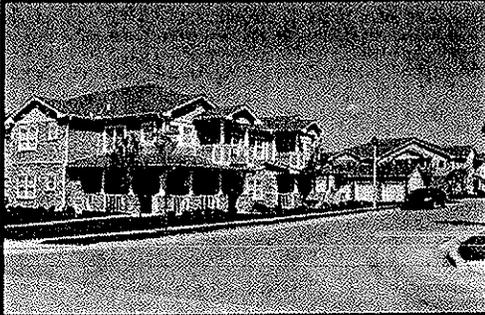
### **Streetscape Identity Evaluation**

- Gateways
- Rural Streetscape
- Median/Roundabout Landscaping
- Buffers and screening
- Setback and Drive Experience

### **Roadway Lighting Evaluation**

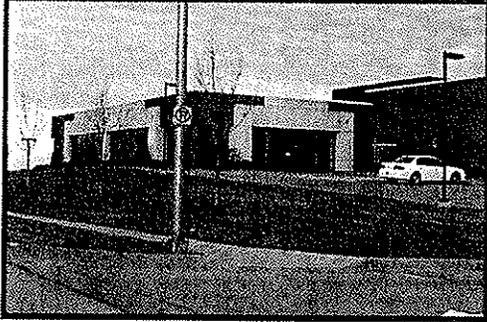
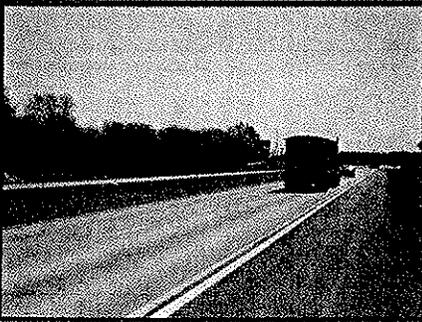
A complete summary of the workshop is presented in **Appendix B**. The following are the top rated images and the desired characteristics for future development identified by planning participants. These characteristics serve as the basis for the US 24/40 Corridor Guiding Principles and Corridor Identity Design Guidelines (**Ref. Section 9, Corridor Identity**).

Land Use Evaluations

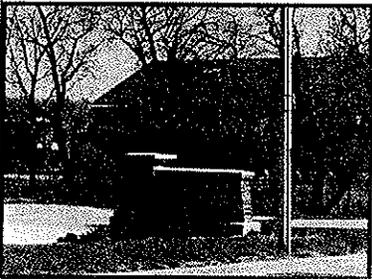
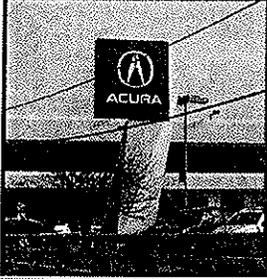
| Moderate Density Residential  | High Density Residential  |
|---|---|
|    |   |
| <ul style="list-style-type: none"> <li>• <i>Architectural Detail</i></li> <li>• <i>Garages vary (do not dominate the front façade)</i></li> <li>• <i>Sense of depth (recesses and projections)</i></li> <li>• <i>Larger Appearance</i></li> <li>• <i>Front Yard Landscaping (rather than concrete)</i></li> </ul> | <ul style="list-style-type: none"> <li>• <i>"Big House" Residential Appearance</i></li> <li>• <i>Craftsman style</i></li> <li>• <i>Has sidewalks, front porch</i></li> <li>• <i>Detached garages</i></li> <li>• <i>Landscaped area between building and street</i></li> <li>• <i>Break up the variety of materials if there are numerous units</i></li> <li>• <i>On-street parking</i></li> </ul> |

| Local Commercial  | Regional Commercial   |
|---|---|
|    |   |
| <ul style="list-style-type: none"> <li>• <i>Pedestrian and Shopper Friendly</i></li> <li>• <i>Variety of architecture</i></li> <li>• <i>Visual consistency</i></li> <li>• <i>Landscaping around buildings</i></li> <li>• <i>Blends well</i></li> <li>• <i>Part of a planned district</i></li> <li>• <i>Control of traffic movements</i></li> <li>• <i>Provides a sense of community (identity)</i></li> </ul> | <ul style="list-style-type: none"> <li>• <i>Themed Design</i></li> <li>• <i>Consistency and variety</i></li> <li>• <i>Nostalgic</i></li> <li>• <i>Good scale</i></li> <li>• <i>Useable second story</i></li> <li>• <i>Town Square Appearance</i></li> </ul> |

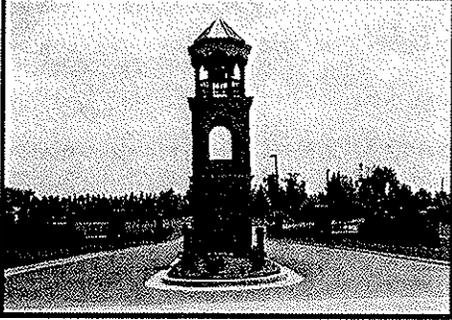
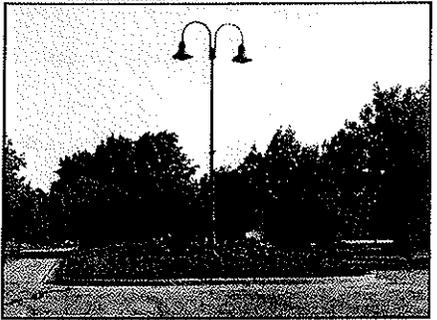
**Land Use Evaluations**

| Light Industrial  | Access Management   |
|---|---|
|    |   |
| <ul style="list-style-type: none"> <li>• Architectural embellishment and details</li> <li>• Trees and Landscaping</li> <li>• Visitor friendly</li> <li>• Clean/Neat appearance</li> <li>• Good setting</li> <li>• Office Appearance</li> <li>• Elevated above street grade</li> </ul> | <ul style="list-style-type: none"> <li>• Limited access allows for higher travel speed</li> <li>• Safe with no vehicular turning conflicts</li> </ul> |

**Signage Design Evaluations**

| Monument Signs   | Pole Signs   | Wall Signs  |
|--|--|---|
|    |   |   |
| <ul style="list-style-type: none"> <li>• All monument signs are acceptable</li> <li>• Better than a pole sign</li> <li>• Context sensitive design</li> </ul> | <ul style="list-style-type: none"> <li>• Clean and modern appearance</li> <li>• Does not look like a sign</li> <li>• Has a monument sign appearance (cannot see the pole)</li> </ul> | <ul style="list-style-type: none"> <li>• Blends in with building design</li> <li>• Not cluttered</li> <li>• Does not appear like an afterthought</li> </ul> |

**Streetscape Identity Evaluations**

|  |  |
|--|--|
| <p>Gateways</p>  | <p>Setbacks and Drive Experience</p>   |
|   |    |
| <ul style="list-style-type: none"> <li>• Clean lines</li> <li>• Clearly identifies an "entry"</li> <li>• Creates a park-like appearance</li> <li>• Has an English flair</li> </ul>         | <ul style="list-style-type: none"> <li>• Natural appearance</li> <li>• Landscape set-back area</li> <li>• Larger building set-back</li> </ul>                    |
| <p>Rural Streetscape</p>   | <p>Median / Roundabout Landscaping</p>   |
|    |   |
| <ul style="list-style-type: none"> <li>• Raised median</li> <li>• Trees in raised median</li> <li>• No overhead power lines</li> </ul>   | <ul style="list-style-type: none"> <li>• Landscaping provided</li> <li>• Low maintenance plantings</li> <li>• Flowers</li> <li>• Park like appearance</li> </ul> |
| <p>Buffers and Screening</p>   | <p>Roadway Lighting</p>  |
|   |    |
| <ul style="list-style-type: none"> <li>• Large variety and quantity of plantings</li> <li>• Natural Appearance</li> <li>• Low maintenance plantings</li> <li>• Variety of color</li> </ul> | <ul style="list-style-type: none"> <li>• Ornamental Appearance</li> <li>• Thematic Design</li> </ul>   |

## Community Opinion Survey

ETC Institute, in association with lead consultant BWR, conducted a survey of residents in the south one half of Leavenworth County during the spring 2007. Of the 1,200 county households randomly selected in the south part of the county, more than 600 responded—a strong 50 percent response. The survey asked about transportation and land use along US 24/40. Input included perceptions of safety, preferred configuration of access onto US 24/40, and commercial and residential development within the corridor.

A highlight of the survey results show that a strong majority of the 600 respondents said they were either “somewhat” or “very concerned” about safety along the US 24/40 Corridor. Most respondents agreed that new access onto and from US 24/40, including streets and driveways, should be limited in order to maintain current traffic flow. Respondents were divided on whether to reduce the number of existing driveways along US 24/40; about 30 percent said yes and another 30 percent said no, while 33 percent of respondents were neutral on this issue, and the rest undecided. A majority of respondents said commercial and residential development plans should focus on reserving open areas for rural uses. Most supported keeping such development in or near the cities of Basehor and Tonganoxie.

The survey was a vital step in evaluating communitywide perspectives on corridor development and potential. A complete survey summary was posted on the corridor project Web site in spring 2007 at [www.marc.org/transportation/us2440/](http://www.marc.org/transportation/us2440/) and is attached to this report (**Ref. Appendix B, 2007 US 24/40 Corridor Community Opinion Survey**).

## Open House Meeting

The consultant team drafted policies for traffic and access management, land development practices, and corridor identity based on the previous public input, feedback from the Project Management Team, and engineering and planning judgment. Exhibits illustrating the study concepts and draft recommendations were presented in an open house setting in March, 2007 at the Basehor-Linwood High School. The meeting provided the public the opportunity to ask questions of the consultant and Project Management Team. Questionnaires were provided to the participants to make it easier for them to comment on each of the exhibits. The comments received were primarily supportive of the draft policies. There was some interest expressed in allowing right turn only access points midway between the full access points onto U.S. 24/40.

## Final Recommendations Presentation

A presentation of the final recommendations of the study was made to the public in July, 2007 in the Tonganoxie High School. The recommendations for traffic and access management, land development practices, and corridor identity were presented by the consultant in a power point format. In addition, exhibits summarizing the recommendations were displayed at the front of the auditorium. Following the presentation, the consultant and other members of the Project Management Team answered questions through one-on-one discussions with the interested public.

# Environmental Challenges and Opportunities

## Introduction

This section evaluates various resources in the US 24/40 Corridor including aesthetic, wetlands, geology and soils, water, ecological, terrestrial, air quality, floodplains and stream corridors, and cultural resources. This analysis serves a significant role in forming policies related to environmental resource preservation and environmental management within the corridor which are addressed in other sections of the Corridor Study. As the Corridor develops, it is important that the natural resources be respected and that the development occurs in a way that does not degrade the natural environment.

The summary and analysis provided in this section are based on information regarding natural, physical, and man-made environmental features that could potentially be affected and/or enhanced by future land uses or the construction of a future roadway network in the corridor. The following agencies were contacted and supplied information for this summary:

- Mid-America Regional Council (MARC)
- Kansas Department of Transportation (KDOT)
- Kansas Department of Wildlife and Parks (KPWP)
- Kansas State Historical Society – Historic Preservation Office
- Kansas Geological Survey (KGS) Data Access and Support Center (DASC)
- National Wetlands Inventory (NWI)
- U.S. Department of Agriculture Natural Resource Conservation Service (NRCS)
- U.S. Fish and Wildlife Service (USFWS)
- U.S. Environmental Protection Agency (USEPA)
- U.S. Army Corps of Engineers (USACE)

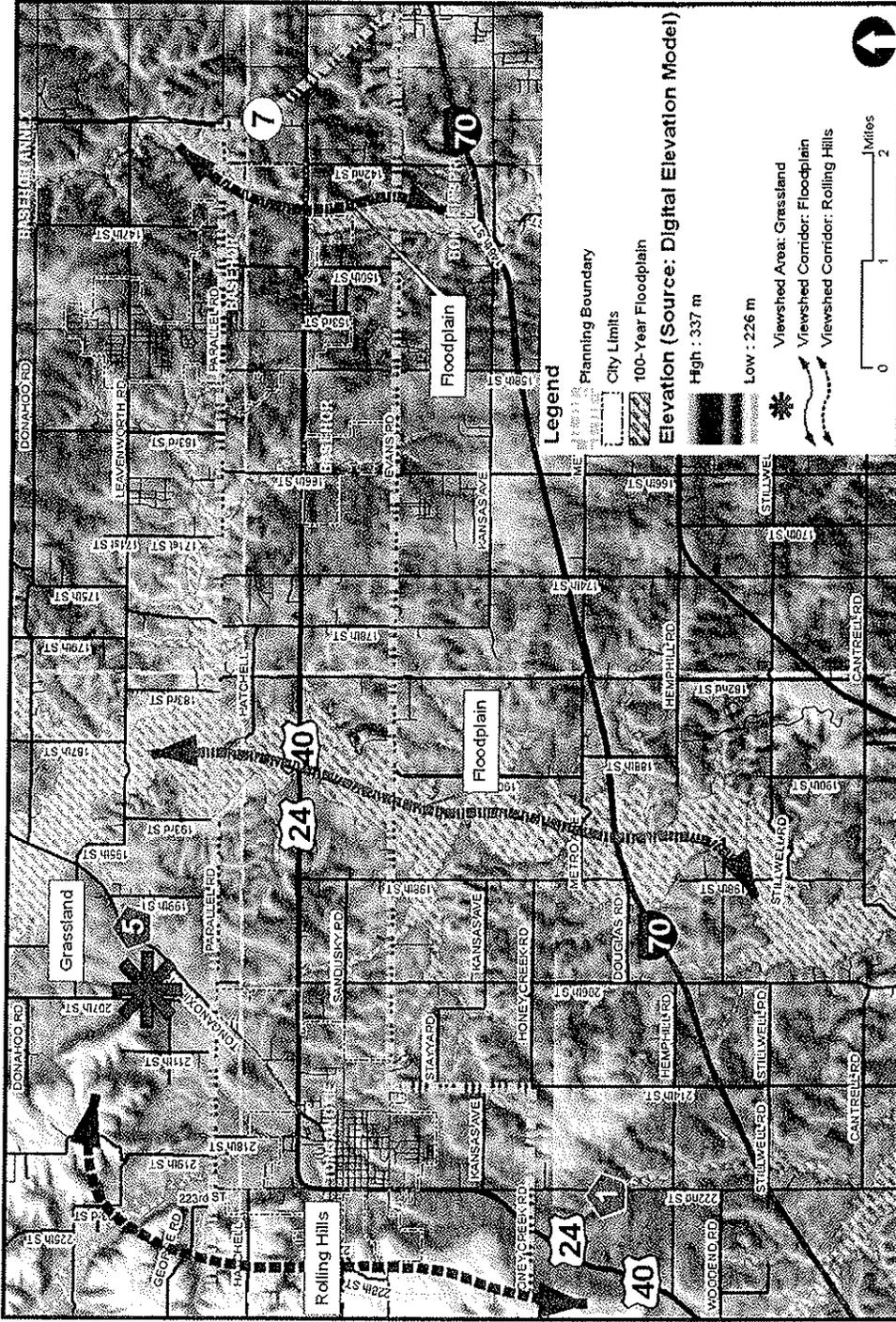
## Visual Quality Assessment

Currently the US 24/40 Corridor is a mix of land uses (**Ref. Section 4**) that present a mix of visual images. Much of the undeveloped portion of the corridor has clear “view-sheds” predominantly characterized by agricultural land uses, such as pasture lands that rise above the floodplain of Stranger Creek and its tributaries. The rural character and open space preservation as reflected in the views from the highway were identified through the public involvement process as the top issues in corridor identity and image. **Figure 6-1** identifies view-shed preservation opportunities in the corridor. US 24/40 Highway from K-7 Highway to eastern Tonganoxie is mostly designed with a wide median that preserves and enhances the visual quality of the corridor.

Future updates to the Comprehensive Plans and development regulations for Leavenworth County and the cities of Basehor and Tonganoxie should include policies and standards to preserve these natural resources and view-sheds.

*(This page left blank intentionally)*

Figure 6-1: Visual Quality Assessment

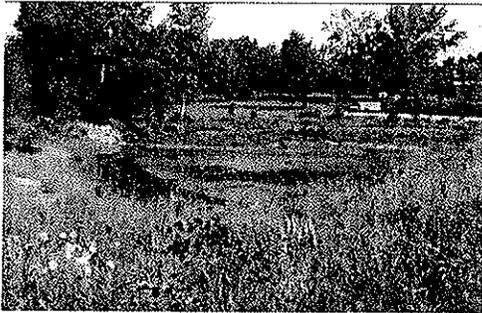


Source: BWR, Leavenworth County GIS

*(This page left blank intentionally)*

## Wetlands

Example Wetland



Wetlands are defined by the U.S. Environmental Protection Agency (USEPA) and the U.S. Army Corps of Engineers (USACE) as ***“those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.”*** Wetlands may provide

and/or promote a variety of functions including groundwater recharge and discharge, flood flow alternation, nutrient retention and removal, production export, and the promotion of habitat and wildlife diversity and abundance.

The USACE has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the USACE under Section 404 of the Clean Water Act (33 USC 1344). Additionally, Executive Order 11990 requires all federal agencies to minimize impacts to wetlands when conducting specific activities.

Potential jurisdictional wetlands have been assessed for the corridor and the designated areas are identified in **Figure 6-2**. The wetland investigation was conducted using information provided from the National Wetland Inventory (NWI) and the Kansas Geological Survey (KGS) Data Access and Support Center (DASC). The US 24/40 Corridor contains a total of 20.5 acres of potential jurisdictional wetlands. These potential wetlands are predominantly located along the central portion of the US 24/40 Corridor (within the Stranger Creek floodplain) and along the eastern portion of the Corridor (near Wolf Creek).

*(This page left blank intentionally)*



*(This page left blank intentionally)*

The following wetland categories were identified in the corridor:

- PABFh – Palustrine, aquatic bed, semipermanently flooded, diked/impounded (between 142<sup>nd</sup> and 150<sup>th</sup> – north of U.S. 24/40, 158<sup>th</sup> and 166<sup>th</sup> – north of U.S. 24/40, 166<sup>th</sup> and 178<sup>th</sup> – north of U.S. 24/40, 190<sup>th</sup> and 198<sup>th</sup> – south of U.S. 24/40, 198<sup>th</sup> and 206<sup>th</sup> – north of U.S. 24/40, 206<sup>th</sup> and Village – south of U.S. 24/40, north of Kansas Ave. and east of U.S. 24/40, and 214<sup>th</sup> and Delaware – south of U.S. 24/40)
- PEMFh – Palustrine, emergent, semipermanently flooded, diked/impounded (between 142<sup>nd</sup> and 150<sup>th</sup> – north of U.S. 24/40 and 224<sup>th</sup> and U.S. 24/40 – west of U.S. 24/40)
- PUBF – Palustrine, unconsolidated bottom, semipermanently flooded (between 182<sup>nd</sup> and 198<sup>th</sup> – south of U.S. 24/40 and 214<sup>th</sup> and Delaware – south of U.S. 24/40)
- PFOAh – Palustrine, forested, temporarily flooded, diked/impounded (between 206<sup>th</sup> and Village – south of U.S. 24/40)
- PEMA – Palustrine, emergent, temporarily flooded (between 190<sup>th</sup> and 198<sup>th</sup> – south of U.S. 24/40)
- PUBFx – Palustrine, unconsolidated bottom, semipermanently flooded, excavated (between 182<sup>nd</sup> and 190<sup>th</sup> – south of U.S. 24/40)
- PEMCh – Palustrine, emergent, seasonally flooded, diked/impounded (between 150<sup>th</sup> and 158<sup>th</sup> – south of U.S. 24/40, 174<sup>th</sup> and 178<sup>th</sup> – south of U.S. 24/40, 198<sup>th</sup> and 206<sup>th</sup> – north of U.S. 24/40, 218<sup>th</sup> and 222<sup>nd</sup> – north of U.S. 24/40)
- PABF – Palustrine, aquatic bed, semipermanently flooded (between 158<sup>th</sup> and 166<sup>th</sup> – north of U.S. 24/40)
- PABFx – Palustrine, aquatic bed, semipermanently flooded, excavated (between 158<sup>th</sup> and 166<sup>th</sup> – north of U.S. 24/40)
- PEMC – Palustrine, emergent, seasonally flooded (between 158<sup>th</sup> and 166<sup>th</sup> – south of U.S. 24/40 and U.S. 24/40 and 224<sup>th</sup> – west of U.S. 24/40)
- PEMCx – Palustrine, emergent, seasonally flooded, excavated (between 150<sup>th</sup> and 158<sup>th</sup> – north of U.S. 24/40)

## Floodplains

The US 24/40 Corridor contains 1,318 acres of land classified as 100-year floodplain. **Figure 6-3** identifies the floodplain lands in the Corridor, which are primarily located along Stranger Creek and its tributaries. Encroachments into the 100-year floodplain were investigated based on information obtained from the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM) for Leavenworth County.

## Example Floodplain



Executive Order 11988, "Floodplain Management," is the basis for identifying floodplain impacts associated with the construction of improvements located within floodplain boundaries. This order requires federal agencies to avoid actions, to the extent practicable, which will result in the location of facilities in floodplains and/or affect floodplain values. Development associated with this project which lies within floodplains should be planned and located so as not to interfere with stream flow or create a flood hazard.

The FIRM map shows Zone 'A' floodplains along both Wolf Creek and Stranger Creek, as well as along the Stranger Creek tributaries of Hog Creek and Tonganoxie Creek. Zone 'A' areas are susceptible to a 1% chance of being inundated in any given year, i.e. the "100-Year Floodplain". A Zone 'A' designation on the FIRM map is not based upon a detailed flood study and therefore no Base Flood Elevations (BFE's) are provided on the FIRM panel. All areas noted as Zone 'A' are located within the floodplain boundaries, which means development is prohibited under Executive Order 11988.



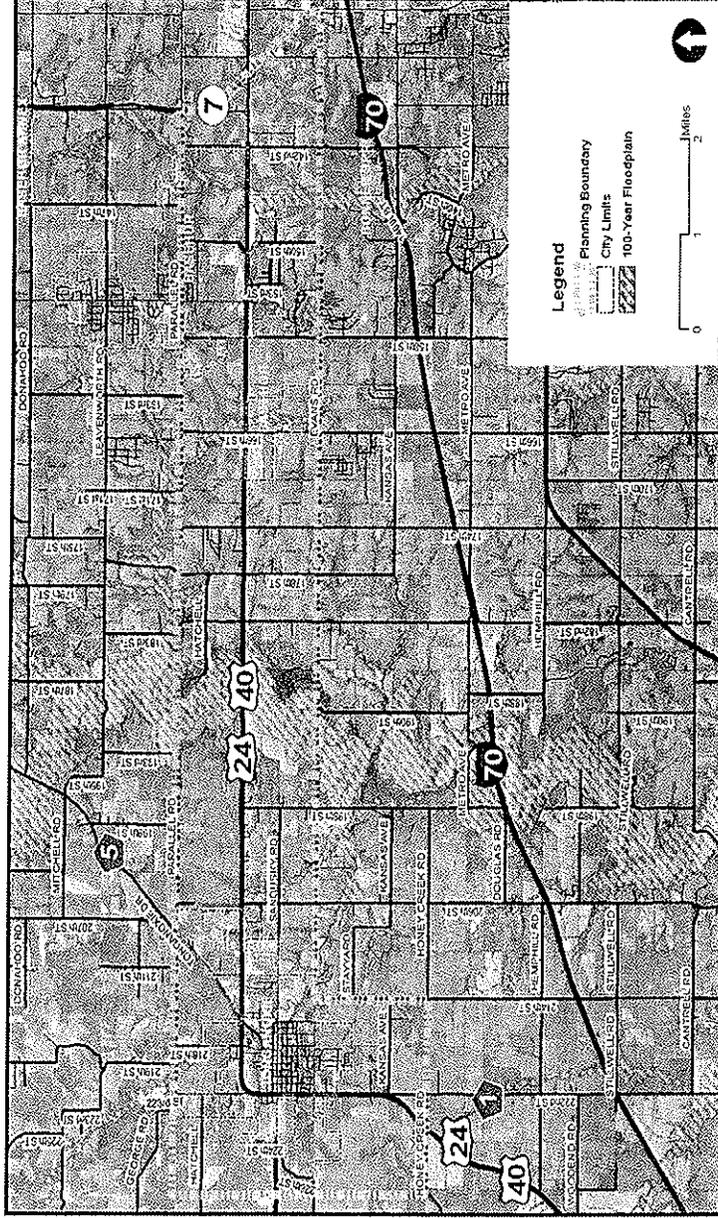
Example Floodplain

Since Zone 'A' floodplains are not based on detailed flood study, a more precise delineation of the floodplain boundary may be established by a detailed hydrologic and hydraulic study of the area. It is possible to expand the developable area through the use of fill within the floodplain (excluding the floodway). Both of these processes would require a formal revision of the FIRM maps through FEMA.

Impacts to the base floodplain should be minimized throughout the development process to insure that any increase of floodwater elevation is less than 0.3048 meter (1.0-foot) and that no rise will occur in the regulatory floodway, in accordance with FEMA standards. Coordination with FEMA and local authorities as appropriate should occur early in the development process to comply with all regulatory and permit requirements.

*(This page left blank intentionally)*

Figure 6-3: Floodplain



Source: BWP & Leavenworth County GIS



## Water Quality

There are various surface water resources in the corridor that may be affected by development, with a total of 247-acres of open waters located in the corridor. The project corridor has the potential for 22 stream crossings. A total of 295,680 lineal feet (56 miles) of tributary exist within the project corridor.

Storm water and water quality in particular are greatly impacted by development. Implementing an overall storm water management system approach at the countywide level can address the key adverse impacts of storm water runoff by reducing "*quantity*" of storm water runoff and increase the resulting water "*quality*". Possible storm water management and treatment practices for the corridor are provided in **Section 8, Future Land Use and Development Regulations**.

## Geology and Soils

**Figure 6-4** identifies soil classifications for the corridor using information provided by Leavenworth County, Kansas Soil Survey, and the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS) soils maps. The predominant soil units within the corridor include:

- Kennebec silt loam, occasionally flooded
- Basehor complex, 5 to 30 percent slopes
- Elmont silt loam, 3 to 7 percent slopes
- Grundy silty clay loam, 1 to 3 percent slopes
- Grundy silty clay loam, 3 to 7 percent slopes
- Vinland-Sibleyville complex, 5 to 12 percent slopes
- Shelby-Pawnee complex, 3 to 7 percent slopes
- Martin silty clay loam, 3 to 7 percent slopes
- Sibleyville loam, 3 to 7 percent slopes

*(This page left blank intentionally)*



*(This page left blank intentionally)*

The Leavenworth County soil survey classifies all of the soil types within the corridor as “somewhat” to “very limited” for construction of:

- small commercial buildings
- local road and streets
- dwellings with basements
- dwellings without basements
- septic tank absorption fields

Development and construction limitations exist throughout the corridor due to the low strength, frost action, shrink-swell action, depth to saturated zone, flooding and slope characteristics of the soil. While these limitations can be overcome during development through special design or installation procedures, a higher level of maintenance can generally be expected over the long term.

## Threatened and Endangered Species and Critical Habitat

The US Fish and Wildlife Service (USFWS) and the Kansas Department of Wildlife and Parks (KDWP) were contacted regarding threatened and endangered species and critical habitats in the corridor area. Information was collected on a county basis and obtained through phone conversations and website research with both the USFWS and KDWP.

Based on USFWS information there are six federally-listed faunal species (two threatened species and four endangered species) or designated critical habitat within the corridor. **The two federally-listed threatened species include:**

- Bald Eagle (*Haliaeetus leucocephalus*)
- Piping Plover (*Charadrius melodus*)

**The four federally-listed endangered species include:**

- American Burying Beetle (*Nicrophorus americanus*)
- Eskimo Curlew (*Numenius borealis*)
- Pallid Sturgeon (*Scaphirhynchus albus*)
- Least Tern (*Sterna antillarum*)

The KDWP information indicated that there are eleven threatened species and seven endangered species listed for Leavenworth County, Kansas. **The state-listed threatened species include:**

- Bald Eagle (*Haliaeetus leucocephalus*)
- Chestnut Lamprey (*Ichthyomyzon castaneus*)
- Eastern Spotted Skunk (*Spilogale putorius*)
- Flathead Chub (*Platygobio gracilis*)
- Piping Plover (*Charadrius melodus*)
- Redbelly Snake (*Storeria occipitomaculata*)
- Silverband Shiner (*Notropis shumardi*)

- Smooth Earth Snake (*Virginia valeriae*)
- Snowy Plover (*Charadrius alexandrinus*)
- Sturgeon Chub (*Macrhybopsis gelida*)
- Western Silvery Minnow (*Hybognathus argyritis*)

**The state-listed endangered species include:**

- American Burying Beetle (*Nicrophorus americanus*)
- Eskimo Curlew (*Numenius borealis*)
- Least Tern (*Sterna antillarum*)
- Pallid Sturgeon (*Scaphirhynchus albus*)
- Peregrine Falcon (*Falco peregrinus*)
- Sicklefin Chub (*Macrhybopsis meeki*)
- Silver Chub (*Macrhybopsis storeriana*)

According to KDWP, the state of Kansas has twelve state-listed critical habitats within Leavenworth County for the threatened and endangered species. **The state-listed critical habitats include the following species:**

- Bald Eagle (*Haliaeetus leucocephalus*)
- Chestnut Lamprey (*Ichthyomyzon castaneus*)
- Flathead Chub (*Platygobio gracilis*)
- Least Tern (*Sterna antillarum*)
- Pallid Sturgeon (*Scaphirhynchus albus*)
- Piping Plover (*Charadrius melodus*)
- Redbelly Snake (*Storeria occipitomaculata*)
- Sicklefin Chub (*Macrhybopsis meeki*)
- Silverband Shiner (*Notropis shumardi*)
- Smooth Earth Snake (*Virginia valeriae*)
- Sturgeon Chub (*Macrhybopsis gelida*)
- Western Silvery Minnow (*Hybognathus argyritis*)

Many of the threatened and endangered species listed have critical habitats within the stream and riparian forest areas in Leavenworth County. Future updates to the Comprehensive Plans and development regulations for Leavenworth County and the cities of Basehor and Tonganoxie should include policies and standards to preserve these stream corridors and natural resources. In addition, future development will require continued coordination with KDWP and the USFWS.

## Vegetation

**Figure 6-5** identifies the various types of vegetation located in the US 24/40 Corridor based on data provided by the Natural Resources Inventory prepared by the Mid-America Regional Council. Vegetation classifications identified within the inventory included:

- Deciduous forest
- Mixed evergreen deciduous
- Deciduous woodland and immature forest
- Grassland
- Lowland hardwood forest and woodland
- Marsh and wet herbaceous vegetation
- Urban forest

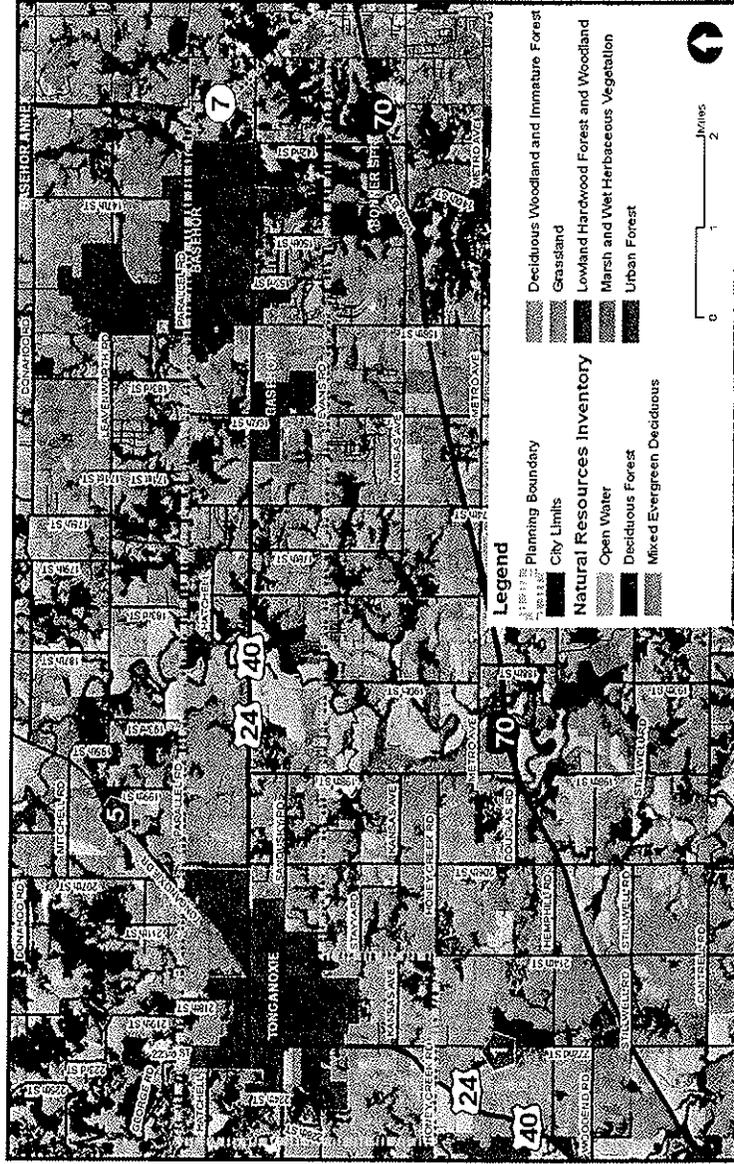


The most predominant vegetation classes in the Corridor are deciduous forest, grasslands and lowland hardwood forest and woodland. The deciduous forest areas are typically located near the riparian corridors of streams. Deciduous forest exists along Stranger Creek, Wolf Creek and the tributaries associated with each stream. The predominant grasslands areas of the project corridor are located between 206<sup>th</sup> and 193<sup>rd</sup> Streets east of Tonganoxie and between 163<sup>rd</sup> and 153<sup>rd</sup> Streets south and east of Basehor. Lowland hardwood forest and woodland areas are scattered throughout the corridor area. Often areas of lowland hardwood forest and woodland are located near creek tributaries with small pockets of marsh and wet herbaceous vegetation clustered within the forest/woodland areas.

Preservation of these significant resources should be addressed in the various jurisdictions through policies related to future land use, and through development regulations.

*(This page left blank intentionally)*

Figure 6-5: Natural Resources Inventory (MARC)



Source: Mid-America Regional Council (MARC), BWR

*(This page left blank intentionally)*

## Cultural Resources

Historic properties are protected under the National Historic Preservation Act (NHPA), codified under 16 U.S.C 470. The intent of the NHPA is to ensure federal leadership in the preservation of prehistoric and historic resources. Under the NHPA, federal agencies are to integrate historic preservation into all activities that directly or indirectly involve land use decisions.

Information was obtained from both the Kansas State Historical Society and National Register of Historical Places website regarding the identification and evaluation of historic properties within the project corridor. Also, a letter was submitted to the Kansas Historical Preservation Office regarding information about state and national registered historical sites within the corridor area.

There are four national registered historical sites within the "vicinity" of the City of Tonganoxie. For the general protection of these sites, the specific addresses are listed as restricted. These sites include two agricultural fields and two archeological sites. The agricultural fields include:

- Scott Site
- Evans Site (14LV1079)

The archeological sites include:

- Caenen Site (14LV1083)
- Paul Site (14LV1043)

The Tonganoxie Historical Society is located at 201 West Washington Street and owns ten acres of land with a museum consisting of: an old milk house, a renovated barn, the Honey Valley one room school house, and the Reno Methodist Church. None of these structures are listed on the state or national historical registers.

At the time of this study, the Basehor Historical Museum Society has efforts for the construction of a 29,000 square foot facility to be built at the southwest corner of 158<sup>th</sup> and Parallel.

Due to the existing/known agricultural and archeological sites in the vicinity of Tonganoxie, any future development would require close coordination and regulatory compliance with Section 106 of the NHPA. Unavoidable effects would require mitigation through strict adherence to the laws and regulations protecting NHPA properties and management practices included in standards set forth by the Federal Highway Administration (FHWA), the Advisory Council on Historic Preservation and the Kansas State Historical Society.

Knowledge of the actual site locations are restricted in an effort to protect them from vandalism. However, this also makes it difficult for the cities and the county to protect the historical and archeological resources from development damages. City and county staff should ascertain the locations of these sites from the Kansas State Historical Society to be aware of possible encroachment onto the sites by proposed developments.

# Transportation Corridor Management

## Introduction

This section describes the recommended transportation management strategies and actions necessary to maintain both the safety and mobility of the corridor. It outlines guiding access management best practices, and how they can be applied to the corridor, both as interim and long-range improvements.

## Access and Traffic Management Plan Overview

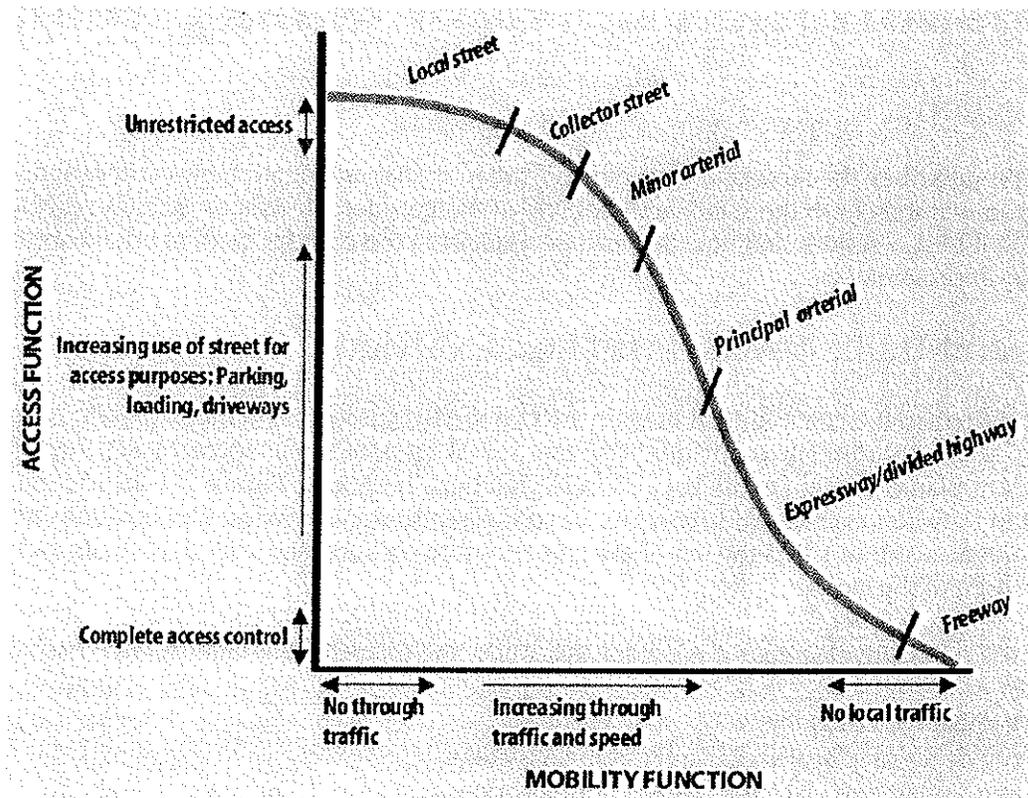
Section 2 described the competition between the two roadway purposes of moving traffic and providing access to adjacent properties. The essence of an access management and traffic management plan is to identify the balance between those purposes. **Figure 7-1** depicts the relationship between mobility and access for various classifications of roads. Combinations of mobility and access that fall to the left of the curve tend to be generally safer than roads that fall to the right of the curve.

Through the public involvement process for this study, the following sentiments were raised constantly:

- Maintain high mobility on US 24/40 Highway
- Provide for safe local access and traffic circulation
- Limit signals and place them at the right locations
- Provide adequate turn lanes and through lanes to maintain safety

These goals, provided by the public, define the guiding principles for the development of the US 24/40 Corridor Access and Traffic Management Plan. The goals will be achieved through the application of best practice strategies in access management, specifically to the US 24/40 Corridor.

Figure 7- 1: Mobility Access Relationship



### Access Management Best Practices

The Transportation Research Board's Access Management Manual identifies 10 Principles for Access Management to limit and consolidate access points along major roadways, while promoting a supporting street system and unified access and circulation systems for development (**Table 7-1**). The result is a roadway that functions safely and efficiently for its useful life, and a more attractive corridor. The goals of access management are accomplished by applying these 10 principles.

Table 7-1: Access Management Principles

## 10 Principles for Access Management

- ① Provide a Specialized Roadway System**

It is important to design and manage roadways according to the primary function that they are expected to serve.
- ② Limit Direct Access to Major Roadways**

Roadways that serve higher volumes of regional through traffic need more access control to preserve their traffic function.
- ③ Promote Intersection Hierarchy**

An efficient transportation network provides appropriate transitions from one classification of roadway to another.
- ④ Locate Signals to Favor Through Movements**

Long, uniform spacing of intersections and signals on major roadways enhances the ability to coordinate signals and ensure continuous movement of traffic at the desired speed.
- ⑤ Preserve the Functional Area of Intersections and Interchanges**

The functional area is where motorists are responding to the intersection (i.e., decelerating, maneuvering into the appropriate lane to stop or complete a turn).
- ⑥ Limit the Number of Conflict Points**

Drivers make more mistakes and are more likely to have collisions when they are presented with the complex driving situations created by numerous conflicts. Traffic conflicts occur when the paths of vehicles intersect and may involve merging, diverging, stopping, weaving, or crossing movements.
- ⑦ Separate Conflict Areas**

Drivers need sufficient time to address one potential set of conflicts before facing another.
- ⑧ Remove Turning Vehicles from Through Traffic Lanes**

Turning lanes allow drivers to decelerate gradually out of the through lane and wait in a protected area for an opportunity to complete a turn, thereby reducing the severity and duration of a conflict between turning vehicles and through traffic.
- ⑨ Use Non traversable Medians to Manage Turn Movements**

Non traversable medians minimize left turns or reduce driver workload and can be especially effective in improving highway safety.
- ⑩ Provide a Supporting Street and Circulation System**

A supporting network of local and collector streets to accommodate development, and unify property access and circulation systems. Interconnected streets provide alternate routes for bicyclists, pedestrians, and drivers.

Table 7-2 identifies strategies that can be used to apply these best practices to specific locations.

**Table 7-2: Strategies to Apply Access Management Principles**

| <b>Limit Conflicts</b>  |  |
|---|--|
| 1. Purchase access rights   | 10. Replace a full median opening with a directional opening                                 |
| 2. Regulate the location, spacing, & design of driveways                                  | 11. Install a separator island to prevent left-turns within the functional intersection area |
| 3. Restrict the number of driveways per lot   | 12. Install a median divider on the cross-road   |
| 4. Restrict the number of lots  | 13. Install a divisional island to prevent entry into left-turn bay                          |
| 5. Encourage adjacent properties to share access  | 14. Install a physical barrier to eliminate uncontrolled access along property frontage      |
| 6. Coordinate driveway locations on both sides of the roadway                             | 15. Locate access opposite signalized 3-way intersection                                     |
| 7. Install a nontraversable median  | 16. Install channelizing island to discourage left-turn maneuver                             |
| 8. Replace a continuous two-way left turn with a nontraversable median                    | 17. Install narrow median with indirect left-turns   |
| 9. Close a median opening   |  |
| <b>Separate Conflicts</b>   |  |
| 18. Minimum corner clearance  | 20. Designate the access for each property   |
| 19. Maximize corner clearance by locating access as far from the intersection as possible | 21. Consolidate access drives  |
| <b>Remove Turning Vehicles from the Through Traffic Lanes</b>                             |  |
| 22. Provide separate left-turn entrances and exits at major traffic generators            | 26. Increase the length of existing turn bay   |
| 23. Install a continuous two-way left-turn lane   | 27. Install a right-turn deceleration bay  |
| 24. Install a left-turn deceleration bay at existing median opening                       | 28. Install a continuous right-turn lane   |
| 25. Install a nontraversable median with left-turn bays                                   | 29. Install a right-turn lane serving multiple access connections                            |
| <b>Reduce the Number of Turning Movements</b>   |  |
| 30. Provide connection between adjacent parcels   | 33. Provide a supporting circulation system  |
| 31. Require adequate internal circulation   |  |
| <b>Improve Roadway Operations</b>   |  |
| 35. Long, uniform signal spacing  | 39. Internal access to outparcels  |
| 36. Install access on the cross-road  | 40. Indirect u-turn  |
| 37. Provide adequate sight distances  | 41. Provide a frontage road  |
| 38. Shared access/joint access  |  |
| <b>Improve Driveway Operations</b>  |  |
| 42. Smooth vertical geometrics  | 45. Additional egress lane   |
| 43. Adequate driveway throat width and curb return radii                                  | 46. Define the ingress and egress sides of the access drive                                  |
| 44. Provide adequate sight distance   |  |

## Plan Development Methodology

The process followed to develop the Access and Traffic Management Plan for the US 24/40 Highway Corridor was to:

- Establish the relationship between land use and traffic in the corridor;
- Identify the roadway network necessary to support the projected land use;
- Identify access and the roadway network from US 24/40 Highway necessary to support the projected land use, while maintaining an acceptable level of mobility and safety on the highway; and
- Identify specific short, intermediate, and long range access management and operation improvement strategies and projects.

To maintain the current high mobility function of US 24/40 Highway, a complete system of supporting roadways must be developed in the corridor to provide access to properties and to channel traffic onto the highway at predetermined locations. The prerequisite to any determination of the street network is the establishment of the likely future land use in the study area. This identification of projected land uses within the corridor was completed as part of this study. Once the land uses were identified, a travel demand model was used to relate future land use to traffic forecasts.

A travel demand model is based on establishing the relationship between existing land development and the traffic volume on the roadway system. A computer model is developed that recreates the actual land use/traffic relationship that can be validated through a land use inventory and traffic counts. That relationship is then used to relate future land development in specific locations to future traffic forecasts on specific roads. By comparing the forecast traffic volumes to the capacity of the road system to handle traffic, the need for supporting roadway system improvements can be identified.

Thus, a supporting roadway network can be proposed which will provide adequate access to properties and will collect traffic to interface with US 24/40 Highway at appropriate spacing. The key to determining the access spacing on the highway is finding the balance between maintaining mobility and providing a sufficient number of access points so that no one point becomes over congested, while maintaining safety.

Best practices in access management encourage appropriate access spacing and traffic signal spacing based on desired travel speed for highways such as US 24/40 Highway. The access management plan developed for US 24/40 Highway needs to address the reality of existing access points which are not consistent with best practice guidelines. Consequently, the plan needs to provide short range solutions, as well as a path to achieve the ultimate desired access management.

Many existing roadways – in particular, older commercial strip developments – tend to be dotted with undesirable access design features. A project that applies access management design principles to existing, already built-up street corridors is sometimes called a “retrofit” project.

Retrofit projects can be complex and challenging. Along roadways where the property lines, buildings, and driveways have already been established, the benefits from any access management modifications have to be weighed against the costs and any disruptions that would be caused by modifying, moving, or eliminating driveways and median openings. Bringing such roadways into compliance may not always be a sufficiently high priority to pass the threshold for effort and funding. However, access management policies and standards can be applied when land along existing roadways redevelops. This practice can keep the situation from further deteriorating.

The existing conditions assessment in Section 2 described the relationship between access density and crash potential. It follows then, that reducing the number of full access points for locations that exceed the recommended access densities based on speed should be the first priority. These sections of US 24/40 Highway have been examined for reasonable opportunities for reducing the number of cuts and/or the full accessibility of cuts (median placement), in the context of a sensitivity for existing property access rights. The development of a practical interim plan involves providing alternative access, median placements, auxiliary lanes, and other strategies. The only point in the crash/access analysis sample that does not fit the regression line well is the 2-lane segment of US 24/40 Highway in the western end of the Corridor. This segment reflects a high crash rate compared to the number of access points. Providing widening for a median/center turn lane is an appropriate strategy for this section.

Likewise, the interim traffic management plan addresses roadway capacity issues, assessment of near term demand for signal installation and/or relocation, need for auxiliary turn lanes and other traffic management strategies to improve safety and operations. Although the overall levels of service for the corridor are adequate, key locations for evaluation that have been identified through the public meetings have been examined as part of this study.

The recommendations for long term strategies are based on future land use. The land development absorption rates provided by the economic study were used as the basis to identify the anticipated magnitude and areas for growth within the corridor. Land use development rates were estimated for the year 2030 as input into the travel demand model. These land development estimates were supplied to the planning staff at Leavenworth County, the cities of Basehor and Tonganoxie, and MARC for concurrency. The resulting 2030 traffic forecasts provided the basis for the development of the long-term roadway network in the corridor necessary to practically support the anticipated land use.

### **Supporting Roadway Network**

In order for US 24/40 Highway to continue providing a high level of east-west mobility, it must be supplemented with a system of other roadways to provide varying combinations of mobility and access. This system of streets must include arterial streets, collector streets to feed traffic from multiple local streets to arterial streets, and local streets to provide direct access to properties.

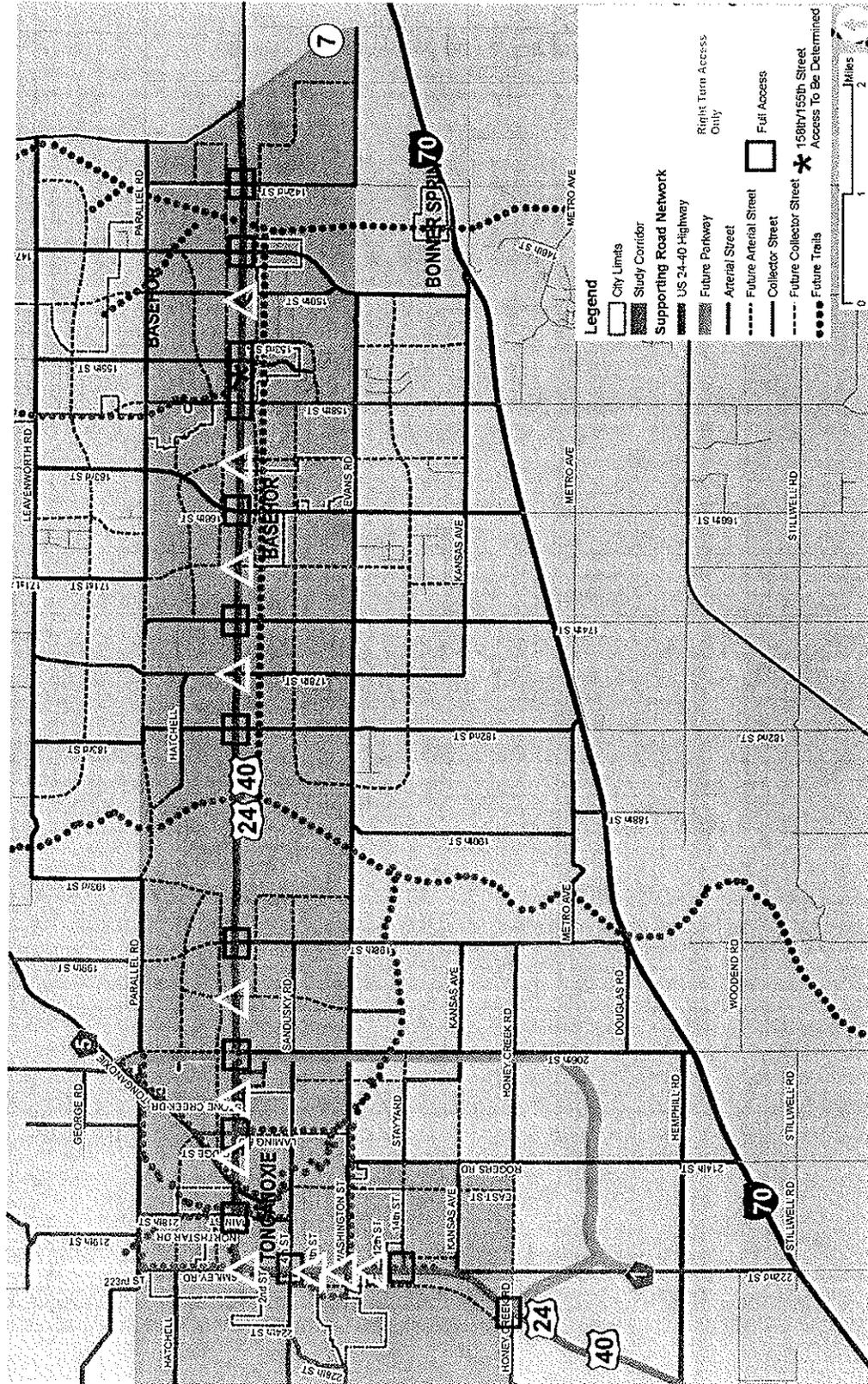
The supporting roadway network for US 24/40 Highway should consist of:

- parallel arterial streets serving east-west traffic along Parallel Parkway and along Evans Road
- arterial streets intersecting US 24/40 Highway at generally one (1) mile spacing.
- collector streets typically situated at half mile points between arterials and/or running parallel to US 24/40 ranging between 400 feet and one-half mile off US 24/40

**Figure 7- 2** depicts the basic major street plan for the corridor. This plan should be supplemented with local streets to provide access to individual properties. The collector street network shown in the figure represents the minimum collector system. Additional collector streets may be proposed as needed to support the proposed developments, and alignments of collectors may be adjusted to better serve the adjacent developments.

*(This page left blank intentionally)*

Figure 7-2: US 24/40 Corridor Supporting Transportation System Network Map



*(This page left blank intentionally)*

## Access Management Standards

The primary focus of the Corridor Study is to prepare a community based vision for the future of the corridor. This vision includes adopting standards for access management applicable to the desired character of new development or redevelopment in the corridor.

No single transportation planning publication is authoritative with respect to access management standards. Counties and cities adopt modified access management standards appropriate to their community and their desired future growth pattern. In most jurisdictions the demand for direct access to a roadway will increase as the adjoining area becomes more developed. Therefore, the standards adopted for the US 24/40 Corridor should be appropriate to support future urban development at an acceptable level of service.

It should be emphasized that the US 24/40 Corridor Access Management Standards are intended for new development or redevelopment projects and not for existing developed properties. For example, if a large lot residential acreage fronting US 24-40 Highway with an existing driveway to the highway remains with no change in land use, such driveway access could remain for the foreseeable future. However, if the property owner proposes to change the land use to put a commercial building on the site, the access management policy would apply.

- **A change in land use for property along US 24-40 Highway triggers the application of the Access Management Standards.**
- **When a change occurs from a rural use to a more intensive land use, existing access to the highway or an existing access to a connecting street may no longer be permitted.**

**Table 7-3** outlines the US 24/40 Corridor Access Management Standards for future development and redevelopment, including standards for street intersection spacing, traffic signal spacing, number of full access points and right-turn only access points, turn lanes, and traffic studies.

The locations of permitted full and partial access as depicted in **Figure 7-2** have been correlated to future land use density zones called transects. Transects are described in greater detail in Section 8. **Figure 8-2** depicts the transects for the corridor.

**Table 7.3: US 24 / 40 Corridor Access Management Standards**

| Standard   | Description   |
|--|---|
| <b>All Areas:</b> A traffic impact analysis shall be performed by a qualified traffic engineer for each requested access to US 24-40 Highway.*   | The purpose of the traffic impact analysis is to identify potential safety and mobility impacts resulting from the new access.  |
| <b>All Areas:</b> Allow new access onto US 24/40 Highway only for public streets.  | Public streets can provide access for multiple property owners, whereas private access benefits only one property owner.  |
| <b>All Areas:</b> Allow only those streets designated as collector streets or minor collector streets with connections to all adjacent properties to access US 24/40 Highway.  | This standard insures that streets with access to the highway will provide access to multiple developments.   |
| <b>All Areas:</b> Proposed plats of all properties within the 2-mile wide corridor shall provide street connections to all adjacent properties, and provide collector streets as designated by the <b>US 24/40 Corridor Supporting Transportation System Network Map</b> .   | This ensures collector and minor collector streets are able to provide access to properties that would otherwise be deprived of access onto US 24/40 Highway.   |
| <b>All Areas:</b> The first access onto any street intersecting US 24/40 Highway shall be setback a distance no less than 400 feet from the edge of the highway pavement. A greater setback distance may be required by a traffic impact analysis.   | This distance is sufficient in most cases for traffic entering the intersecting street from an adjacent development to be outside the functional area of the intersection. The functional area is the area near an intersection that includes the space needed for decelerating, accelerating, and queuing. |
| <b>All Areas:</b> Provide right-turn and left-turn auxiliary lanes off the highway, and right-turn and left-turn auxiliary lanes onto the highway for all new intersections with US 24-40 Highway. Auxiliary lanes shall not be less than 150 feet in length, plus tapers. A greater turn bay length may be required by a traffic impact analysis. | The auxiliary lanes will provide a refuge for turning vehicles out of the path of through traffic on the highway, and will allow right turn traffic to enter the highway unimpeded by queued left turn and through vehicles waiting to cross or turn onto the highway.                                      |
| <b>Transect T1 Area:</b> No new access is permitted onto US 24/40 Highway.   | T1 transect areas are primarily floodplain lands in which development is not permitted.   |
| <b>Transect T2 and T3 Areas:</b> Where new access is permitted onto US 24/40 Highway, the public street intersection density shall not be greater than 2 per mile (½-mile spacing). Full access allowed at not greater than 1 per mile, with right in/right out only access provided at ½-mile spacing.  | Half-mile access spacing is sufficient to provide access to most tracts fronting the highway in transect areas T2 and T3. It should be emphasized that this is minimum access spacing standard.   |
| <b>Transect T2 and T3 Areas:</b> Limit spacing of traffic signals on US 24/40 Highway to be no closer than one mile.   | Optimal spacing for future traffic signals is 1-mile intervals to minimize travel delay on the highway.   |
| <b>Transect T4 Area:</b> Where new access is permitted onto US 24/40 Highway, the public street intersection density shall not be greater than 2 per mile (½-mile spacing). Full access and traffic signal spacing allowed at not greater than 1 per mile with right in/right out only access provided at ½ mile spacing.                          | Optimal spacing for future traffic signals is 1-mile intervals to minimize travel delay on the highway.   |
| <b>Transect T5 Area:</b> Where new access is permitted onto US 24/40 Highway, the public street intersection density shall not be greater than 4 per mile (¼-mile spacing). Full access and traffic signal spacing allowed at not greater than 1 per mile with right in/right out only provided at ¼ -mile spacing.                                | Optimal spacing for future traffic signals is 1-mile intervals to minimize travel delay on the highway.   |

\*A traffic impact analysis shall include:

- Intersection sight distance.
- Estimated future traffic volumes using the connection upon full tributary land development, based on trips generated by future land development.
- Intersection capacity and queuing analysis for existing conditions and forecast traffic volumes.
- Lengths and numbers of auxiliary lanes needed to accommodate the estimated future traffic, but not less than the minimums specified in these standards.
- Queuing distances from the intersection for all traffic movements based on the estimated traffic volumes. These queue lengths will be used to establish the distance back from the intersection where the first access onto the street will be permitted, but not less than 400 feet.
- Evaluation of a signal warrant based on the forecast traffic volume for the highway intersection.

## Interim Access & Traffic Management Plan

Given the current lack of funding to build the permanent improvements, interim improvements should be implemented as needed to address safety issues that arise and to accommodate the growing traffic demands. Typical interim improvements include:

- **the relocation of existing traffic signals, and the addition of new traffic signals (only where legal warrants for signal installation are met),**
- **targeted widening of US 24/40 Highway to install a center turn lane or a median,**
- **removal of median breaks, and**
- **the addition of turn lanes at intersections.**

The interim (short range) Access and Traffic Management Plan is intended to provide mitigation for existing access and traffic management deficiencies. It is not the intent to deprive existing properties access, but is intended to improve the safety for the motoring public. Interim improvements are enhancements that can be implemented in less than a year's time, and can continue to be implemented until the ultimate plan is realized. The time line for implementation is dependent on local priorities and availability of funding. The appropriate jurisdictions should pursue these opportunities as funding allows, recognizing that implementation of the projects will result in enhancement of safety and mobility in the corridor.

The *Highway Capacity Manual* states that the travel speed on a multilane highway decreases by 2.5 mph for every 10 access points in one direction. Thus, the greater the number of driveways and street cuts onto US 24/40 Highway, the slower the resulting travel speed will be. Because a number of properties with access directly onto the highway possess multiple drives and access to adjacent roadways, the number of driveways accessing the highway could be reduced significantly without damaging the property owners' abilities to access their property. It should be noted that acquisition of access rights for superfluous driveways can be a time consuming and costly endeavor, and can sometimes leave property owners dissatisfied. Implementation of an interim access management plan will require individual discussions and negotiations with property owners to identify and address their concerns.

The Short-Range Traffic and Access Management Opportunities are summarized in **Table 7-4** and presented graphically in **Figures 7-3 to 7-7**.

**Table 7.4: Interim Improvement Opportunities**

| Project                                | Description  | Location   | Jurisdiction                     |
|--|--|--|----------------------------------|
| Consolidate Private Driveways          | Owners may voluntarily cooperate with KDOT and local governments to consolidate multiple drives on their own property, share drives with adjacent property owners, or relocate drives to other roads to reduce the number of driveways onto US 24/40 Highway.                              | Multiple Locations   | KDOT / Local                     |
| Relocate Traffic Signal                | Remove existing signal that does not meet legal warrants at Tonganoxie High School entrance and relocate to the intersection at US 24/40 Highway / Main Street.  | Tonganoxie High School Entrance and Main Street  | KDOT / Tonganoxie                |
| Intersection Study                     | Possible consolidation of 155 <sup>th</sup> Street signal with 158 <sup>th</sup> Street and construct parallel collector street on north side of US 24/40 between 158 <sup>th</sup> Street and 155 <sup>th</sup> Street. Accident history at 158 <sup>th</sup> Street should be addressed. | 155 <sup>th</sup> /158 <sup>th</sup>   | KDOT / Basehor                   |
| Alter On-site Traffic Circulation      | Alter the on-site school traffic circulation to direct exiting traffic to Main Street where vehicles would make use of the Main Street traffic controlled intersection to access the highway.  | Tonganoxie High School   | KDOT / Local                     |
| New Traffic Signals                    | Install traffic signals at intersections along US 24/40 Highway locations warranted based on existing traffic counts and consistent with <b>Figure 7-2</b> .   | Laming Road  | KDOT / Tonganoxie                |
| Auxiliary Left Turn Lanes              | Install auxiliary left turn lanes at intersections along US 24/40 Highway  | 174 <sup>th</sup> Street   | KDOT / Leavenworth Co.           |
|  |  | 142 <sup>nd</sup> Street   | KDOT / Basehor / Leavenworth Co. |
| Widening for Center Turn Lane          | Widen existing highway to install a center turn lane to remove turning vehicles from through lanes for existing full access driveways and street intersections. Acquire adjacent right-of-way through site plan approval process.  | US 24/40 Hwy from Smiley Road to E 14 <sup>th</sup> Street   | KDOT / Tonganoxie                |
| Auxiliary Right Turn Lanes             | Install auxiliary right turn lanes at intersections along US 24/40 Highway.  | 198 <sup>th</sup> Street<br>182 <sup>nd</sup> Street<br>174 <sup>th</sup> Street<br>166 <sup>th</sup> Street<br>150 <sup>th</sup> Street<br>142 <sup>nd</sup> Street | KDOT / Leavenworth Co. / Basehor |
| Supporting Local and Collector Streets | Construct supporting local and collector streets to provide property access.   | As noted in Figures 7-3, 7-4, 7-6, and 7-7   | Tonganoxie / Basehor             |

| Project   | Description  | Location   | Jurisdiction                                 |
|---|--|--|--|
| Median Closures                                       | Median closures may be implemented by KDOT based on accident experience or in the implementation of the Corridor Plan. | Corridor-wide  | KDOT   |
| Acquire Right-of-Way on Intersecting Arterial Streets | Acquire 120' of right-of-way for designated intersecting arterial streets through site plan approval process.          | Honey Creek Road<br>14 <sup>th</sup> Street<br>21 <sup>st</sup> Street<br>Main Street<br>Laming Road<br>206 <sup>th</sup> Street<br>198 <sup>th</sup> Street<br>182 <sup>nd</sup> Street<br>174 <sup>th</sup> Street<br>166 <sup>th</sup> Street<br>150 <sup>th</sup> Street<br>147 <sup>th</sup> Street<br>142 <sup>nd</sup> Street | Leavenworth Co. /<br>Tonganoxie /<br>Basehor |

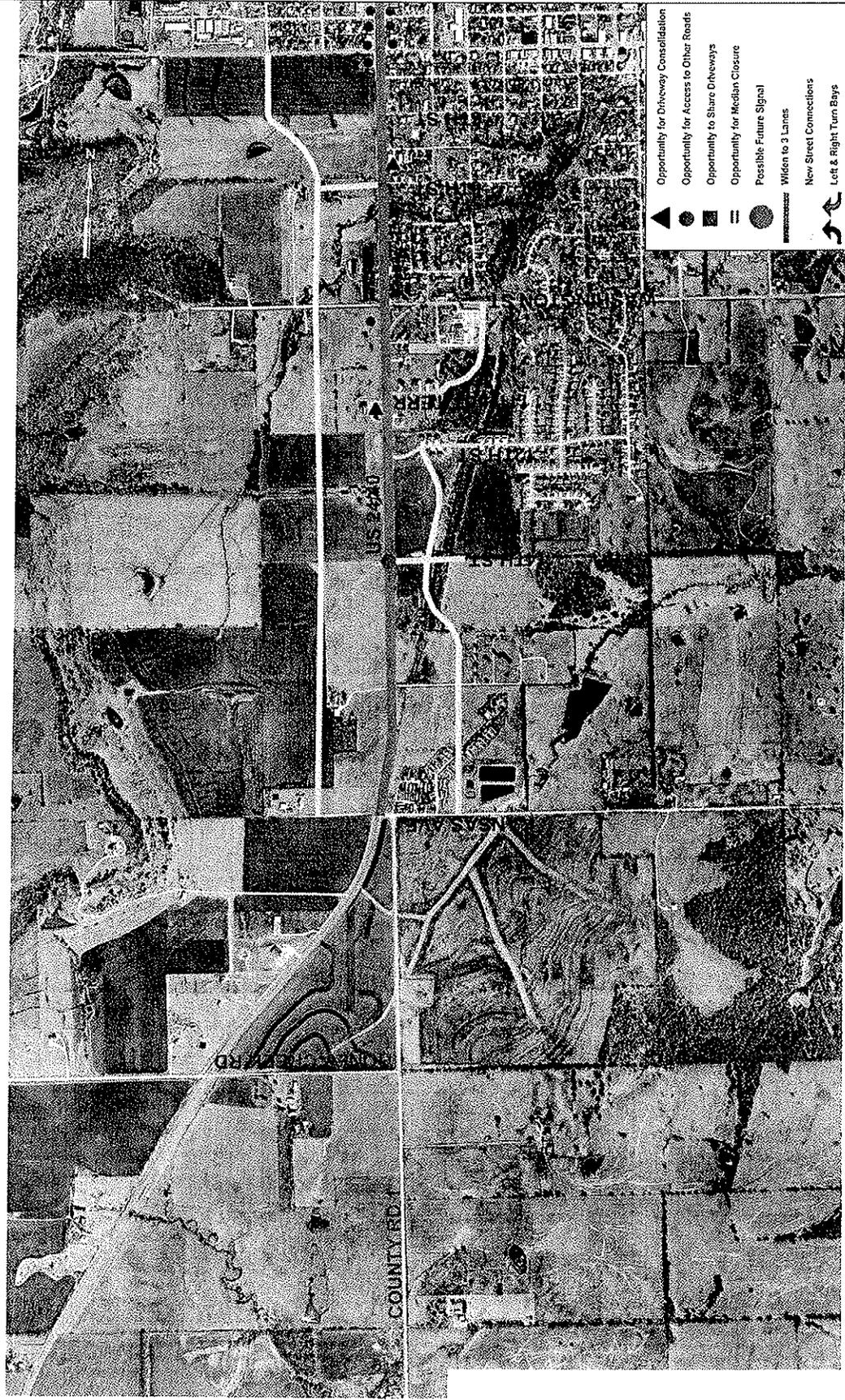
The western portion of the corridor through the original town area of Tonganoxie has the highest density of access to US 24/40 Highway in the corridor. The highway segment south of Smiley Road to E 12<sup>th</sup> Street should be widened in the short term to provide a center turn lane as depicted in Figures 7-3 and 7-4. The construction of a center turn lane may provide some traffic operation and safety benefits. A center turn lane would provide refuge for left turning traffic out of the path of through traffic. Potential consolidation of access has also been identified within this section.

**Once traffic volumes increase sufficiently to justify two through lanes in each direction, the center turn lane should be replaced with a raised median from Stone Creek Drive to E 14<sup>th</sup> Street to provide the access spacing as indicated by Figure 7-2.**

The construction of the median throughout the corridor could provide greater traffic operation and safety benefits than would a center turn lane in that it would reduce the number of conflict points for each full access driveway or intersection from 36 to 2 for a right turn only driveway or intersection. This would significantly reduce the opportunity for accidents and traffic conflicts.

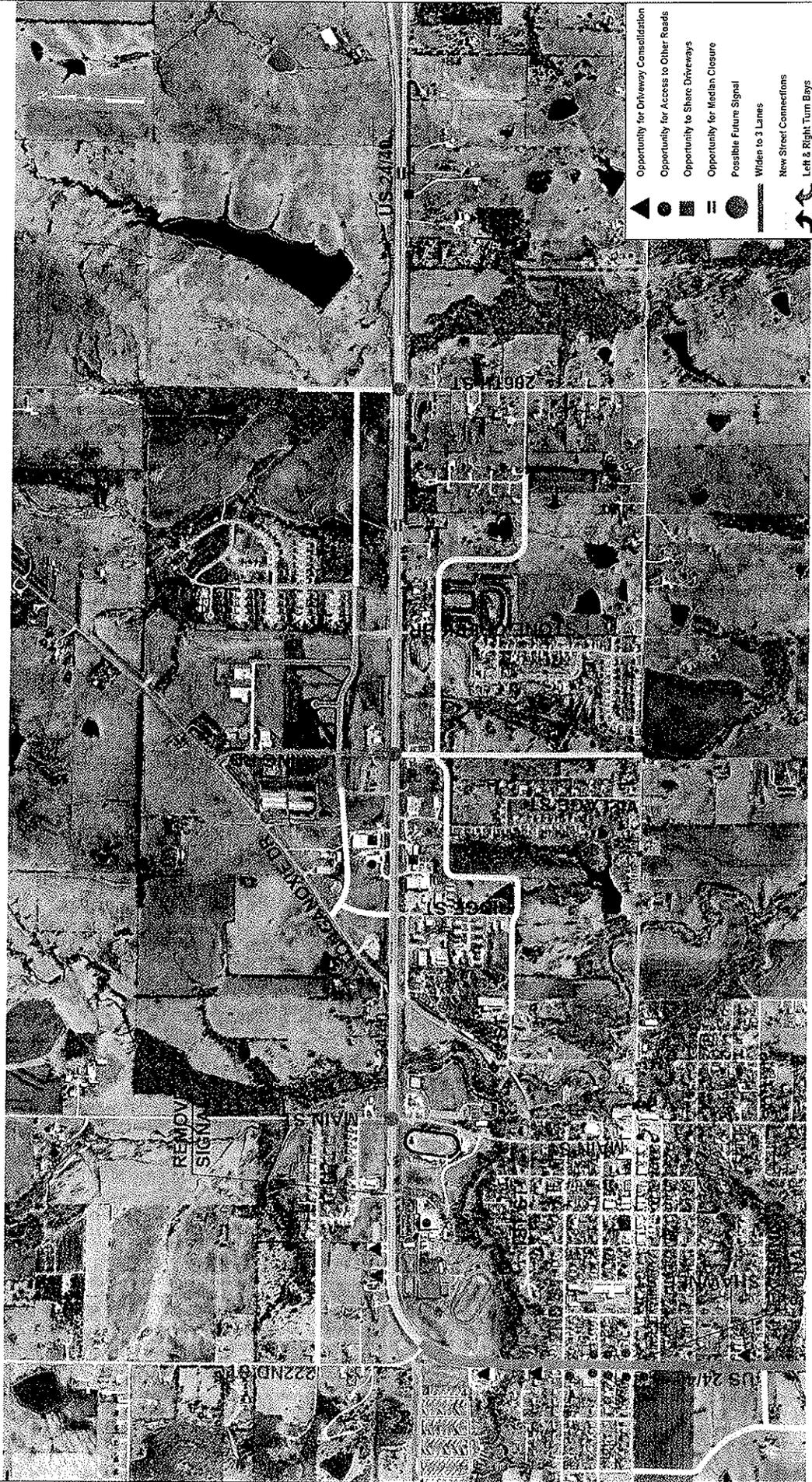
*(This page left blank intentionally.)*

Figure 7-3: Short-Range Traffic & Access Management Opportunities



*(This page left blank intentionally.)*

Figure 7-4: Short-Range Traffic & Access Management Opportunities



*(This page left blank intentionally.)*

Figure 7-5: Short-Range Traffic & Access Management Opportunities



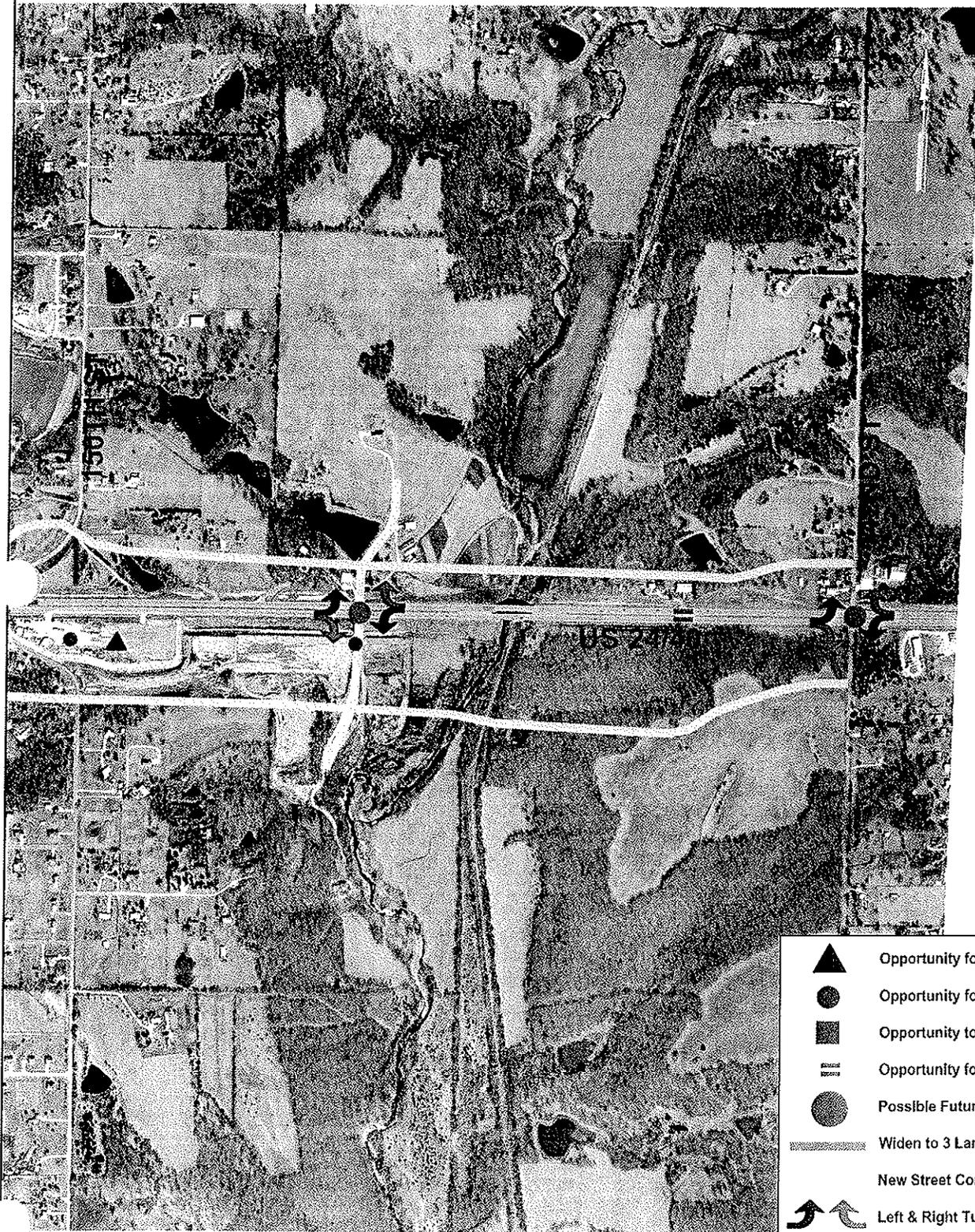
US 24/40 CORRIDOR STUDY

*(This page left blank intentionally.)*



*(This page left blank intentionally.)*

**Figure 7-7: Short-Range Traffic & Access Management Opportunities**



-  Opportunity for Driveway Consolidation
-  Opportunity for Access to Other Roads
-  Opportunity to Share Driveways
-  Opportunity for Median Closure
-  Possible Future Signal
-  Widen to 3 Lanes
-  New Street Connections
-  Left & Right Turn Bays

*(This page left blank intentionally.)*

## Travel Demand Model

The US 24/40 Corridor is located at the fringe of the Mid-America Regional Council (MARC) regional travel demand model. The level of aggregation is quite coarse at the fringe, i.e., the traffic analysis zones (TAZ) cover a much larger geographic area. Larger zones result in most local streets not being modeled. To determine the impacts of future traffic growth in the US 24/40 Corridor, a refined travel demand model was developed for this study. The model area encompassed the entire southern portion of Leavenworth County (and a small portion of western Wyandotte County) and is bounded by Dempsey Road (north), K-7 Highway (east), Leavenworth County boundary (west), and I-70 (south). The model study area shown in **Figure 1-1** was divided into 89 traffic analysis zones as depicted in **Figure 7-8**.

The computerized travel demand model for this study was developed using the planning software VISUM to predict daily traffic volumes. VISUM is a state-of-the-art planning tool that offers a comprehensive, flexible software system for transportation planning, travel demand modeling and network data management. The VISUM model follows the standard four-step process as outlined in **Figure 7-9**. The steps are trip generation, trip distribution, mode choice, and traffic assignment. The trip generation step determines how many trips are generated in each TAZ. The trip distribution step determines where trips are going. The mode choice step identifies which modes are used while the trip assignment step determines which routes are taken.

Input to the model includes population and land use data for current and future planning years, as well as roadway infrastructure for current and planned roadway improvements. Output of the model includes current and future predicted traffic volumes on roadway segments and intersections, as well as various performance measures of the existing and future transportation system. Observed trip length distributions by different trip purposes and traffic counts are used to calibrate the model to ensure the model prediction reasonably replicates current travel patterns. The calibrated base year model is then used to forecast future travel demand in the study corridor.

Figure 7-8: Model Area Traffic Analysis Zones

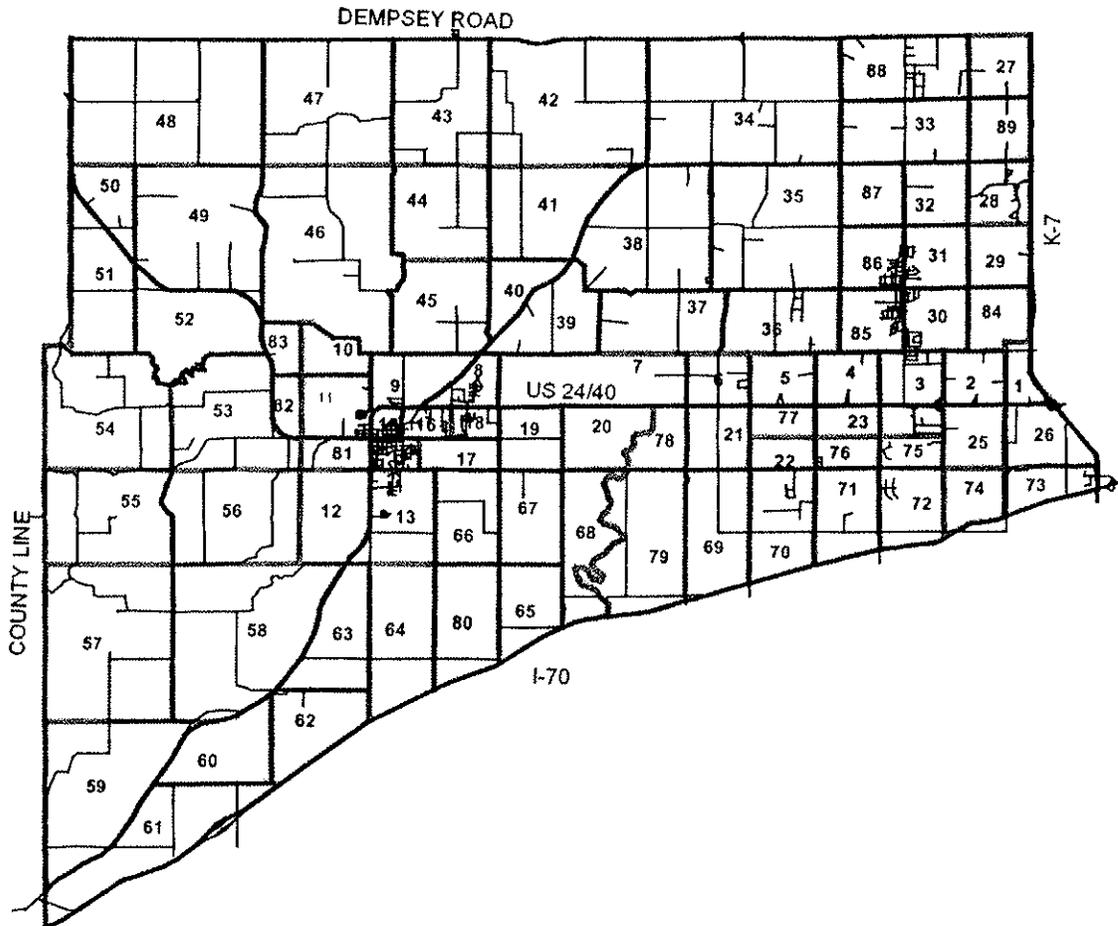
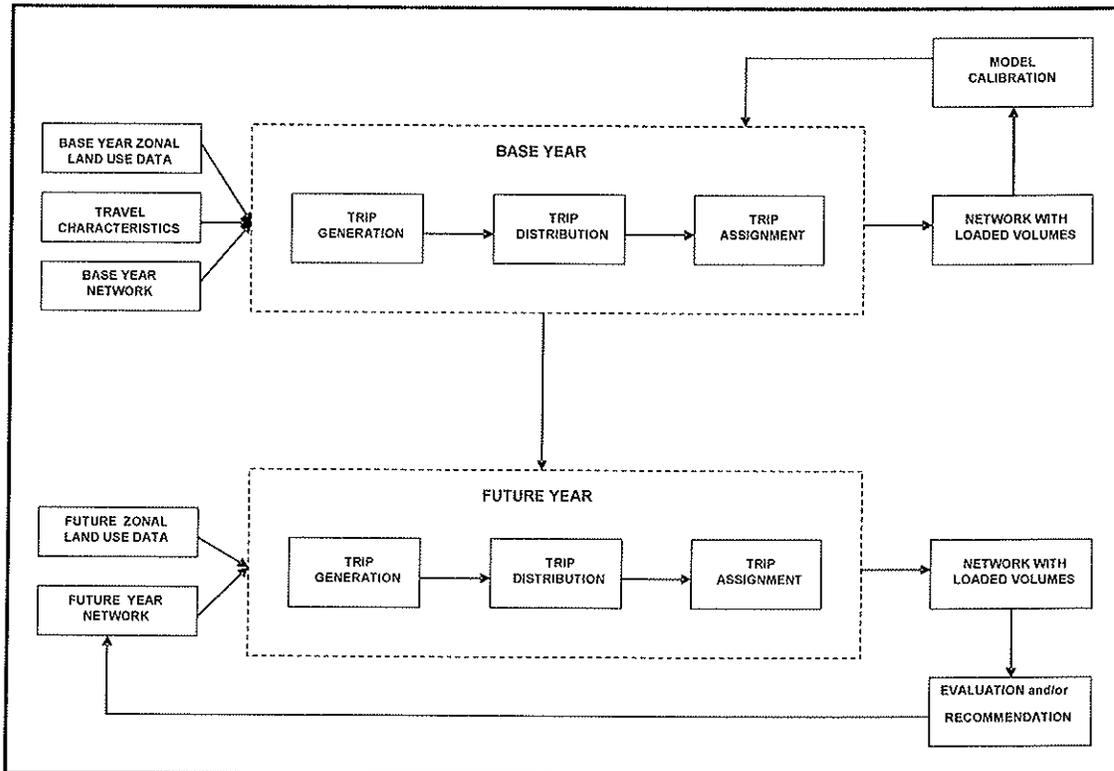


Figure 7-9: Development and Application of Travel Forecasting Models



(This page left blank intentionally.)

## Traffic Forecasts

Traffic forecasts were developed for the Corridor for the year 2030. These forecasts were products of a travel demand model prepared for the Corridor Study. A travel demand model is based upon an inventory of the location and intensity of various existing land uses, and a compilation of existing traffic counts on specific roads. The model establishes a relationship between the specific existing land uses and traffic volumes on specific roads. That relationship is then applied to projected specific land development for a future planning horizon, such as 2030, to arrive at corresponding traffic forecasts on specific roads. The forecast land development was based on historic growth patterns, the capacity of the corridor to absorb additional employment as derived from the economic study performed as part of this project, and the comprehensive plans for Basehor, Tonganoxie, and Leavenworth County.

**Figure 7-10** depicts existing daily traffic volumes along the corridor.

**Figure 7-11** depicts the Year 2030 forecast daily traffic volumes. It can be determined from **Figures 7-10 and 7-11** that traffic on US 24/40 Highway is projected to increase only incrementally by 2030. The results of this increase will mean some greater difficulty for side road traffic to enter US 24/40 Highway under the current stop sign intersection controls. It can be expected that the number of intersections warranted for traffic signal installation may increase, unless rural development is carefully managed, and the new developments remain clustered within the existing city limits of Basehor and Tonganoxie, utilizing those intersections already warranted for signals as their access to US 24/40 Highway.

The construction of an interchange at County Road 1 and I-70, while not significantly affecting the overall volume of traffic generated by the corridor, could affect the traffic flow patterns within the corridor. The opening of the interchange will induce heavier daily traffic flows to the west end of the corridor, as exhibited in **Figure 7-12**. This could accelerate the need for widening of US 24/40 Highway from Tonganoxie south to County Road 1 to four lanes plus a median.

Right-of-way sufficient for four lanes plus a median should be secured from properties abutting the highway as they submit plats and development plans. The necessary width of right-of-way to construct an urban four-lane plus median section should not be less than 120 feet wide.

As further development and redevelopment occurs, the center turn lane of US 24/40 Highway between 4<sup>th</sup> Street and Stone Creek Drive in Tonganoxie should be converted to a raised median in accord with the access depicted in **Figure 7-2**.

The right-of-way for designated arterial roadways intersecting US 24/40 Highway with full access should be planned at 120 feet wide.

*(This page left blank intentionally.)*

*(This page left blank intentionally.)*



*(This page left blank intentionally.)*



*(This page left blank intentionally.)*

# Future Land Use and Development Policies

## Introduction

This section presents policies for future development and land use, given the consensus identified through the extensive public participation process. The development and land use recommendations are based on data, issues, and public consensus, and are intended to be used by the respective planning commissions and governing bodies to adopt as amendments to their comprehensive plans and development regulations.

Included in this section are:

- The US 24/40 Corridor Transect Map which identifies areas where future development is anticipated to occur by 2030, as well as areas designated to remain rural;
- Transect descriptions for the series of zones which transition from sparse rural areas to suburban areas, to the denser core area of a community. The zone descriptions include typical land uses, residential density, infrastructure, and highway access management standards;
- Recommendations for environmental management, including stream buffers, slope preservation, woodlands preservation, and storm water management;
- Description of the Corridor Greenway Trail System; and
- A model overlay district to implement the recommendations of the Corridor Study.

## TRANSECT Planning

The Corridor Study uses “Transect Planning” to convey future development areas, access management standards, and urban design guidelines for the corridor. The **TRANSECT** is an urban planning system, not a “zoning system.” Just as Leavenworth County and the two participant cities adopt both land use plans and zoning—as separate instruments—so too, the corridor study presents transects as a planning construct. The study defines a series of transect zones that transition from one land use type to another (**Ref. Figure 8-1**). The land density zones (or “transects”) generally reflect the current long range land use plans of Leavenworth County, the city of Basehor, and the city of Tonganoxie.

While it is anticipated that the transect zone boundaries will change over time—through local plan amendments—the underlying philosophy is to encourage development to occur contiguous to the two cities where new development can be supported by city services. The transects describe this preferred land use pattern (contiguous growth along the corridor, rural-to-urban, and back again urban-to-rural) and support the city and county land use policies in their plans. They provide another “planning tool” to use when updating local zoning and subdivision regulations. The local land use polices and regulations relate to transects—but,

they serve different purposes. Transects are not local land use regulations; rather, they are planning constructs that help frame the corridor land use analysis. As the land uses along 24/40 "transect" from urban-to-rural and back to urban, the local land use regulations change: urban has more commercial, rural more low-density and agricultural. The transects of the 24/40 corridor study "frame" or describe these land use transitions, but they do not regulate land uses. That's for the local zoning and subdivision ordinances to do.

So what is the use of transects in corridor planning? Local jurisdictions are asked to adopt the plan recommendations through amendments to their own land plans and zoning and subdivision regulations (such as in overlay districts). Indeed, some of the solutions can be effective only if implemented at the local levels. For example, local street grid systems and parallel collector streets must be planned and platted outside the US 24/40 Highway right-of-way. Wide roads and open swales find a place on the Transect in more rural areas, while narrow streets and raised curbs are appropriate for urban areas. The corridor study shows how these local street grids can (and must) relate to the highway, and how to adopt these local land use plans and policies.

#### HOW THE TRANSECTS WORK

**What: A Transect-based planning system organizes the natural, rural, suburban, and urban landscape into categories of density, complexity, and intensity in the same way the countryside relates to traditional towns and villages.**

**Why: Transect planning is used for several purposes.**

- **The Transect is a framework that identifies a continuous range of habitats from the most natural to the most urban.**
- **The continuum of the Transect, when subdivided, lends itself to the creation of logical development and preservation areas.**
- **The Transect integrates environmental and zoning methodologies, enabling environmentalists to assess the design of social habitats and urbanists to support the viability of natural ones.**

In summary, the transects show how "one size does not fit all." A street grid in an urban T-5 transect should be planned differently at the local level than a street grid in a suburban T-3 transect zone. Each environment, or Transect Zone (T-Zone), is comprised of design elements that define and support its locational character. Through the Transect, planners can specify different rural-to-urban contexts with intensity and function appropriate to their locations. Based on location, the streetscape elements, land uses, building disposition, and parking standards can be calibrated to preserve and enhance the regional character of a given place.

**The Transect Plan as presented herein will become effective in its purpose as the entire Corridor Study is adopted by resolution as a part of the comprehensive plans for Leavenworth County, Tonganoxie, and Basehor, and an overlay district is established for the corridor.**

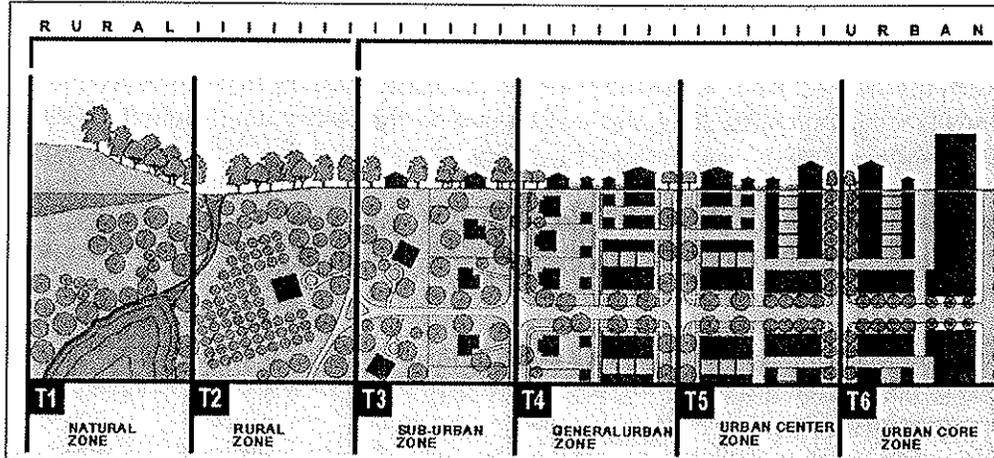
**Figure 8-1: Transect Zones**

Diagram Credit: Duany Plater-Zyber & Co.

The US 24/40 Corridor includes five of the six Transect Zones illustrated in **Figure 8-1**. Much of the corridor today consists of T1 (Natural Zone), T2 (Rural Zone) and T3 (Sub-Urban Zone). Generally, the existing Tonganoxie downtown area functions as a T5 (Urban Center). However, the Corridor does not include any areas considered T6 (Urban Core) since such areas are considered the most dense development such as downtown Kansas City, Kansas or downtown Kansas City, Missouri.

## US 24/40 Corridor Transect Plan

**Figure 8-2** identifies the US 24/40 Corridor Transect Plan. Using the transect zones descriptions, the Transect Plan represents areas where development should be encouraged by 2030, as well as areas that should be preserved as natural or for rural uses.

US 24/40 Corridor Transect Plan was prepared using:

- The significant public input provided throughout the planning process, including recommendations from the Focus Session Community Meeting and the Planning Policy Charrette to specifically identify targeted areas for future development and areas of preservation;
- The future land use plans and Comprehensive Plan future growth recommendations for Leavenworth County, Basehor, and Tonganoxie;
- Areas anticipated by the cities of Basehor and Tonganoxie for future extension of municipal water and sanitary sewer services;
- The Economic Conditions and Market Assessment for the US 24/40 Corridor Study; and
- The expertise of the cities' and county's planning officials, as well as the expertise of the Corridor Citizens Advisory Committee.

### Purpose of the Corridor Transect Plan

The Corridor Transect Plan is intended to be used by the cities and the county to guide urban growth to appropriate development areas that can be supported by municipal services. The

Transect Plan should be used in tandem with the **US 24/40 Corridor Supporting Transportation System Network Map (Ref. Figure 7-2)** and the US 24/40 Corridor Access Management Standards (Ref Table 7-3). The *Long Range Access and Major Roadway Plan* correlates with the *Transect Plan*. While the transects are used primarily for land development and corridor planning purposes, they also correspond to the access management policies defined in this plan.

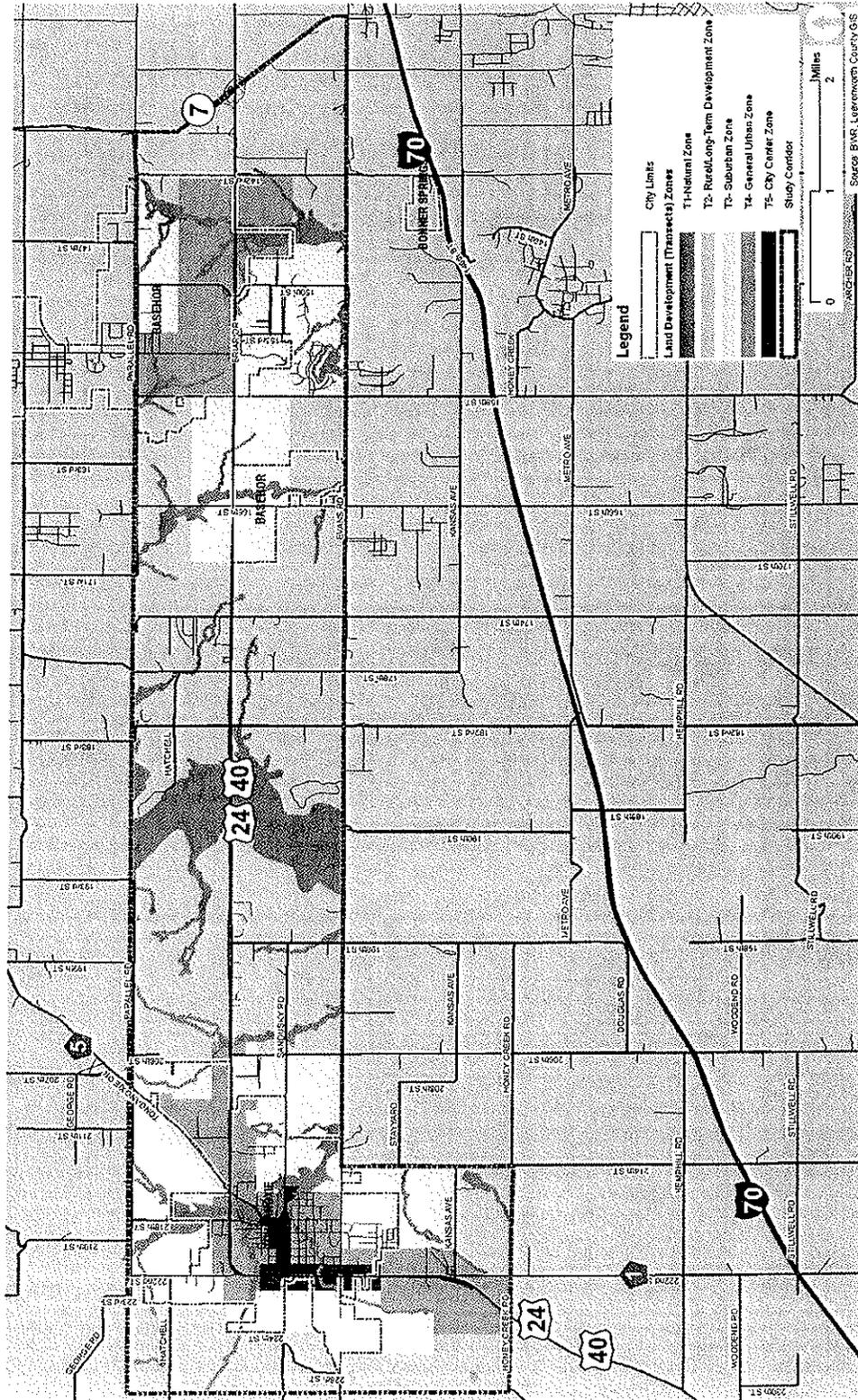
The Transect Plan is not a future land use map. While the transect zone descriptions outline uses considered appropriate for each zone, the intent of the Transect Plan and the Corridor Study are to:

- Direct future urban growth to defined areas in the corridor that can be served by the cities of Basehor and Tonganoxie, and to preserve the rural areas from inappropriate or premature growth;
- Allow each local jurisdiction to define the mix of land uses and development regulations within their planning area under the policy framework established by the Corridor Study; and
- Serve as the framework for the application of the Corridor Access Management Standards which are based on intensity of development.

With the adoption of the corridor study and creation of the overlay district, applications for site plans must comply with the transect definitions.

*(This page left blank intentionally)*

Figure 8-2: US 24/40 Corridor Transect Plan



*(This page left blank intentionally)*

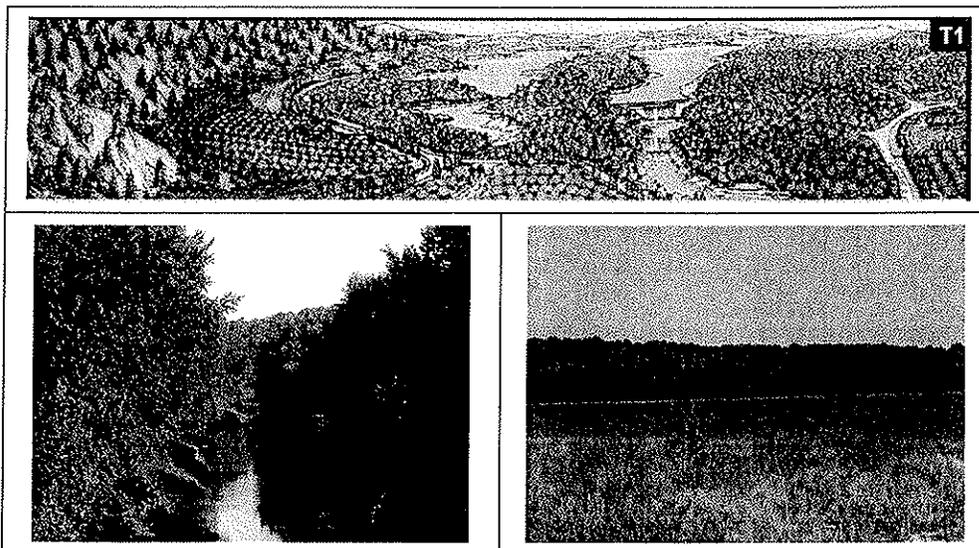
## Transect Zone Descriptions

The Transect Zones in the US 24/40 Corridor and recommended access policies for each zone with frontage along US 24/40 Highway are described as follows:

### **T1 - Natural Zone**

This Zone consists of lands approximating or reverting to a wilderness condition, including lands unsuitable for settlement due to topography, hydrology or vegetation. It also consists of lands in an open or cultivated state, or sparsely settled. These include woodland, agricultural land, grassland, park lands, and low impact recreation uses.

The T1 Zone includes all lands in the 100-year floodplain, or 150 ft Stream Buffer Area on either side of a stream (whichever is greater). Any park and recreation development shall follow overlay district regulations that address stream setbacks, slope, and woodlands preservation.

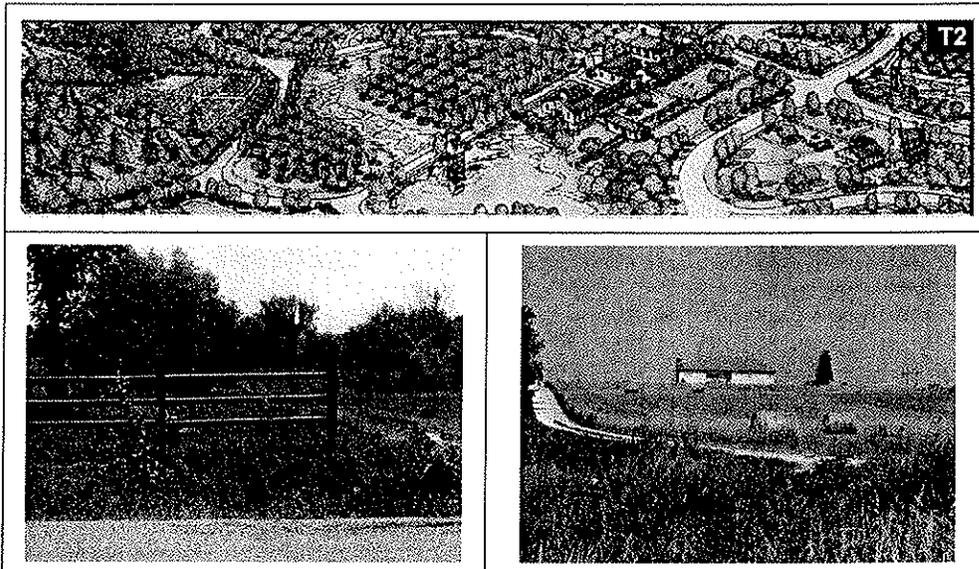


|                                 |  |
|---------------------------------|--|
| <b>Land Uses:</b>               | <i>Natural preserve, agriculture, low-impact recreation</i>                    |
| <b>Residential Density:</b>     | <i>N/A</i>   |
| <b>Public Street Frontages:</b> | <i>N/A</i>   |
| <b>Public Infrastructure:</b>   | <i>Municipal water and sanitary sewer should not be provided to this Zone.</i> |
| <b>US 24/40 Hwy Access *:</b>   | <i>No highway access permitted</i>   |

\*See Section 7 for complete listing of access management standards.

**T2 - Rural (Long-Term Development) Zone**

The Rural (Long-Term Development) Zone consists of lands in an open or cultivated state, or sparsely settled. This Zone is characterized by agricultural lands, grasslands, and woodlands and is intended to remain undeveloped until logical expansion of the urban area occurs. The Rural (Long-term Development) Zone is limited to agricultural uses and residential estates until such time that urban services are available and the area is reclassified to a more intense urban zone.

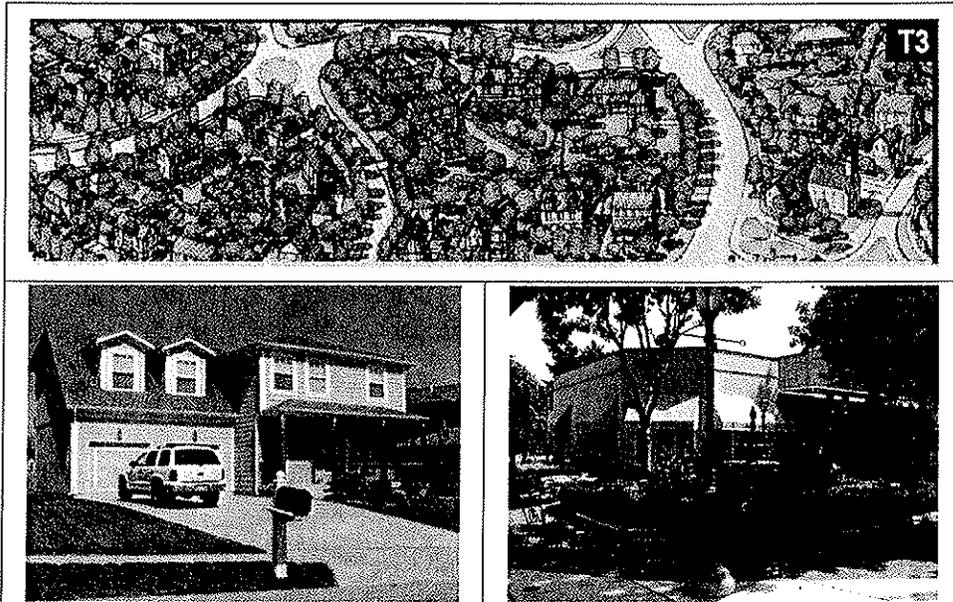


|                                 |   |
|---------------------------------|---|
| <b>Land Uses:</b>               | <i>Natural preserve, agriculture, recreation, and residential estates</i>   |
| <b>Residential Density:</b>     | <i>Maximum 1 dwelling unit per 20 acres</i>   |
| <b>Public Street Frontages:</b> | <i>Swales and naturalistic plantings</i>  |
| <b>Public Infrastructure:</b>   | <i>Currently without access to municipal water and sanitary sewer services, but may be provided in the future in support of urban development. No development should occur in this zone except for agricultural related uses and residential estates.</i> |
| <b>US 24/40 Hwy Access *:</b>   | <i>Full access not greater than 1 per mile</i>  |
|                                 | <i>One right turn only access allowed between full access intersections, subject to design considerations</i>   |
|                                 | <i>Traffic signal spacing no closer than 1 mile, as warranted</i>   |
|                                 | <i>New intersections with the highway provide right-turn and left-turn lanes off the highway, and right-turn auxiliary lanes onto the highway</i>   |

\*See Section 7 for complete listing of access management standards.

**T3 - Sub-Urban Zone**

This Zone is characterized by low density residential subdivisions, and may include a limited amount of well-designed low density attached housing products. Residential blocks and lots vary in size, and the roads are aligned on a modified grid to accommodate natural conditions. This zone allows very limited commercial and other non-residential uses.

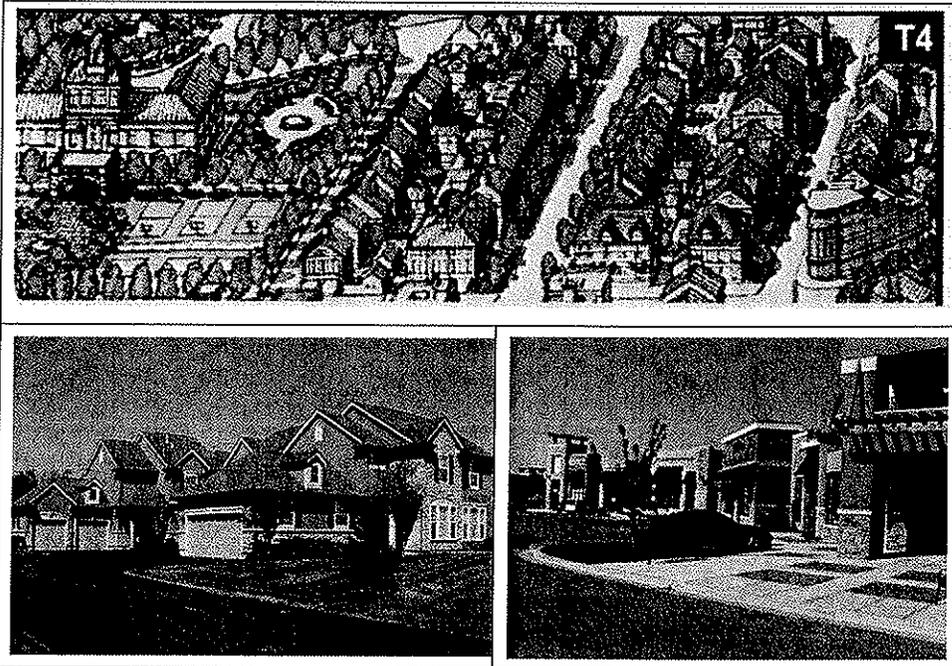


|                                 |   |
|---------------------------------|---|
| <b>Land Uses:</b>               | <i>Low density residential, civic and institutional uses, and limited neighborhood serving office and retail uses, not including highway and auto-oriented uses</i> |
| <b>Residential Density:</b>     | <i>2-6 dwelling units / acre</i>  |
| <b>Public Street Frontages:</b> | <i>Raised curbs, sidewalks, bike lanes</i>  |
| <b>Public Infrastructure:</b>   | <i>Requires access to municipal water and sanitary sewer prior to development</i>   |
| <b>US 24/40 Hwy Access *:</b>   | <i>Full access not greater than 1 per mile</i>  |
|                                 | <i>One right turn only access allowed between full access intersections, subject to design considerations</i>   |
|                                 | <i>Traffic signal spacing no closer than 1 mile, , as warranted</i>   |
|                                 | <i>New intersections with the highway provide right-turn and left-turn lanes off the highway, and right-turn auxiliary lanes onto the highway</i>                   |

\*See Section 7 for complete listing of access management standards.

**T4 - General Urban Zone**

This Zone consists of a mix of medium density and high density residential, office and retail uses, institutional, and light industrial. This zone has a range of residential building types: single, town homes/row houses, and other medium density well-designed attached housing products. Streets typically define medium-sized blocks. Rear alley/rear garage access encouraged for attached residential structures.

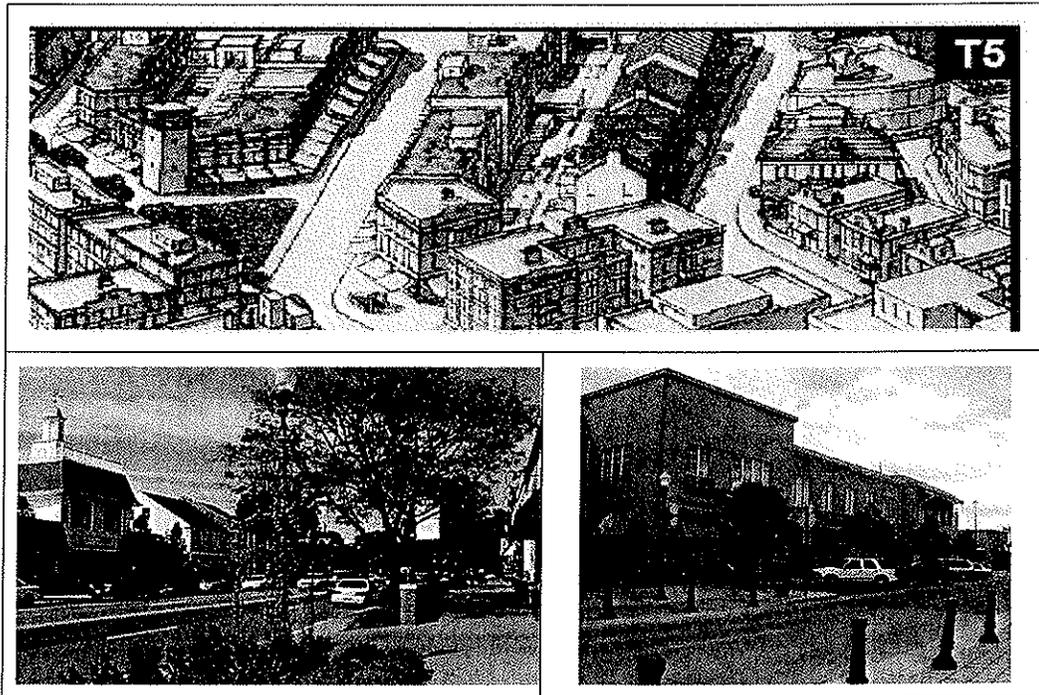


|                               |   |
|-------------------------------|---|
| <b>Land Uses:</b>             | <i>Medium and high density residential (i.e. single-family, attached single-family, townhomes, apartments), civic and institutional uses, office and retail uses, and light industrial.</i> |
| <b>Residential Density:</b>   | <i>4-12 dwelling units / acre</i>   |
| <b>Public Frontages:</b>      | <i>Raised curbs, sidewalks, bike lanes</i>  |
| <b>Public Infrastructure:</b> | <i>Requires access to municipal water and sanitary sewer prior to development</i>   |
| <b>US 24/40 Hwy Access *:</b> | <i>One right turn only access allowed between full access intersections, subject to design considerations</i>   |
|                               | <i>Traffic signal spacing no closer than 1 mile, as warranted</i>   |
|                               | <i>New intersections with the highway provide right-turn and left-turn lanes off the highway, and right-turn auxiliary lanes onto the highway</i>   |

\*See Section 7 for complete listing of access management standards.

**T5 - City Center Zone**

This Zone is the equivalent of a downtown main street, including building types that accommodate a mix of retail, offices, attached town homes/row houses, and apartments. It is usually a tight network of streets, with on-street parking or off-street parking located where not visible from the street, wide sidewalks, street tree planting and buildings set close to the frontages. Rear garage access is required for attached residential structures.



|                               |   |
|-------------------------------|---|
| <b>Land Uses:</b>             | <i>Medium and high density residential, office, and retail uses, not including highway and auto-oriented uses.</i>                                |
| <b>Residential Density:</b>   | <i>12+ dwelling units / acre</i>  |
| <b>Public Frontages:</b>      | <i>Raised curbs, wide sidewalks, on-street parking, bike lanes</i>  |
| <b>Public Infrastructure:</b> | <i>Requires access to municipal water and sanitary sewer prior to development</i>   |
| <b>US 24/40 Hwy Access *:</b> | <i>Full access not to exceed 1 per mile</i>   |
|                               | <i>Three right turn only accesses allowed between full access intersections, subject to design considerations</i>                                 |
|                               | <i>Traffic signal spacing no closer than 1 mile, as warranted</i>   |
|                               | <i>New intersections with the highway provide right-turn and left-turn lanes off the highway, and right-turn auxiliary lanes onto the highway</i> |

\*See Section 7 for complete listing of access management standards.

## Environmental Planning

The public input ranked preservation of the natural setting of the corridor as a high priority. The communitywide opinion survey consistently ranked “environmental sustainability” as key value. Future development in the US 24/40 Corridor should be designed to respect the natural environment and coexist in harmony with existing natural features. Development planning should avoid engineering techniques, such as significant cut and fill to force-fit development into the environment. Instead, natural physical features should be incorporated into the overall development design, with drainage areas and other natural features left in their natural state. These principles are applicable throughout the corridor, but more significant results can be experienced in proper management of the still undeveloped areas.

A comprehensive approach for environmental and storm water management should be implemented in the US 24/40 Corridor to increase water “**quality**” and to reduce storm runoff “**quantity**.” This approach will:

- Protect environmentally sensitive areas
- Protect streams through buffer setbacks
- Provide areas of slope protection adjacent to streamway buffers
- Provide localized storm water infiltration and detention in new development areas to protect Stranger Creek, streamways, and storm water management facilities

### Environmental Approach

Future development in the Corridor should retain its natural infrastructure and visual character derived from topography, woodlands, streams, and riparian corridors. Natural resources and environmentally sensitive areas such as those represented by the **Natural Resources Inventory (Ref. Figure 6-3)** should be protected by cluster development, or by establishing no-build conservation areas with permanent public or private parks and common open space. In most instances, waterways should be protected in accordance with the provisions of **Section 5600 KCAPWA – Storm Drainage Systems and Facilities**, and protected within slope preservation zones adjacent to stream buffers.

### Storm Water Management Approach

An overall storm water management system design approach should address the key adverse impacts of storm water runoff by:

- Reducing pollutant loading from new developments
- Reducing downstream stream bank and channel erosion
- Reducing downstream overbank flooding
- Safely passing or reducing the runoff from extreme storm events

This approach should consider the implementation of regional storm water facilities combined with localized detention and Best Management Practices (BMP’s) to route storm events.

**Natural Storm Water Treatment Practices**

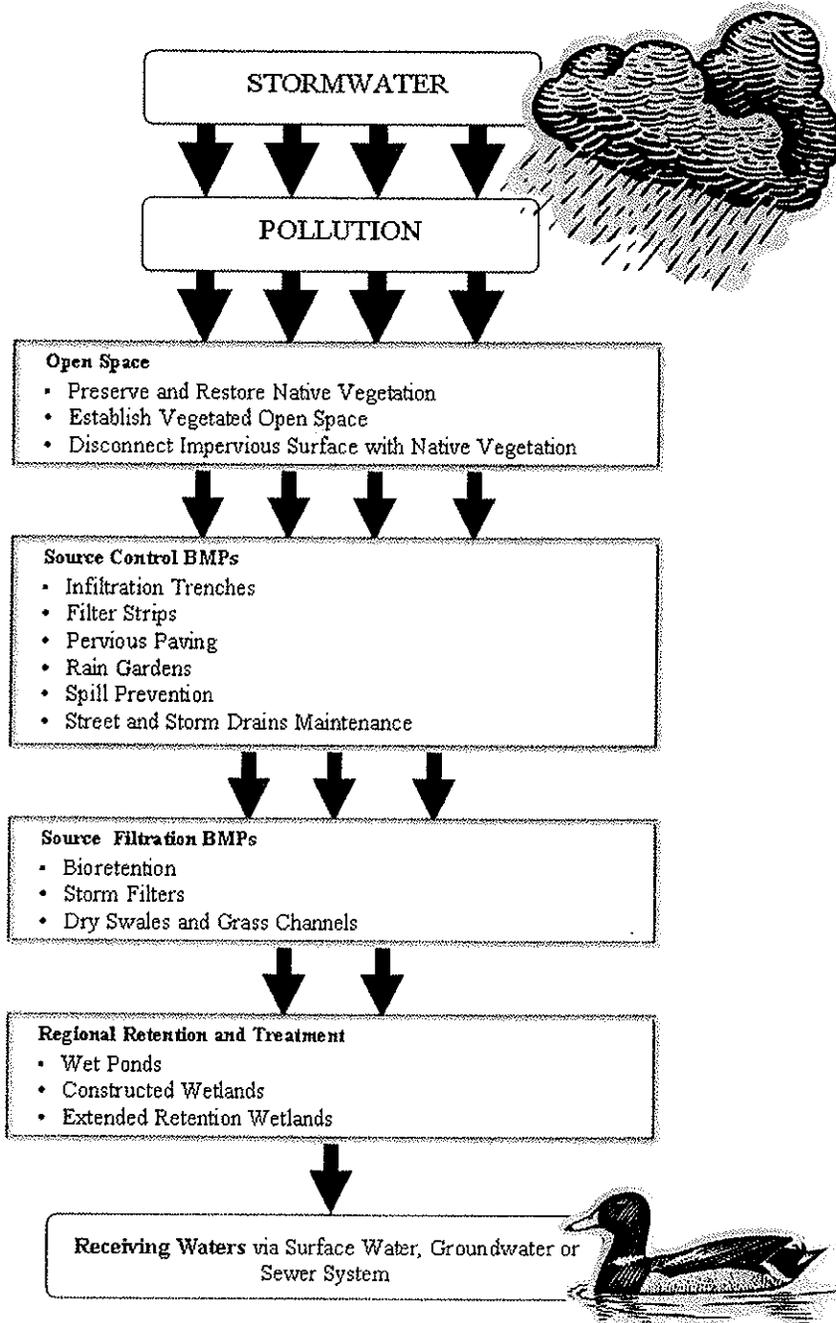
Storm water management should be enhanced by implementing a series of Best Management Practices (BMP's) through the development process that achieve the following goals:

- Increase infiltration (water absorbed by the soil) of storm water runoff while in the basin
- Increase the amount of time for storm water runoff to reach it's receiving stream
- Reduce the potential amount of sediment/pollutants that can be carried off by storm water runoff from rainfall
- Treat storm water runoff before it reaches the receiving stream

To improve water quality, BMP's should be designed and located in such a manner that runoff is routed though a chain of successive treatments that remove pollutants and increase water quality as much as possible before entering the creeks and streams of a watershed (**Ref. Figure 8-2**). The use of BMP's should meet the minimum requirements set forth in the *Manual of Best Management Practices for Storm Water Quality*, September 2003 prepared by the Mid-America Regional Council and the American Public Works Association. Developers should submit storm water studies that demonstrate the effectiveness of proposed BMP's in lieu of localized detention facilities.

Careful consideration of the placement of BMP's throughout a watershed must be given to ensure water quality. Most BMP's implemented to improve storm water "quality" will also reduce the storm water "quantity." This reduction in water "quantity" will also reduce the amount of detention storage required for the development, which in turn will reduce development costs. Potential reductions in development costs are true for many of BMP's that can be implemented. The use of natural buffers and native vegetation will reduce the need for grading and the need for larger enclosed pipe systems which reduces up front development costs as well as long-term maintenance needs.

Figure 8-2: Storm Water Treatment Train



**Stream Buffer Zones**

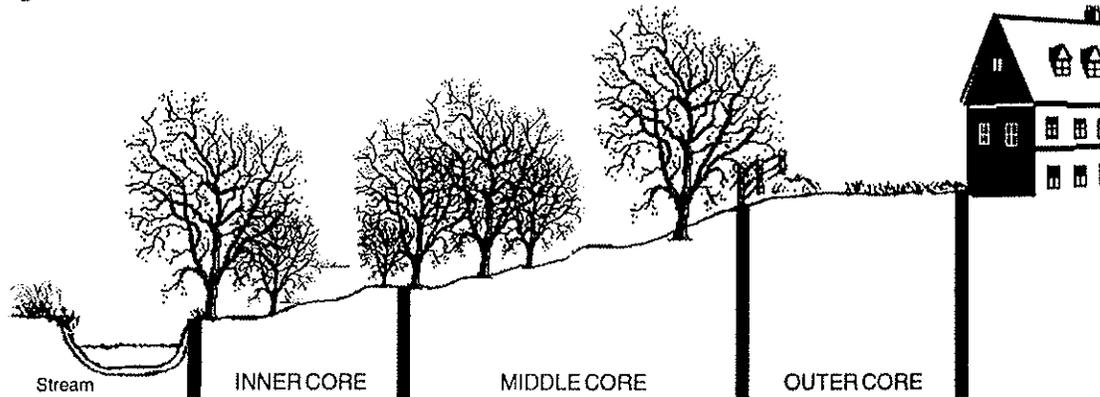
Stream buffers – including any floodplains, wetlands, slopes over 15 percent, or wildlife habitat areas – must be managed to enhance and maximize their natural resource value. Management of these areas includes limitations on alteration of the natural conditions of these resources. Effective stream buffers divide the total buffer width into three zones with each buffer zone performing a different function and has a different width, vegetative target and management scheme (Ref. Figure 8-3).

- The **inner core** protects the physical and ecological integrity of the stream ecosystem. The vegetative target is mature riparian forest that can provide shade, leaf litter, woody debris, and erosion protection to the stream. The minimum width is 25 feet from each stream bank—about the distance of one or two mature trees. Land use is highly restricted, limited to storm water channels, stream bank stabilization, footpaths, and limited utility or roadway crossings.
- The **middle core** extends from the outward boundary of the streamside zone and varies in width depending on stream order, the extent of the 100-year (or one percent) floodplain, any adjacent steep slopes, and protected wetland areas. Its functions are to protect key stream components and provide further distance between upland development and the stream. The vegetative target for this zone is also mature forest, but some clearing may be allowed for storm water management, access and recreational uses. A wider range of activities and uses are allowed within this zone, such as recreational corridors for hiking and biking, and storm water best management practices (BMPs). The minimum width of the middle core is about 50 feet, but it is often expanded based on stream order, slope, or the presence of critical habitats.
- The **outer core** extends landward an additional 25-foot from the outer edge of the middle zone to the nearest permanent structure. In many instances, this zone may include a residential backyard. However, when slopes over 15 percent or wildlife habitat areas are present within the outer zone, the width of the zone must be increased to encompass such resource areas.

Streamside buffers should be observed along Stranger Creek and stream tributaries with this zone generally measuring 150 feet in width from each side of the stream. This zone varies and is wider in areas with wider floodplains or in areas with the presence of slopes greater than 15 percent.

Much of the recommended streamside buffer zone along Stranger Creek is located in the 100-year floodplain. Activities in this zone should be limited to vegetation management and stream bank stabilization, where required. These areas should consist of native vegetation and may also be used for parklands, trails, and storm water facilities.

Figure 8-3: Stream Buffer Zones



### Slope Preservation Zone

Slope preservation zones have variable width, determined by the presence of slopes greater than 15 percent, and are primarily located along stream buffer zones. Areas designated as slope preservation zones will retain their existing woodlands and native vegetation. Development encroachment should be limited in such areas through the use of cluster development and by establishing no-build lines on future platted property.

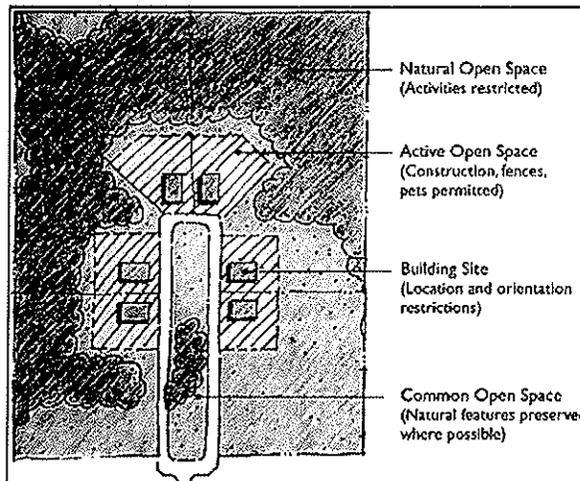
### Woodland Preservation

Portions of the US 24/40 Corridor located outside of the recommended stream buffer zones are heavily wooded. A sensible balance should be employed with future development in these areas when providing for preservation of existing noteworthy environmental features. Areas designated for woodland protection will use enhanced measures in development design to preserve significant trees or tree masses where possible. These measures include:

- Cluster development design (**Ref. Figure 8-4**) with flexible development standards such as reduced lot sizes and setbacks and alternative street designs to concentrate buildings on a part of the site (the cluster area) and allow the remaining land to be preserved as open space. Cluster development is encouraged for residential development in areas with environmentally sensitive characteristics to reduce development impacts.
- Tree surveys provided with development applications to determine significant tree clusters to be preserved, as well as mitigation measures for those areas that will be impacted by new development.

**Figure 8-4: Cluster Development**

*A form of planned residential development that concentrates buildings on a part of the site (the cluster area) to allow the remaining land (the open space) to be used for recreation, common open space, or preservation of environmentally sensitive areas. The open space may be owned by either a private or public entity.*



*Clustering is particularly appropriate in rural areas that wish to remain rural while accommodating additional growth.*

Source: -Rural By Design by Randall Arendt

## US 24/40 Corridor Greenway Trail System

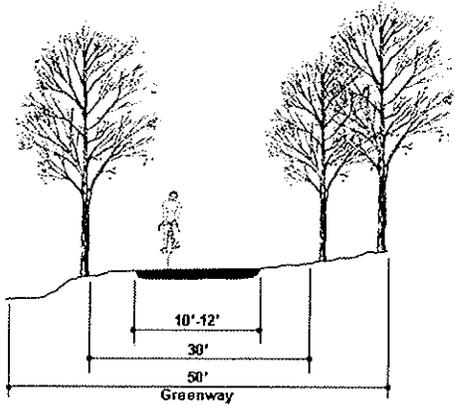
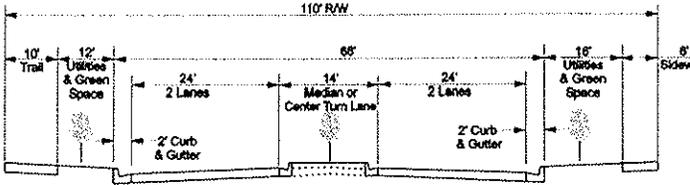
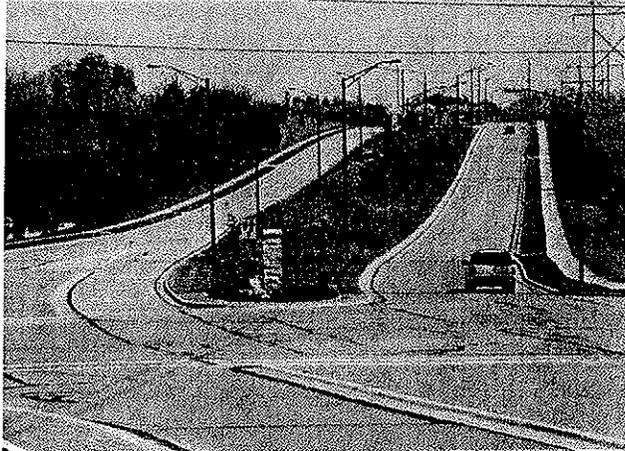
The recommended greenway trail system to implement the *MetroGreen Plan* in the US 24/40 Corridor is identified in **Figure 7-2: US 24/40 Corridor Supporting Transportation System Network Map**. The trail system includes future facilities that connect in the vicinity of the US 24/40 Highway and along creeks and streams in the corridor; across unincorporated southern Leavenworth County; and into the cities of Basehor and Tonganoxie. The corridor study proposes linkages with locally planned community trails in the cities of Basehor and Tonganoxie, now and in the future. To implement regional and local trail systems it will be necessary to secure land or easements to allow the construction. The following is recommended when securing land or easements to implement the greenway trail system:

- Minimum 10-foot wide trail separated from or improved along major arterial roads; and
- Minimum 30 to 50-foot wide corridor for greenways along creeks and streamways.

Specific greenway and trail evaluation criteria should be prepared and adopted by the various jurisdictions in the corridor when securing appropriate land and easements when implementing the greenway trail system. **Figure 8- 5** provides the recommended trail standards for regional trails to be used as a model for adoption by each jurisdiction. Local community trails may include variations on these standards.

**Implementation options for the acquisition, financing and administration of trails and linear parks are provided in Section 10, Implementation and Coordination Strategy.**

Figure 8-5: Trail Concepts

| Greenways *   | Local Arterial Street Systems **   |
|---|--|
|    |    |
|   |   |
| <p>A greenway is a linear open space area set aside for public use that is wide enough to accommodate a paved bike / pedestrian trail, landscape area, fencing, or other screening measure.</p> <p><u>These types of linkages:</u></p> <ul style="list-style-type: none"> <li>• Typically follow creeks and streamways and may be located within the floodplain, and are often segregated from street rights-of-way to form a separate alignment.</li> <li>• Typically require that land or easement be secured from the landowner or developer.</li> <li>• Typically cross street or highway rights-of-way by means of an overpass, underpass, or at-grade crossing at controlled or marked intersections.</li> <li>• Typically have fewer amenities, aside from those required for bike / pedestrian comfort and safety.</li> </ul> | <p>The local street and off-street trail systems will run parallel to local thoroughfare streets, typically 10 feet in width.</p> <p><u>This linkage:</u></p> <ul style="list-style-type: none"> <li>• Is located inside the major street right-of-way on one side of the street.</li> <li>• Typically required that land or easement be secured from the landowner or developer.</li> <li>• Typically cross other major street rights-of-way by means of at-grade crossing at controlled or marked intersections.</li> <li>• Typically provide multiple connections into adjoining land uses and to other trail systems.</li> <li>• Typically provides more amenities in urban segments of the corridor.</li> </ul> |

\* Future trailways would be improved off of the highway right-of-way.

\*\* Typical street section, subject to local subdivision regulations and access management standards.

## Corridor Identity

An attractive and healthy community is a critical element of a quality place, and the design of quality places is a balance between environmental, economic, and social considerations. The vision for the US 24/40 Corridor provides a broad view of where southern Leavenworth County sees itself in the future. This Section provides further detail through Corridor Identity design elements to shape the physical form of the community.

### Introduction

This section provides a framework of development guidelines intended to guide public and private investments made throughout the US 24/40 Corridor, including the unincorporated rural area of Leavenworth County as well as the urbanizing portions of the Corridor in Basehor and Tonganoxie. The Corridor Identity recommendations include:

- **Corridor Planning Principles**
- **Corridor Identity Design Guidelines**

The Corridor Study planning process provided an opportunity for the public participants and community stakeholders to present their issues and concerns, and then formulate ideas and recommendations for the preferred future development pattern. The recommended Design Guidelines are based a great deal on this public input. The planning process included a visual preference evaluation in which planning participants identified desired development characteristics for a variety of residential, commercial, and industrial land uses. This resulted in corridor enhancement strategies for streetscaping elements along US 24/40 Highway, as well as urban design strategies for the variety of future land uses that will be developed throughout the Corridor.

Implementation of the Corridor Identity Design Guidelines will not be a simple task. As development continues in Basehor, Tonganoxie, and unincorporated Leavenworth County, the proper integration of land use and resultant architectural themes for each type of development will be critical. This Section is intended to serve as the framework for amendments to the Comprehensive Plans and development regulations of the Cities of Basehor and Tonganoxie and Leavenworth County to achieve the desired development form recommended by planning participants.

### Corridor Guiding Principles

Building on the meaningful public input during the planning process, the Corridor Guiding Principles were prepared to set forth the goals and basic framework to achieve the objectives of the US 24/40 Corridor Study. The overall goal of the Corridor Study, as emphasized through the public participation process, is to preserve the rural character and environmental features of the corridor, while providing a well designed realm of vibrant neighborhoods, parks and recreation, and businesses in future urban development areas of the corridor.

**CORRIDOR IDENTITY**

- Create a unique and lasting identity for the area.
- Promote economic development through good design, landscaping, public investment, and sustainable design.
- Integrate conservation areas, floodplains, green spaces, woodlands, and parks into urban developments.
- Use linear parks and trails to bind developments and communities together.
- Design residential neighborhoods in the corridor to establish a “sense of place” and provide pedestrian-friendly connections to local and regional sidewalks and trail systems.
- Promote development that complements the natural environment and historical architecture of the corridor.
- Maintain a wide landscape setback along US 24/40 Highway to preserve the rural character of the corridor.

**ENVIRONMENTAL STEWARDSHIP**

- Respect the natural environment and retain its natural and visual character derived from topography, woodlands, and riparian corridors. Do not use engineering techniques that require significant amounts of cut and fill to force-fit development into the environment.
- Preserve greenway corridors, natural drainage areas, floodplains, and wooded areas in urbanizing areas.
- Use a comprehensive strategy to manage storm water generated by development.
- Plan and construct infrastructure projects with context sensitive design to harmonize with natural systems.

**LAND USE**

- Promote quality development in the urban areas of the corridor that respects the natural environment and is visually pleasing, while preserving the character of the rural areas.
- In urban areas, provide a well designed realm of vibrant neighborhoods, parks and environmental conservation open spaces, and civic institutions within walking distance of shops, services, jobs, and transportation.
- Provide a broad range of housing types and price levels in neighborhoods to allow for a mix of people with diverse ages, races, and incomes.

**TRANSPORTATION CORRIDOR MANAGEMENT**

- Plan and reserve future transportation corridors that will support US 24/40 Highway and provide for economic development opportunities.
- Provide an interconnected network of streets, sidewalks, and trails that serves existing and future development.
- Support the physical organization of the corridor with a framework of multimodal transportation alternatives, including pedestrian and bicycle systems that maximize access and mobility while reducing dependence on the automobile.
- Alleviate congestion caused by current facilities and provide timely improvements to the transportation network that minimize congestion before it becomes extreme.

- Diligently use access management standards to manage traffic flow and facilitate optimum travel conditions.
- Provide an interconnected transportation network that encourages walking, reduces the number and length of automobile trips, and conserves energy by reducing the length of automobile trips.
- Provide a street network that is designed with pedestrian and bicycle accommodations with equal emphasis as the automobile.

## Corridor Identity Design Guidelines

The Corridor Identity Design Guidelines provide direction on how to achieve the goals set forth by the Corridor Guiding Principles. These guidelines are intended to act as the guide for public and private investments made in the various transects recommended by the US 24/40 Corridor Study.

Due to the varying character envisioned in the corridor by 2030, the Guidelines are grouped by the Transect zones described in **Section 8, Future Land Use and Development Regulations**. The areas designated as natural, rural, or suburban (consisting of low-density residential) are considered “low intensity transects” while the areas with higher density residential, office, commercial, and light industrial are consider “urban” transect zones.

While these guidelines are not absolute or codified development requirements, their application should be considered as a “target” in meeting the objectives of quality development within the corridor. These guidelines are to be used as a tool in conjunction with other County and City requirements and project review procedures. Updated zoning and subdivision regulations for Leavenworth County and the cities of Basehor and Tonganoxie will help ensure development that meets the planning objectives and promotes high quality environments to live, work, shop, and play.

## Guidelines for Low Intensity Transects

The following guidelines apply to future development in the low intensity areas of the US 24/40 Corridor including the T1 Natural Zone, T2 Rural Zone, and T3 Suburban Transects.

### Streetscape Identity (Low Intensity Transects)

#### Setback and Drive Experience (Low Intensity Transects)

The placement of buildings, parking lots, and paved areas along US 24/40 Highway are expected to maintain the sense of openness with a wide landscape area.

- Establish setbacks from highway rights-of-way for buildings, parking lots and paved areas, or residential subdivision fencing, to be determined by local land use regulation in compliance with the plan’s objective of maintaining a sense of openness along the highway.

- Establish low maximum building heights for non-residential development to reduce its visual impact on the corridor landscape.
- Require landscape buffers to screen building utility meters, loading docks, or other back-of-building features that face a public right-of-way.
- Cluster all site development to concentrate and limit vehicular access to and from US 24/40 Highway to a few planned major intersections.
- Establish large lot requirements for residential development such that housing developments with higher densities are channeled from low intensity transects into the urban areas of the corridor.
- Use berms and/or landscape buffers to reduce views of “big box” or clustered retail development allowed in low intensity transects through the establishment of special districts.

### Median Landscape Treatments (Low Intensity Transects)

Landscaping in the US 24/40 Highway median or local street medians is expected to vary based on the level of adjoining development intensity and will generally be limited in low intensity areas.

- Landscaping in medians should consist mainly of low maintenance native plants and grasses that do not exceed 24-inches in height.
- Use median landscape areas as storm water detention areas, when possible, to aid in drainage from the roadway and to increase the quality of storm water runoff.
- Install landscape trees in natural groupings. When trees are planted, they should be located a minimum of 80-feet from the pavement edge to maintain KDOT safety distances and retain the corridor openness.

### Sidewalks and Pedestrian Systems (Low Intensity Transects)

Pedestrian systems in low intensity areas generally consist of sidewalks and trails in residential subdivisions and regional trails to implement the **MetroGreen** Plan.

- Dedicate land or provide a public access easement in developments along designated regional trail corridors.
- Provide neighborhood trail connections in residential developments along a designated regional trail corridor.
- Extend sidewalks from developments to the boundaries of the development and the sidewalk system along perimeter streets.
- Extend sidewalks from developments to any adjacent or future parks, greenways, schools, or civic spaces.
- Establish a large setback for sidewalks and trails along public rights-of-way.

Buffers and Screening (Low Intensity Transects)

- Perimeter landscaping should consist of a wide variety of plantings. Open green space plantings should be used in more rural areas of the corridor.
- Open space perimeter landscaping should consist of native grass and wildflowers and should not exceed 24-inches in height.
- All perimeter landscaping should be low maintenance, unless installed as part of a residential subdivision.
- Perimeter landscape buffers for residential subdivisions should include berming and consist of a large quantity and variety of plants to provide screening and a buffer from highway noise and located in a manner to allow access for regional trails where designated.
- Any permitted outdoor storage areas should be entirely screened from public view along the highway and all public streets by the use of dense landscaping. Any solid walls or fencing should be softened with extensive landscaping plantings between the wall / fence and the right-of-way.

**Lighting (Low Intensity Transects)**

Lighting in low intensity transects of the Corridor will generally be limited to the highway and local roadways. However, for uses requiring site illumination, such lighting should be provided in a manner that meets functional and security needs without adversely impacting adjacent properties or creating glare. Dark sky compliant fixtures (focuses light onto roadway) should be used whenever possible for each category to reduce light pollution and to maintain the rural character of the corridor at night.

Roadway Lighting (Low Intensity Transects)

- Street lighting should not be located in the median of the highway or other streets unless absolutely necessary.
- Existing cobra head lighting, where provided, should be maintained.

Parking Lot Lighting (Low Intensity Transects)

- Provide parking lot illumination with individual poles and fixtures, rather than building mounted fixtures.
- Illumination of parking lots for nonresidential uses near residential should be limited to individual poles and fixtures not to exceed fifteen (15) feet in height as measured from grade.
- Where possible, parking lot lighting should have an ornamental look and should be dark sky compliant. Thematic lighting should be used where appropriate.

Building Lighting (Low Intensity Transects)

- Building mounted light fixtures should be ornamental in appearance and complement the architectural theme or style.
- Building lighting should be focused upward or downward to highlight architectural features and create visual interest. This should be accomplished with lighting that contains shields or reflectors that do not permit light to escape to the sides toward adjacent buildings, parking areas or roadways.

**Utilities (Low Intensity Transects)**

As development of the US 24/40 Highway corridor continues, all utilities that are currently above ground (i.e. power lines, phone lines, etc.) should be placed underground. This will create a cleaner look to the corridor and will prevent outages created by weather which often occur with utilities that are pole mounted.

All utility boxes that are required to be above ground should be located adjacent to the highway right-of-way and should be grouped whenever possible. Utility boxes should also be screened from view with landscaping.

**Signage Design (Low Intensity Transects)**

Signage should be consistently provided throughout the Corridor as dictated by the type of signage desired for each individual situation, with text that is easily read. In low intensity areas of the Corridor, signage will be limited due to its rural character.

Monument Signs (Low Intensity Transects)

- Monument signs are the preferred sign type for all low intensity uses and residential subdivisions. Such signs should be crafted of similar materials and style to the surrounding architecture.

Pole Signs (Low Intensity Transects)

Due to the rural and residential character of the low intensity transects, pole signs should not be permitted. However, such signs may be acceptable for limited nonresidential uses allowed in low intensity transects subject to the following standards:

- The sign provides a clean and modern appearance.
- The sign pole is wrapped in a manner that provides the appearance similar to a monument sign.
- The sign is limited to a maximum height of 15-feet above the average grade and a maximum size of 85 square feet.

### Gateway Monuments:

Gateway monuments should be used to signify an entry into a special place, like a scenic overlook or historic landmark, or change of location, like the city limits. Gateway monuments should be primarily used on major thoroughfares.

- Gateway monuments should have clean lines, be crafted of high quality materials like stone or brick, and should match or complement the architectural context of their surrounding area.
- Gateway monuments should be incorporated into the planned landscape or streetscape and should not be placed as an after thought. The monuments should have a prominent position with high visibility.

### **Building Design (Low Intensity Transects)**

Commercial and Industrial development should generally be limited in low intensity transects and should be encouraged in areas designated as urban transects by the US 24/40 Corridor Study. However, for non-residential uses allowed in low intensity transects, they could maintain a well landscaped appearance and be compatible in design and appearance with a rural area by achieving the following guidelines:

#### Commercial:

- Limit individual building height to one story and define a maximum height.
- Incorporate design themes for clustered development which fit the historic architecture of the area and complement the natural environment.
- Design building facades using a combination of exterior materials (in addition to glazing), preferably common to the surrounding area, to create visual interest.
- Incorporate glazing on sides of buildings which face a public right-of-way.
- Screen rooftop equipment and building utilities from public view.
- Provide landscaping between buildings and public rights-of-way.

#### Industrial:

- Provide an "office" appearance along public right-of-way for industrial uses.
- Provide architectural embellishment and details.
- Present a clean/neat appearance.
- Design and locate the building to screen parking areas, storage areas, loading areas, and other similar uses from view along public right-of-way.
- Provide landscaping between the building and the rights-of-way.

## Guidelines for Urban Transect Zones

The following guidelines apply to future development within urban transect zones of the US 24/40 Corridor including the T4 General Neighborhood Zone and the T5 City Center Zone.

### Streetscape Identity (Urban Transects)

#### Setback and Drive Experience (Urban Transects)

The placement of buildings, parking lots, and paved areas along US 24/40 Highway are expected to maintain the sense of openness with a wide landscape area.

- Establish setbacks from highway rights-of-way for buildings, parking lots and paved areas, or residential subdivision fencing, to be determined by local land use regulation in compliance with the plan's objective of maintaining a sense of openness along the highway. Setbacks should become increasingly smaller where transects become increasingly more urban.
- Establish "build to" lines in the most urban transects to ensure a consistent streetscape and provide a sense of place (e.g. town center).
- Establish increasingly higher maximum building heights for non-residential development where transects become increasingly more urban. Maximum building heights should still be relatively low to reduce the visual impact of development on the corridor landscape.
- Provide landscaping between development and public rights-of-way. The amount of landscaping should be commensurate with the size of setback for each transect.
- Require landscape buffers to screen all building utility meters, loading docks or other back-of-building features that face a public right-of-way.
- Cluster site development to concentrate and limit vehicular access to and from US 24/40 Highway to a few planned major intersections.
- Use berms and/or landscape buffers to reduce views of "big box" or clustered retail development allowed in urban transects through the establishment of special districts.

#### Street and Highway Median Landscape Treatments (Urban Transects)

Median landscape treatments for US 24/40 Highway and local streets in the Corridor will vary based on the level of adjoining development intensity, with more dense and formal landscape treatments expected in urban areas.

- Landscaping in medians should consist mainly of groundcovers, street trees, low shrubs, and ornamental flower beds. If shrubs or flower beds are provided, the plantings should be limited to a maximum height of 24-inches at maturity, or kept trimmed to that height.

- Median landscape areas should be bermed and drainage toward the median should be avoided wherever possible.
- Street trees should be planted at regular intervals of approximately 50-feet on-center and be a consistent matched variety throughout. Street trees should be planted only when the median is at least 10-foot wide and where permissible by KDOT safety standards for street trees.
- Manicured landscaping with areas of concentrated color should be implemented at points of interest or significance.

### Sidewalks and Pedestrian Systems (Urban Transects)

Urban areas are expected to include an extensive pedestrian systems and trail network, including sidewalks for all land use types, regional trails to implement the MetroGreen Plan, and trail connections from developments to the regional trail system.

- Sidewalk and trail street crossings should be made of special materials or colored differently than the main roadway surface to draw attention to it and provide the driver a sense of pedestrian interaction. Special materials used for crosswalks include brick or concrete pavers, stamped and colored concrete or asphalt, or special striping on the roadway surface. Warning signage should also be used in conjunction with special surface treatments at crossings.
- Provide a system of pedestrian walkways to link residential and non-residential buildings to parking areas and to sidewalks along internal and perimeter streets and drives.
- Provide pedestrian walkways and sidewalks on both sides of all public and private streets and drives in denser developments (i.e. multifamily and commercial).
- Dedicate land or provide a public access easement in developments along designated regional trail corridors.
- Provide neighborhood trail connections in all residential developments along a designated regional trail corridor.
- Extend sidewalks to the boundaries of all developments to connect with the existing or future sidewalk system along perimeter streets.
- Extend sidewalks from developments to any adjacent or future parks, greenways, schools, or civic spaces.
- Establish minimum setbacks for sidewalks and trails along public rights-of-way in all but the City Center Transect (T5).

### Site Furniture (Urban Transects)

- Where appropriate, use benches and other site furnishings constructed of durable materials and anchor them into place.
- Benches and site furniture should be located in areas that are easily accessed for maintenance and where visible from adjacent streets for safety reasons.

- Site furniture should be concentrated near ingress and egress of trail systems, primarily at trail heads. Grouping site furniture will help promote use.
- In areas of highest use, expanded trail heads could include parking, picnic shelters, off-leash dog parks, etc.

### Buffers and Screening (Urban Transects)

Perimeter landscaping should consist of a wide variety of plantings and generally have a more formal and manicured appearance.

- Perimeter landscape buffers should consist of a large quantity and variety of plants to provide screening.
- Dense perimeter landscaping used for buffers in urban areas should be kept a minimum of 40 feet away from the pavement edge to observe KDOT safety distances and to allow access for regional trails where designated. Open space perimeter landscaping consisting of native grass and wildflowers in the public right-of-way should not exceed 24-inches in height.
- Any permitted outdoor storage areas should be entirely screened from public view along the highway and all public streets by the use of dense landscaping. Any solid walls or fencing should be softened with extensive landscaping plantings between the wall / fence and the right-of-way.

### **Lighting and Banners (Urban Transects)**

Lighting systems in the urban transects of the Corridor will be located for most development areas in addition to local roadways and US 24/40 Highway. Lighting should be provided in a manner that meets functional and security needs without adversely impacting adjacent properties or creating glare. Dark sky compliant fixtures (focuses light onto roadway) should be used whenever possible for each category to reduce light pollution and to maintain the rural character of this corridor at night. Banners shall be public or quasi-public owned.

### Roadway Lighting (Urban Transects):

- Street lighting should not be located in the median of the highway or other streets unless absolutely necessary.
- Existing roadway lighting should be maintained.
- Maximum Height: 25-feet or 35-feet

### Parking Lot Lighting (Urban Transects):

- Provide parking lot illumination in parking lots with individual poles and fixtures, rather than building mounted fixtures.
- Illumination of parking lots for non-residential uses near residential should be limited to individual poles and fixtures not to exceed 15 feet in height as measured from grade.

- Where possible, parking lot lighting should have an ornamental look and should be dark sky compliant. Thematic lighting should be used where appropriate.

### Building Lighting (Urban Transects):

- Building mounted light fixtures should be ornamental in appearance and complement the architectural theme or style.
- Building lighting should be focused upward or downward to highlight architectural features and create visual interest. This should be accomplished with lighting that contains shields or reflectors that do not permit light to escape to the sides toward adjacent buildings, parking areas, or roadways.

### Pedestrian Lighting (Urban Transects):

- Pedestrian lighting should be provided along all paths and trails in the urban transects for safety purposes.
- Pedestrian lighting should not exceed 15' in height as measured from grade.
- Overlapping ambient light from street lighting can be considered adequate for sidewalks and trails that are immediately adjacent to secondary streets (not the main highway). However, consideration should still be given to adding pedestrian lighting to provide consistency throughout the corridor.

### Banners (Urban Transects):

- Pole mounted banners should be made of aluminum, plastic or fabric with a life of 10 years or greater.
- Banners should be mounted on street light poles and the lower edge of the banner should be at least 15 feet from the ground below.
- Banners should be located where easily accessed for replacement of seasonal banners and for routine maintenance.
- Banners should primarily be used in areas of significance, such as the downtown areas or primary business districts.

### **Signage Design (Urban Transects)**

Signage should be consistently provided throughout the Corridor as dictated by the type of signage desired for each individual situation. The transect will dictate the height and size of the signage, but all styles should be consistent with text that is easily read.

### Monument Signs (Urban Transects):

- Monument signs are the preferred sign type. Such signs should be crafted of similar materials and style to the surrounding architecture.
- Monument signs are preferred over pole signs whenever possible.

### Pole Signs (Urban Transects):

Pole signs should only be allowed along US 24/40 Highway on a limited basis, and not permitted along other local roadways in the Corridor. Any pole signs should be subject to the following standards:

- Provide a clean and modern appearance.
- Wrap the sign pole in a manner that provides the appearance similar to a monument sign.
- Limit the sign to a maximum height of 15-feet above the average grade and a maximum size of 85 square feet.

### Wall Signs (Urban Transects):

- Wall signs should be incorporated into the architecture of the building and should be made of materials to complement the architecture of the building. Wall signs should not be applied as an after thought.
- Wall signs should be of modern design and can include back-lit box signs.
- Wall signs should be located above the door frame elevation to be visible from the street or adjacent parking area.

### Gateway Monuments (Urban Transects):

- Gateway monuments should be used to signify an entry into a special place, like a scenic overlook or historic place, or change of location, like the city limits. Gateway monuments should be primarily used on major thoroughfares.
- Gateway monuments should have clean lines and be crafted of high quality materials like stone or brick and should match or complement the architectural context of their surrounding area.
- Gateway monuments should be incorporated into the planned landscape or streetscape and should not be placed as an after thought. The monuments should have a prominent position with high visibility.

### **Utilities (Urban Transects)**

As development of the US 24/40 Highway corridor continues, utilities that are currently above ground (i.e. power lines, phone lines, etc.) should be placed underground. This will create a cleaner look to the corridor and will prevent outages created by weather that happen when utilities are pole mounted.

All utility boxes that are required to be above ground should be located adjacent to the highway right-of-way and should be grouped whenever possible. Utility boxes should also be screened from view with landscaping.

## **Building Design (Urban Transects)**

### Moderate and High Density Residential (Urban Transects):

- Provide multifamily dwelling designs that limit the appearance of garages along public or private streets. Garages should typically not project in front of the residential structure and should not dominate the front facade.
- Provide large landscaped yard areas between the building and the street.
- Building facades along a public or private street should provide variations in depth (recesses and projections) and incorporate porches and distinctive architectural detailing.
- Multi-unit residential buildings should maintain a “big house” residential appearance as much as possible.
- Provide front entrances facing a roadway rather than the rear or sides of a building.
- Use a variety of building materials (in addition to glazing) to break up the appearance of multi-unit buildings.

### Local and Regional Commercial (Urban Transects):

- Provide building designs with variations in building façade treatments and combinations of materials (in addition to glazing), yet maintain a “sense of community” and a unified appearance.
- Design buildings to relate directly to the street and reinforce the pedestrian scale and quality of street, civic, and open spaces using the following techniques:
  - Shifts in building massing, variations in height, profile, and roof form that provide human scale while maintaining a consistent relationship of overall building form to the street edge;
  - Minimize long expanses of wall at a single height or in a single plane;
  - Vary floor elevations to follow natural grade contours if significant variation is present.
- Design buildings to provide human scale, interest, and variety using the following techniques:
  - Building form variation with recessed or projecting bays;
  - Expression of architectural or structural modules and detail;
  - Diversity of window size, shape, or patterns that relate to interior functions;
  - Emphasize building entries through projecting or recessed forms, detail, color, or materials;
  - Variations of material, material modules, expressed joints and details, surface relief, color, and texture to break up large building forms and wall surfaces. Such detailing could include sills, headers, belt courses, reveals, pilasters, window bays, and similar features.

- Locate and design large non-residential buildings to minimize the impact of windowless walls and service areas on public streets.
- Limit the use of outside commercial sales, storage, or display areas. However, when permitted, such areas shall be screened with landscaping or enclosed with materials integral to the building architecture.

### Light Industrial (Urban Transects):

- Provide an "office" appearance along public right-of-way for industrial uses.
- Provide architectural embellishment and details.
- Present a clean/neat appearance.
- Design and locate the building to screen parking areas, storage areas, loading areas, and other similar uses from view along public right-of-way
- Provide landscaping between the building and the public right-of-way.

# Implementation and Coordination Strategy

## Introduction

This section summarizes and presents the recommended approach to implement the recommendations of the US 24/40 Corridor Study. The overall strategy is outlined and includes the following:

- **Inter-local Agreement**
- **Implementation Action Plan**
- **Greenway Trail System Acquisition and Implementation Options**
- **Funding Resources**

## Inter-local Agreement

An Inter-local Agreement formalizes the continued partnership between KDOT, MARC, Leavenworth County, Basehor and Tonganoxie to create a framework to implement the provisions for the implementation of the Corridor Study. While each Inter-local Agreement is tailored to the individual needs of each jurisdiction, every agreement includes the same general information:

- Purpose – purpose of the corridor plan,
- Parameters – minimum requirements (access, transportation, land use, etc.),
- Establishment of Corridor Oversight Committee – representatives of KDOT and the various jurisdictions to review the progress of plan implementation and to evaluate any necessary changes to the study's recommendations,
- Roles and Responsibilities of KDOT,
- Roles and Responsibilities of the various jurisdictions, and
- Miscellaneous Provisions – term, termination, etc.

Within the roles and responsibilities sections of the Inter-local Agreements are provisions identifying responsibilities of the participant jurisdictions. These provisions essentially outline the "next steps" to implementing the US 24/40 Corridor Study.

The implementation and coordination strategy presents the recommended approach to implement the recommendations of the US 24/40 Corridor Study. The overall strategy includes the following:

- Inter-local Agreement,
- Implementation Action Plan,
- Greenway Trail System Acquisition and Implementation Options, and
- Funding Resources.

Inter-local Agreements formalize the continued partnership between KDOT, MARC, Leavenworth County, Basehor and Tonganoxie to create a framework to implement the provisions for the implementation of the Corridor Study.

### **Corridor Oversight Committee**

The purpose of the recommended Corridor Oversight Committee will be to serve as an advisory body to regularly review, evaluate, facilitate discussions of and provide input on events and developments that may have an impact on the US 24/40 Corridor and the Corridor Study, and to assist in the Corridor implementation strategy. The Committee will be composed of representatives from Leavenworth County, the City of Basehor, the City of Tonganoxie, KDOT, and the Mid-America Regional Council. It is recommended that the KDOT representative serve as a co-chair of the Committee, with the other co-chair elected each year from the members of the Committee.

Committee meetings should occur whenever the Committee Co-Chairs jointly determine a meeting is appropriate, but at a minimum they should meet twice a year. Because the planning statutes of the state of Kansas require all local planning jurisdictions to annually review an adopted Comprehensive Plan—with public hearing—it is recommended that the participant county and city jurisdictions annually review the Corridor Study at that time. If listed in the published notice for hearing, the Corridor Study could be amended and updated in concert with the locally adopted land use plans, helping meet the intent of close collaboration and coordination between the two documents.

## **Implementation Action Plan**

The work plan for implementation is summarized in the following matrix elements which provide generalized actions steps, responsibilities, and time frame to achieve the vision of the **US 24/40 Corridor Study**. The implementation matrix includes:

- Action Steps – First steps in implementing **Corridor Study** recommendations.
- Implementation Responsibilities – Key groups and partnerships needed to work on the project. These may include:
  - **City and County:** various Departments, Boards, and Commissions of the cities of Tonganoxie and Basehor and Leavenworth County—primarily the planning commissions and governing bodies;
  - **Agencies:** Federal and State agencies and planning organizations such as KDOT and MARC;
  - **Private Sector:** developers and land owners; and
  - **Neighborhoods:** homes associations, neighborhood groups, and homeowners.
- Time Frame – A general phasing of actions over which the action is to occur, expressed in the following terms:
  - Near-term, 1 to 5 years;
  - Mid-Term, 5-10 years;
  - Long-Term, over 10 years; and
  - Ongoing.

**Table 10-1: Corridor Oversight Implementation Actions**

| ACTION STEPS  | IMPLEMENTATION RESPONSIBILITY |          |                    | TIME FRAME            |                       |                       |         |
|---|-------------------------------|----------|--------------------|-----------------------|-----------------------|-----------------------|---------|
|   | City - County                 | Agencies | Private Developers | Near Term (1-5 Years) | Mid Term (5-10 Years) | Long Term (10+ Years) | Ongoing |
| <b>Corridor Oversight</b>   |                               |          |                    |                       |                       |                       |         |
| Adopt an Inter-local Agreement for the continued partnership between KDOT, MARC, Leavenworth County, and the cities of Basehor and Tonganoxie.  | ★                             | ★        |                    | ★                     |                       |                       |         |
| Continue the Community Advisory Committee to guide and coordinate US 24/40 Corridor implementation efforts.   | ★                             | ★        |                    |                       |                       |                       | ★       |
| Coordinate the formal adoption of the US 24/40 Corridor Study (by resolution) into the Comprehensive Plans for Leavenworth County and cities of Basehor and Tonganoxie.   | ★                             | ★        |                    | ★                     |                       |                       |         |
| Coordinate the adoption of uniform Corridor Overlay District regulations, Zoning Ordinance and Subdivision Regulations updates, Access Management Standards, and trail corridor standards between the various jurisdictions to implement the recommendations of the Corridor Study. | ★                             | ★        |                    | ★                     |                       |                       |         |
| Incorporate the US 24/40 Corridor Management Plan into MARC's Long Range Transportation Plan.   |                               | ★        |                    | ★                     |                       |                       |         |
| KDOT to adopt the plan into Section D of the Corridor Management Policy   |                               | ★        |                    | ★                     |                       |                       |         |
| Continue the local partnerships with KDOT, and evaluate and pursue funding sources to implement the interim transportation actions.   | ★                             | ★        |                    | ★                     | ★                     |                       | ★       |
| Evaluate and implement a strategy to build public awareness about the guidelines and standards of the Corridor Study, including education of public officials, landowners, developers, real estate agents, and local development consultants.                                       | ★                             |          |                    | ★                     |                       |                       | ★       |
| Evaluate and establish the most appropriate entity to coordinate the development of regional trails in Leavenworth County (i.e. a new county parks and recreation department).  | ★                             |          |                    | ★                     |                       |                       |         |
| Evaluate and pursue funding sources to implement the bicycle and greenway trail corridor funding sources.   | ★                             | ★        | ★                  | ★                     |                       |                       |         |
| Determine how and by whom each segment of the trails corridor will be operated and maintained.  | ★                             | ★        |                    | ★                     |                       |                       |         |
| Encourage the cities of Basehor and Tonganoxie to establish or update their local community trails plans to provide local linkages to the regional trails designated by the US 24/40 Corridor Study.  | ★                             |          |                    | ★                     |                       |                       |         |
| Build public awareness and support for greenways and trails, and promote system use.  | ★                             | ★        |                    |                       |                       |                       | ★       |

**Table 10-2: Land Use and Development Regulations Implementation Actions**

| ACTION STEPS  | IMPLEMENTATION RESPONSIBILITY |          |                    | TIME FRAME            |                       |                       |         |
|---|-------------------------------|----------|--------------------|-----------------------|-----------------------|-----------------------|---------|
|   | City – County                 | Agencies | Private Developers | Near Term (1-5 Years) | Mid Term (5-10 Years) | Long Term (10+ Years) | Ongoing |
| Formally adopt a US 24/40 Corridor Overlay District into the Zoning Codes for Leavenworth County and the cities of Basehor and Tonganoxie, and subsequently amend the respective Zoning Maps to reflect the District boundary in each jurisdiction.   | ★                             |          |                    | ★                     |                       |                       |         |
| Amend the respective Zoning Codes and Subdivision Regulations to implement the recommended setbacks from US 24/40 Highway right-of-way for all parking and paved areas and residential and nonresidential structures.   | ★                             |          |                    | ★                     |                       |                       |         |
| Amend the respective Zoning Codes and Subdivision Regulations as necessary to provide “cluster development” standards, such as flexible development design standards allowing for reduced lot sizes and setbacks and alternative street designs that concentrate buildings on a part of the site (the cluster area) and allow the remaining land to be preserved as open space. | ★                             |          |                    | ★                     |                       |                       |         |
| Amend the respective Zoning Codes and Subdivision Regulations with stream buffer regulations that protect stream corridors.   | ★                             |          |                    | ★                     |                       |                       |         |
| Amend the respective Zoning Codes and Subdivision Regulations to require special standards for wetlands or areas designated as forests, or woodlands by the Mid-America Regional Council Natural Resources Inventory (i.e. open space preservation, tree survey, cluster development, etc.).  | ★                             |          |                    | ★                     |                       |                       |         |
| Issue access permits in accordance with the Corridor Study Access and Traffic Management Plan   |                               | ★        |                    | ★                     | ★                     | ★                     | ★       |

**Table 10-3 Interim Transportation Implementation Actions (1-5 years)**

| ACTION STEPS  | IMPLEMENTATION RESPONSIBILITY |          |                    | TIME FRAME            |         |
|---|-------------------------------|----------|--------------------|-----------------------|---------|
|   | City – County                 | Agencies | Private Developers | Near Term (1-5 Years) | Ongoing |
| <b>Interim Transportation</b>   |                               |          |                    |                       |         |
| Amend the respective Subdivision Regulations for Leavenworth County and the cities of Basehor and Tonganoxie to implement the Access Management Standards for US 24/40 Highway. | ★                             |          |                    | ★                     |         |
| Relocate the traffic signal at Tonganoxie High School to the Main Street intersection as warranted.   | ★                             | ★        |                    | ★                     |         |
| Alter the on-site traffic circulation pattern at the Tonganoxie High School to direct exiting traffic to Main Street.   | ★                             | ★        |                    | ★                     |         |
| Install a traffic signal at the US 24/40 Highway intersection with Laming Road as warranted.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary left-turn lanes at the US 24/40 Highway intersection with 142 <sup>nd</sup> Street.   | ★                             | ★        |                    | ★                     |         |
| Install auxiliary left-turn lanes at the US 24/40 Highway intersection with 174 <sup>th</sup> Street.   | ★                             | ★        |                    | ★                     |         |
| Widen US 24/40 Highway in Tonganoxie from Smiley Road to County Road / install a center turn lane.  | ★                             | ★        |                    | ★                     |         |
| Implement the US 24/40 Corridor supporting collector street network with the construction of new developments or with the redevelopment of existing properties.                 | ★                             | ★        | ★                  | ★                     | ★       |
| Consolidate and relocate driveways to US 24/40 Highway.   | ★                             | ★        | ★                  |                       | ★       |
| Provide a collector street system between 155 <sup>th</sup> Street and 158 <sup>th</sup> Street on both sides of US 24/40.  | ★                             | ★        | ★                  | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 198 <sup>th</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 182 <sup>nd</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 174 <sup>th</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 166 <sup>th</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 150 <sup>th</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Install auxiliary right turn lanes at the US 24/40 Highway intersection with 142 <sup>nd</sup> Street.  | ★                             | ★        |                    | ★                     |         |
| Close median openings in the interest of safety and/or in implementation of the Corridor Plan.  |                               | ★        |                    | ★                     | ★       |
| Acquire 120 feet of right-of-way on intersecting arterial streets through the site plan approval process.   | ★                             |          |                    | ★                     | ★       |

**Table 10-4: Long-Term Transportation Implementation Actions (5 to 20 years)**

| ACTION STEPS   | IMPLEMENTATION RESPONSIBILITY |          |                    | TIME FRAME           |         |
|--|-------------------------------|----------|--------------------|----------------------|---------|
|  | City - County                 | Agencies | Private Developers | Long Term (5+ Years) | Ongoing |
| <b>Long Term Transportation</b>  |                               |          |                    |                      |         |
| Widen US 24/40 Highway in Tonganoxie from 4 <sup>th</sup> Street to County Rt. 1 to four lanes plus a center median.           | *                             | *        |                    | *                    |         |
| Replace the center turn lane with a median on US 24/40 Highway in Tonganoxie from 4 <sup>th</sup> Street to Stone Creek Drive. | *                             | *        |                    | *                    |         |
| Construct the supporting roadway network.  | *                             | *        |                    | *                    | *       |
| Install additional traffic signals as warranted.   | *                             | *        |                    | *                    | *       |
| Close existing nonconforming median breaks on US 24/40 Highway.  | *                             | *        |                    | *                    | *       |

**Table 10-5: Bicycle and Trails Plan Implementation Actions**

| ACTION STEPS  | IMPLEMENTATION RESPONSIBILITY |          |                    | TIME FRAME            |                      |         |
|---|-------------------------------|----------|--------------------|-----------------------|----------------------|---------|
|   | City - County                 | Agencies | Private Developers | Near Term (1-5 Years) | Long Term (5+ Years) | Ongoing |
| <b>Bicycle and Trail Facilities</b>   |                               |          |                    |                       |                      |         |
| Amend the Comprehensive Plans of Leavenworth County and cities of Basehor and Tonganoxie to formally adopt the <b>US 24/40 Corridor Supporting Transportation System Network Map</b> as part of those comprehensive plans, thereby creating more legal force in support of the Corridor Study.  | *                             |          |                    | *                     |                      |         |
| Adopt formal park / trail / greenway standards, or amend the Subdivision Regulations for Leavenworth County, Basehor, and Tonganoxie as necessary to secure land or easements for trail facilities.   | *                             |          |                    | *                     |                      |         |
| Amend Zoning and Subdivision Regulations as necessary to allow for density bonuses, subdivision modifications to lot size, and dimensional requirements for preservation of open space, or dedication/ acquisition of land for trails and the construction of trails.   | *                             |          |                    | *                     |                      |         |
| Enact a mechanism for a dedicated tax to support trail acquisition, development, and maintenance.   | *                             |          |                    | *                     |                      |         |
| Amend the Zoning and Subdivision Regulations to provide that dedication of land (or dedication of land and constructed trails) shall count in calculating lot size, setbacks, or other dimensional requirements.  | *                             |          |                    | *                     |                      |         |
| Amend the respective Subdivision Regulations to incorporate express reference to the <b>US 24/40 Corridor Supporting Transportation System Network Map</b> to place developers on notice of development exaction requirements. The <b>US 24/40 Corridor Supporting Transportation System Network Map</b> should also be incorporated into each code by reference. | *                             |          |                    | *                     |                      |         |
| Add provision to planned development zoning sections, incorporating the <b>US 24/40 Corridor Supporting Transportation System Network Map</b> by reference and creating as a condition of any planned development the dedication and/or construction of trails.   | *                             |          |                    | *                     |                      |         |
| Establish dedication provisions in the respective zoning/subdivision regulations allowing easement, right-of-way or fee simple dedications, subject to approval (or option of) by the County or Cities on a case-by-case basis.   | *                             |          |                    | *                     |                      |         |
| Create an administrative appeal process to provide the local government with the opportunity to provide relief without court intervention.  | *                             |          |                    | *                     |                      |         |
| Establish specific submittal and evaluation criteria for the dedication and acceptance of trails (i.e. greenway and trail standards).   | *                             |          |                    | *                     |                      |         |
| Develop maintenance standards for the regional and local trails.  | *                             |          |                    | *                     |                      |         |
| Educate the public on the tax benefits of donation and assist owners by facilitating donations, possibly through use of a nonprofit "friends" of the Trail System or a trust.   | *                             |          |                    |                       |                      | *       |
| Tonganoxie, Basehor and Leavenworth County are preparing a regional trail plan, portions of which will be adopted by each city.   | *                             |          |                    | *                     |                      |         |

## Greenway Trail System Acquisition and Implementation Options

This section of the *Corridor Study* addresses issues associated with the acquisition, financing and administration of trails and linear parks (hereinafter collectively referred to as "trails"). Land acquisition techniques range in levels of required initiative and commitment from a simple request for a land gift to the required dedication as a condition of development. At the middle ground are zoning and subdivision regulations that can, with some strategic amendments, be used to require granting of easements or dedications of land, setbacks, and other desired elements to implement the trail system in the US 24/40 Corridor, off of the highway right-of-way, and primarily on local major streets and in streamway corridors.

Numerous taxing methods authorized by state statute can be used to generate revenue to support the trail system, ranging from a basic capital improvement sales tax to a more complex benefit district mechanism. Finally, the designated governmental agencies may accomplish the ongoing operation and maintenance of the trails, benefit districts, nonprofit organizations, or trusts. The goal of this section is to provide a set of "tools" which can assist the implementation of the regional trail system in the US 24/40 Corridor. While all of these options are discussed herein, the respective jurisdiction based on their unique attributes, needs, and objectives must determine the ultimate combination of options.

### Donations and Incentives

There are many voluntary mechanisms to acquire land and build trail infrastructure that can be implemented in areas where development is occurring, or likely to occur. Such mechanisms generally involve exceptions or modifications to zoning or subdivision requirements to reduce the cost of development or increase the return on the developer investment. This approach requires:

- the existence of development in or near the area of the trail;
- requirements that can be waived without harming the public safety or interest; and
- a willingness of the public to allow the waivers to acquire desired trail sections.

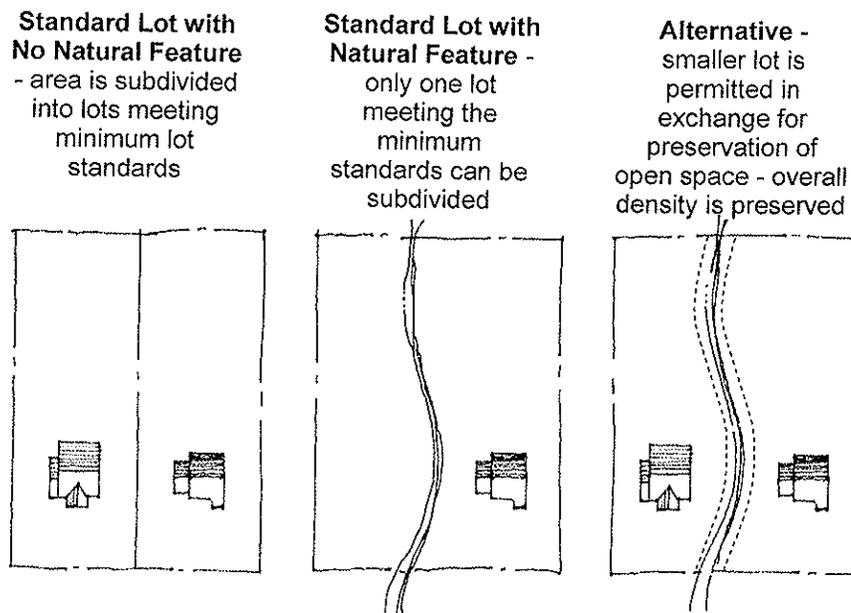
The exceptions or code waivers can be used as an incentive to obtain dedication and construction of trail segments on the site of the development, or in some circumstances even at locations offsite or unassociated with the development. The goal is to minimize the impact upon the landowner so any loss in otherwise developable land may be offset by incentives. Examples of developer incentives include:

1. **Density bonus** – This mechanism grants the developer greater density than permitted by a Master Plan or zoning district in exchange for the developer's dedication of the land for a trail and/or trail construction. Incentive or bonus zoning is a land use technique that allows a jurisdiction to obtain various public amenities from a builder or developer without having to pay for them directly. Normally, an incentive zoning system will allow a developer to exceed an existing height or density regulation in return for providing one or more public amenities, such as public plazas, parks, and pedestrian space. Incentive zoning typically benefits the landowner or developer,

since the value of the bonus can be designed to equal or exceed the cost to the developer of supplying the public benefit. The most common examples of incentive zoning are an increase in density in the form of bonus floor area, or an increase in the number of dwelling units or the number of square feet of commercial space on a site. A density bonus may also take the form of reduced requirements for off-street parking and loading, mixed uses, and other modifications commonly allowed within a planned development such as a PUD.

2. **Subdivision/lot size modifications** – A reduction in lot size (as opposed to increasing overall density of the entire developed tract), and lot dimension adjustments are also potential incentives. For example, if a property has a creek running through it in such a manner as to leave too little land on one or both sides to develop lots of the size required by the subdivision code or the applicable zoning district, a modification could be made in exchange for dedication of the creek and adjoining area for the trail. Although the lot would be substandard in size, the actual green space for the lot would remain intact as public space. Accordingly, the same number of houses may still exist, although the lot sizes on paper may be smaller.

**Figure 10-1: Subdivision/Lot Size Modifications**

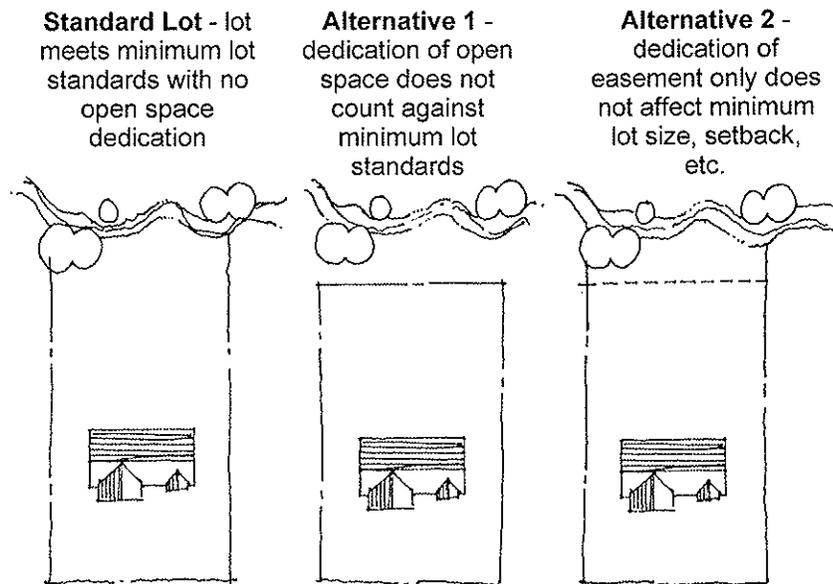


3. **Neutral dedication provisions** – Ensure that the dedication of land is "neutral" to the developer and does not cause a reduction in lot size or developable land by allowing dedication of trails (with limitations) to have no effect on the remaining density, setbacks, etc. after the dedication. For example, if a trail is sought at the back of a lot where there is a 30-foot building setback, the zoning code would be modified to allow any dedicated space to count as part of the lot setback, even though it no longer is part of the lot.

In other words, ensure that the developer is not "punished" by loss of useable ground as a result of the dedication. Another available option is to allow easements to be

dedicated as opposed to the conveyance of a fee simple interest. This ensures that density, setbacks, lot dimensions are wholly unaffected by the dedication of the trail, thereby obtaining the same result as the first option.

**Figure 10-2: Neutral Dedication Provisions**



**4. Planned Development and Conditional Use / Special Use Permit Conditions**

Planned development provisions generally allow for an area of land, controlled by a landowner, to be developed as a single entity with a designated number of dwelling units and square footage of commercial and industrial uses. The plan allows modifications of lot size, bulk, type of use, density, lot coverage and open space, to allow developers to achieve a more flexible design, especially in exchange for a development exaction. The *US 24/40 Corridor Supporting Transportation System Network Map (Ref Figure 7-2)* and/or other greenspace requirements can be incorporated as an integral part of the approval procedures so that a condition or factor in granting the approval is whether the developer has provided the trails or green space applicable to the site sufficient to warrant the approval. Generally, only trails or greenspace onsite or adjacent can be made a condition of granting the planned development approval. The use of conditions in a planned zoning is technically a "voluntary" incentive because the developer is not required to seek the planned zoning but may opt to use the more restrictive "as of right" zoning district under which the property is currently zoned. The jurisdictions should ensure that they have the appropriate degree of discretion to control the design and use modification requested by the developers and the authority to deny an application if not in the public interest.

The county and cities may also consider the additional requirement of compliance with the *US 24/40 Corridor Supporting Transportation System Network Map (Figure 7-2)*

and the dedication and construction of trails as conditions for approval of conditional use / special use permits.

### **Dedication Requirements / Impact Fees**

The authority to utilize both of these techniques arises from the police power of the county and the cities of Basehor and Tonganoxie. Each is imposed through the exercise of this power as a condition of development approval. A dedication exaction is a condition or stipulation of approval that requires the applicant to convey an interest in land as a condition of the subject approval. An impact fee is, as it states, a fee, which is legislatively adopted (though it can be imposed on an ad hoc basis). The fee amount is calculated to cover the applicant's fair share of the public infrastructure for which the fee is calculated. Generally, the fee amount is set based upon an established equivalent unit to offset the capacity of the infrastructure system being funded and consumed by the development proposed by the applicant. Exactions may be imposed at different points in the approval process. Traditionally, a dedication exaction is imposed as a condition of rezoning, award of a special/conditional use permit, or upon plat approval. More generally, an impact fee is assessed at one of the aforementioned points, but not collected until a building permit is issued.

The application of dedication exaction's (e.g., dedication requirements and impact fees) must be done consistent with the legally protected property rights of affected property owners, and in a reasonable, non-discriminatory and non-arbitrary manner. While cities and counties clearly have the legal authority to condition development permits to mitigate the impacts of a project on identifiable public resources and interests, such development exactions must have a "close fit" to the development's impact. In Supreme Court parlance, land use regulations must "substantially advance" a legitimate state interest, and there must be an "essential nexus" between the asserted public purpose of a land use action and any conditions attached to approval of a development permit. In the case of a dedication exaction, the amount of land to be dedicated must be roughly proportionate in nature and extent to the development impact. The Supreme Court has yet to clearly decide whether this "rough proportionality" test applies to impact fees. Dedication exactions and the impact fee amount for trails must be reasonably related to the development's impact on the availability of open spaces and recreational areas such as trails.

1. **Subdivision Code Dedication Requirement.** Amend the subdivision codes as necessary to allow dedication requirements where the property, with respect to which development approval is sought, is included in or adjacent to the proposed Trail System. A formal dedication ordinance/resolution can be adopted. The same result, however, can be achieved by the insertion of language such as "the Commission (or Council) may require dedication" into the Codes at the appropriate point where the different development approvals are set forth. Appropriate references to the trail plan and how it relates to the increased populations caused by the subdivisions, and the corresponding increased demand for public recreational facilities such as trails, should also be added. For example, "any development within 50 feet of the greenway trail system, as specified in the ***US 24/40 Corridor Supporting Transportation System Network Map (Figure 7-2)***, shall be required, as a condition of plat approval, to dedicate an interest in land for the purpose of establishing a trail, unless otherwise waived." This approach will result in substantial compliance, although in any given case, a refusal of the developer to comply and/or the commitment of the County or

Cities to enforce the provisions may result in less than full compliance. Waiver criteria may be established, based on the developers' ability to demonstrate through an individualized determination that the dedication is not justified or roughly proportional to the impact of the development either because of a lack of requisite reasonable relationship, unique site circumstances, undue hardship, or other circumstances warranting a waiver.

2. **Formal dedication ordinance/resolution.** A formal dedication/impact fee ordinance/resolution may be adopted that establishes requirements for new development. Dedication and impact fee ordinances/resolutions are legally defensible to the extent that they are related to new development and the dedications and/or impact fees are reasonably related to the impact created by the development. Requiring dedication without an individualized determination that the required dedication is roughly proportional to the proposed development's impact on the trail system (i.e., use of the system) may not be legally defensible or enforceable.
3. **Zoning Code – "Trail Corridor" Requirements.** Amend the zoning codes to introduce and establish the "trail corridor" concept by including language similar to the following: "Any development within 50 feet of the Trail System, as specified in the ***US 24/40 Corridor Supporting Transportation System Network Map (Figure 7-2)***, shall have a setback from the trails or open space of at least 20 feet." For situations involving the development of a single parcel of land (not subject to the subdivision or platting process), the county and cities should also consider an amendment that would make the issuance of a building permit contingent upon the dedication of land and/or construction of a trail.
4. **Administrative Appeal Process.** Amend the zoning and subdivision codes, or establish a stand-alone requirement, to create an administrative appeals process to provide the local governments with the opportunity to correct alleged improper application of trail or green space requirements without immediate court action. For example, where a specific design standard or condition is imposed or a dedication exaction is required, the developer should have an appeals process available prior to judicial intervention. The Board of Adjustment could serve as the entity for these appeals, and could be established as either a final decision-maker or as a recommending body that would hold the formal adjudicative hearing but not make a final decision.

#### **Evaluation Criteria for Trail Dedication and Construction**

In evaluating the dedication of land and easements, and the design and construction of trails, criteria should be developed by the county and the respective cities indicating design appropriate to the site's natural, historic, and cultural features, and otherwise meeting the requirements of the respective development codes. Each affected parcel of property will present a unique set of facts and circumstances that requires individual consideration by the local jurisdiction.

Each city and the county should contemplate an evaluation that may involve not only the Planning Commission, but the local staff and Parks Board. This evaluative process will usually

take place during the review of applications for preliminary plat approval, rezoning, special/conditional use permit, or preliminary development plan approval.

Diversity and originality in lot layout and property dedication should be encouraged to achieve the best possible relationship between development and conservation/recreation areas. In addition, these criteria may help ensure that the dedicated land is not merely low-quality land poorly suited for trail use. The evaluation criteria should be established to determine whether the proposed dedication/acquisition satisfies some of the following elements:

- protects and serves floodplains, wetlands, and steep slopes;
- preserves and maintains mature woodlands, existing fields, pastures, meadows, and creates sufficient buffer areas;
- maintains or creates an upland buffer;
- designs around existing tree lines and hedgerows, between fields or meadows, and minimizes impacts on large woodlands;
- leaves scenic views and vistas unblocked or uninterrupted;
- protects wildlife habitat areas;
- designs around and preserves sites of historic, archaeological, or cultural value;
- protects rural roadside character;
- improves public safety;
- provides active recreational areas;
- offers adequate screening from nearby commercial or residential development;
- makes connections to commercial or residential development;
- facilitates pedestrian and bicycle access;
- provides open space that is reasonably contiguous and whose configuration is in accordance with the respective zoning ordinances as well as the **US 24/40 Corridor Supporting Transportation System Network Map (Figure 7-2)**.

## Funding Resources

Capital improvements for the permanent addition to the physical infrastructure assets and other public facilities in the US 24/40 Corridor will likely require funding from a variety of sources. As new private development occurs in the corridor, developers should be required to:

- dedicate right-of-way for any necessary US 24/40 Highway improvements, as well as for the local street network; and
- construct improvements needed as a result of the developments (i.e., turn lanes, local streets, reverse frontage (backage) roads, etc.).
- post a bond for future improvements (traffic signals, turn lanes, etc.)

Federal dollars are available through the Mid-America Regional Council (MARC) for necessary interim improvements. Such projects must qualify for the various federal funding sources and be included in the Transportation Improvement Projects (TIP) list maintained by MARC. KDOT currently has no funding identified to implement the Corridor Study recommendations and funding for significant projects will have to wait until another federal highway bill is passed. However, there are some KDOT programs that could be applied for smaller interim improvements. Such potential funding sources may include:

**State Corridor Management Funds**

These funds help purchase right-of-way or fund other related activities that will improve corridor / access management along the state / federal highway system. As a result of developing and implementing this plan, the parties of the US 24/40 Inter-local Agreement will be eligible for Corridor Management funds. The funds are available through an annual application process for transportation improvements projects on the State and US Highway Systems as well as on the local street system. Project examples include improvements to intersections on the highway, construction of reverse access roads, and advanced acquisition of right-of-way for future projects.

**KDOT Economic Development Funds**

Such funds may apply to improvements to roads and bridges that will have a benefit to economic development in the area. A 75/25 split is required, with funds solicited in June and forms due in September of each year. Projects are selected by the Highway Advisory Commission the following spring (three years in advance of construction) and are managed by the Bureau of Local Projects.

**City Connecting Link (KLINK) Resurfacing Projects**

The KLINK program includes resurfacing "curb-to-curb" projects intended to improve roadway surfacing on city streets connecting two rural portions of state highway and are maintained by the city. These projects are limited to resurfacing of the roadway only. (Project scopes may vary from surface replacement to minor patching, joint repair or overlay, but does not include bridge decks or curb and gutter). The maximum state participation in the cost of construction and construction engineering is \$200,000. KLINK funds are solicited in June and forms due in September of each year. Projects are selected by the Highway Advisory Commission the following spring (programmed two years in advance of construction) and are managed by the Bureau of Local Projects.

**Geometric Improvement Projects**

The Geometric Improvement program is intended to help cities widen pavements, add or widen shoulders, eliminate steep hills or sharp curves and add needed turning lanes, acceleration lanes and deceleration lanes on City Connecting Links. These projects provide improvements to City Connecting Links that extend beyond the back of curb (widening, grades, flatten curves, etc.), with 75% to 100% state participation based on the size of the city (currently up to \$700,000 for Basehor and \$750,000 for Tonganoxie). Funds are solicited in June and forms due in September of each year. Projects are selected by the Highway Advisory Commission the following spring (three years in advance of construction), and are managed by the Bureau of Local Projects.

**Transportation Revolving Fund ("TRF")**

The Kansas TRF is a statewide revolving loan fund designed to promote innovative transportation funding solutions. The purpose of the TRF is to provide financial assistance to local governmental units for transportation projects. Eligible projects must be a bridge, culvert, road, street, or highway. However, trail projects are not eligible for financing. Projects must be consistent with the state highway system, as it

exists now or in the future. Local communities identify their transportation needs and submit a project application. Applicants may combine several projects on one application as a highway improvement program; however, each project must be listed separately with supporting information on the application.

The TRF offers a wide range of loan and credit enhancement opportunities for eligible projects. Local governmental units can repay loans with various revenues including Special City & County Highway Fund allocations or locally raised revenues such as sales taxes. A transfer of monies from the state highway fund capitalized the TRF. Proceeds from the issuance of bonds will also be used for project financing. An application for the local share of a state or federal project does not change the financing source. If a project is part of another KDOT program, such as KLINK, Geometric Improvement, or Economic Development, it is subject to all the rules of that program. Borrowing from the TRF does not count against a local government unit's maximum bonding authority. All cities, counties, and other governmental units of the State of Kansas are eligible to borrow from the TRF. In addition, private enterprises are eligible if they have a governmental unit as a partner.

#### **STP Transportation Enhancement Funds**

These funds are divided into three main categories of purpose for project selection: Historic; Scenic and Environmental; and, Pedestrian and Bicycle Facilities. To be eligible for Transportation Enhancement funds, an application must:

- relate to surface transportation;
- include one of the 12 federally designated transportation enhancement activities; and
- must be submitted by a local governing entity (city, county, school district, etc.).

Project applications are accepted only from state agencies, city and county governments, and other political subdivisions. Applications within urbanized areas (populations greater than 50,000) must be submitted through Metropolitan Planning Organizations (MPO's), which for Leavenworth County is the Mid-America Regional Council.

The applicant is responsible for at least 20 percent of the total project costs. Applications offering a greater portion of local funding and support receive additional consideration. In-kind (donated) labor and materials are not allowed as part of the applicant's match. Donated rights-of-way may be allowed as part of local match if the applicant provides documentation that acquisition was in accordance with the federal requirements.

#### **STP Hazard Elimination Safety (HES) Funds**

HES funds are federal dollars to improve safety on and off the state highway system. Examples include traffic signal installation, left-turn lanes, right-turn lanes, traffic signal modifications, roundabouts, and other projects that improve safety. These funds have a 90 (federal) / 10 (local) split. Selected projects are based on Annual

Average Net Return of the proposed improvement. The program is conducted on a two year cycle.

#### **State-Aid Safety Funds**

These funds are for projects to improve safety on the state highway system. Examples include traffic signal installation, left-turn lanes, right-turn lanes, traffic signal modifications, and other projects that improve safety. These funds range from 100 percent to a 50 (federal) / 50 (local) split. Selected projects are prioritized on an as-needed basis.

#### **State Lighting Funds**

Funds are available to install lighting at interchanges / intersections based on criteria met in the KDOT Lighting Handbook. Locations must be on the state / federal highway system.

Additional funding for improvements in the US 24/40 Corridor, including local connecting arterial streets, will need to come from Leavenworth County and the communities of Basehor and Tonganoxie. Since the local jurisdictions have tight CIP budgets, other alternative funding sources should be considered to finance major corridor improvements. The following summarizes potential local funding sources:

#### **Capital Improvements (and Special Projects) Sales Tax**

Cities and counties may impose a sales tax on all retail sales in the jurisdiction for the purpose of funding capital improvements, including operation and maintenance. The sales tax must be authorized by the governing body and approved by a simple majority of the voters in an election. Funds collected from this tax must be deposited in the general fund and may be transferred to a fund--such as a road improvement fund--to be used solely for the purpose designated in the vote which is approved by the citizens of the jurisdiction.

**General Obligation Bonds.** Subject to certain constitutional and statutory limitations, primary of which is a constitutional limit on the total amount of debt the county and cities can incur based upon a set percentage of its assessed valuation, funds for street improvements may be raised by the issuance of general obligation (GO) bonds. GO bonds are long-term obligations backed by the full faith and credit of the county or cities. Kansas statutes authorize the governing body to issue bonds for the construction, reconstruction, improvement, maintenance and repair of any and all public roads, highways, bridges and culverts, including the acquisition of property through eminent domain powers. The proceeds from such bonds must be kept as a separate fund. These funds may also be used in the construction, reconstruction, improvement, maintenance and repair of any street, avenue, road or alley in any incorporated city, town or village if that construction or improvement forms part of a continuous road, highway, bridge or culvert of the County.

#### **Transportation Development District ("TDD")**

A TDD is a form of special assessment district for transportation needs and has authority to raise funds either through special assessment or sales tax in district. TDDs

are authorized by K.S.A. 12-17,141 et seq. and may be used to pay for improvements for which the development area creates the demand. Such property assessments or sales taxes require approval of all property owners within the district. The funds generated in the TDD are paid by property owners in the case of an assessment, or by the users in the case of a sales tax.

### **Tax Increment Financing ("TIF")**

A TIF allows future real property taxes and other taxes generated by new development to pay for the costs of construction of public infrastructure and other improvements to make the project feasible. The program allows for the increment in sales taxes and property taxes (taxes after development - taxes before development) to go towards paying off costs incurred for the project. The tax increment can be used for site acquisition, relocation, site preparation, parking facilities, and public improvements. The process is divided into two steps. The first step is establishing a Redevelopment District and the second is adopting a Redevelopment Plan for the Redevelopment District.

### **Community Improvement District ("CID")**

A Community Improvement District or CID provides another class of special purpose, self-taxing district. Once established, CIDs enjoy broad authority to levy and collect special assessments and/or sales taxes to fix and collect fees for use of CID properties, to construct and maintain a variety of public improvements, to support business activity and economic development within district boundaries, and to issue tax exempt revenue and general obligations.

### **Transportation Utility Fee**

A transportation utility fee is a fee collected on residences and businesses within the local jurisdiction's corporate limits and tied to the use and consumption of transportation services in the community. Such a fee is similar to a storm water, water, or sanitary sewer utility fee. The premise is that local government is responsible for making roadways available to anybody who desires to use them, and therefore all potential users should pay for upkeep of the roadway network. Typically such a fee is applied communitywide, but could be limited to a corridor or district. There is currently no enabling authority in Kansas for such a fee, but could be applied under home rule authority.

### **Impact Fee**

An impact fee is a one time payment assessed against new development to cover the expenses for essential capital improvements proportionate to the demand generated by the development. Such improvements typically apply to roads, sanitary sewer, storm water systems, or may also include emergency services (e.g. police, fire, and EMS services) and public buildings. The fee may be collected at the time of platting, issuance of building permit, or the issuance of a certificate of occupancy permit. Typically such a fee is applied communitywide, or may limited to specific corridors, but collected funds must be used to provide substantial benefit to the new development. There is no specific authority in Kansas for such a fee, but could be applied under home rule authority.

### **Excise Tax**

The tax is typically applied communitywide to new development and may either be paid by the developer at the time of platting or by a property owner at the time of purchase. The use of the funds may be applied to any budgeted item if placed in the jurisdiction's general fund. The City of Tonganoxie currently has excise tax dedicated to transportation improvements. Leavenworth County does not currently have an excise tax and can no longer enact them, due to a change in the state legislation.

### **Special Assessment Districts**

State statutes authorize the creation of a Special Assessment Districts (SA) by cities and counties for areas designated to benefit from a particular public improvement. Landowners within the district must authorize the formation of the District either by a vote of approval or by execution of a petition to the governing body. A landowner petition to create a District must be signed by the owners of record of at least two-thirds by area of all real property located within the proposed District. If approved, the governing body may authorize the issuance of general obligation bonds to finance construction of an improvement, such as road improvements. To secure the bonds, a portion of the total cost is assessed against each landowner within the District and the special assessment becomes a tax lien against the property. The method of apportioning assessments among the property owners within the District is established prior to the creation of the District. A Special Assessment District allows cities and counties to construct improvements sooner than other financing methods such as road user or impact fees.



CHAPTER II. AMMAL CONTROL AND REGULATION

- Article 1. General Provisions
- Article 2. Dogs and Cats
- Article 3. Other Animals
- Article 4. Zoning Regulations

ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS.

(b) Animals means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, birds, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Control Officer - shall mean the chief of police of the city, or any police officer of the city, or any other person designated by <sup>either</sup> the chief of police or the mayor of the city.

(h) Dog - means any member of the species canis famiharis, regardless of sex, three months of age or older

*leave as is* (i) Fowl - means all animals that are included in the zoological class aves, which shall include, but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons. ~~Means chickens, guineas, geese, ducks, and pigeons~~

(j) Domestic Birds. Means canaries, parrots, parakeets, myna birds, peacocks, birds of paradise or other birds tamed to the household or pertaining thereto.

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE.

(b) The animal control officer or any law enforcement officer shall have the right of entry upon any private enclosed lot or land, after attempting to contact the home/land owner, for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

2-106. BREAKING POUND.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals. Every person convicted of violating this section shall be deemed guilty of an infraction and shall pay upon first conviction a fine in the amount of \$25.00, upon a second conviction pay a fine in the amount of \$50.00, and upon a third or subsequent conviction pay a fine of not less than \$75.00 nor more than \$500.00 along with the required court costs, and sentenced to a period not to exceed 30 days in jail.

2-109. KEEPING ANIMALS.

(c) The maintaining of non-poisonous and non-vicious animals and fowl birds which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter, and does not otherwise violate the zoning ordinances of the city:

2-110. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. The animal control officer must be contacted prior to any traps being set within the city limits of Basehor. (Code 1989)

2-114. VICIOUS DOGS (a) Definitions.

~~(1) Animal Control Officer - shall mean the chief of police of the city, or any police officer of the city, or any other person designated by the chief of police or the mayor of the city. \*Note-moved to definitions section\*~~

~~(2) At Large - shall mean off the premises of the owner or keeper or not under the control or supervision of the owner or keeper.~~

~~(3) Dog - shall include both male and female dogs, three months of age or older.~~

~~(4) Own - shall mean and include own, keep, harbor, shelter, manage, possess, or have a part interest in any dog. If a minor owns a dog subject to the provisions of this article, the head of the household of which such minor is a member shall be deemed to own the dog for the purposes of this article.~~

(5) ~~Owner shall mean the one who owns, his or her employee, agent, or other competent person into whose charge the actual owner has placed the dog;~~

(b)(2) Insurance. The owner or custodian of any vicious dog shall maintain a policy of insurance in an amount not less than \$200,000, ~~to increase an additional \$200,000~~ per incident insuring the person against any claim, loss, damage or injury to any human being, any property, domestic pet, or livestock resulting from the acts of such dog. Such person shall produce evidence of the required insurance upon request of a law enforcement officer, animal control officer or public health officer. The owner or custodian of such dog must provide proof of insurance at the time the dog is registered. If the owner or custodian fails to provide such proof of insurance, the owner or custodian shall be denied registration and shall be subject to such other penalties provided for herein. In order to comply with the provisions of this section, the owner or custodian must provide insurance that specifically insures that specific breed of dog under the insurance policy. Such determination, if disputed, shall be resolved by the City Attorney, and his/her decision shall be final. This section shall not apply to dogs kept by law enforcement agencies.

(7) Registration of Vicious Dogs. All owners, keepers or harborers of vicious, ferocious or dangerous dogs within the city shall within 10 days of the date of this ordinance register the dogs with the ~~city-police department~~. Such registration shall include a photograph of each vicious dog owned, kept or harbored.

(k) Insurance Requirements on Specific Breeds of Dogs

(5) All owners, keepers or harborers of registered pit bull dogs, Rottweiler dogs or wolf hybrids must within ten days of the effective date of this ordinance provide proof to the Basehor ~~City Police Department~~ of and thereafter continuously provide public liability insurance in a single incident amount of \$200,000, ~~to increase an additional \$2,000.00~~ <sup>\$200,000</sup> per incident insuring the person against any claim, loss, damage or injury to any human being, any property, domestic pet, or livestock resulting from the acts of such dog. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days written notice is given to the ~~Basehor Police Department~~.

(6) All owners, keepers or harborers of registered pit bull dogs, Rottweiler dogs or wolf-hybrids must within ten days of the incident, report in writing to the Basehor ~~City Police Department~~ the removal from the city or death of a registered pit bull dog, Rottweiler dog or wolf-hybrid, the birth of offspring of a registered pit bull dog, Rottweiler dog or wolf-hybrid, and the new address of a registered pit bull dog, Rottweiler dog or wolf-hybrid owner should the owner move within

the corporate limits of the city of Basehor, Kansas

- 2-117      IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not less than 10 days and not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection this animal will follow the guidelines of a vicious animal and periodically will be checked on by the animal control officer.
- (b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.
- (c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.
- (Ord. 449, Sec. 4; Ord. 185, Sec. 12; Code 1989; Code 2007)

Responsibility of owner. The owner of any dog or cat shall be held responsible for removing any and all excrements deposited by their dog or cat off of any property other than their own. Every person convicted of violating this section shall be deemed guilty of an infraction and shall pay upon first conviction a fine in the amount of \$25.00, upon a second conviction pay a fine in the amount of \$50.00, and upon a third or subsequent conviction pay a fine of not less than \$75.00 nor more than \$500.00 along with the required court costs.

- 2-117.      IMPOUNDMENT OF RABIES SUSPECTS. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal

care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owners premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Code 1989)

(a) Any law enforcement officer, animal control officer or game warden or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not less than 10 days and not more than 30 days during which time the veterinarian local health officer shall determine whether or not such animal is suffering from a disease and, if not, the veterinarian local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The animal control officer health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection this animal will follow the guidelines of a vicious animal and periodically will be checked on by the animal control officer.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation, Such veterinarian shall report his or her findings in writing to the animal control officer local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the animal control officer local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

(Ord. 449, Sec. 4; Ord. 185, Sec. 12; Code 1989; Code 2007)

- 2-119. ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health game warden officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:
- (a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination;
  - (b) If the bitten animal has a current vaccination, it shall be confined for 90 days;
  - (c) The bitten animal shall be released from confinement only upon written order from the local

health officer game warden, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 1989)

2-121 EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside any animal outside during this period shall be on a leash but not allowed to remain outside unattended, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of, if showing signs of being rabid, wherever found by any police officer, or the animal control officer of the city. If the animal is running at large, with no signs of being rabid, the owner will be subject to the provisions as stated in 2-206, upon a 10 day waiting period to ensure the animal has not been infected, unless proof of vaccination has been provided to the animal control officer. The owner of such animal shall be prosecuted for such violation thereof. (Code 1989)

2-122. KENNEL LICENSES. (a) In the event that an owner has five or more animals, the owner shall be required to obtain a kennel license as provided herein.  
(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the police or city clerk has not received any protest against the kennel, the police or city clerk may request the city clerk to issue a renewal of an existing kennel license at the same location without any upon receiving a report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the police or city clerk, and the license shall not be renewed except after a public hearing before the governing body.

2-213 RIDING, HORSES, ETC., ON SIDEWALKS OR PAVEMENTS. No person shall ride, drive or lead any horse, mare, mule, gelding or other animal upon any of the sidewalks within this city Nothing contained herein shall prohibit the use of the streets located within the city for riding, etc. (Ord. 185, Sec. 17)

## ARTICLE 2. DOGS AND CATS

2-201. REGISTRATION AND VACCINATION REQUIRED; FEE; REGISTRATION.

(a) Every owner of any dog or cat over six months of age shall annually register with the police or city clerk his or her name, address and phone number with the name, sex, description, veterinary clinic and phone number, and rabies tag number of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog or cat into the city. It shall be unlawful for the owner of any previously registered dog or cat to fail to maintain current registration of such dog or cat.

(c) The police or city clerk shall collect an annual registration fee of \$5.00 for each dog or cat.

(d) ~~The registration year shall be from June 1st through May 31st of each year. The fee shall be payable before June 30th of each year without penalty. The amount shall be a \$5.00 penalty fee from June 30th of each year or within 30 days of acquisition. Each animal must be registered with the city on an annual basis, with the renewal date being the date the original tag was issued. A penalty fee of \$5.00 shall be applied if registration is 30 days late.~~

(e) Limit on Dogs and Cats. The police or city clerk shall not register nor issue license on more than two cats and two dogs not to exceed four animals that are to be kept at the same address or on the same premises without the consent of the governing body. In such cases where an owner or keeper desires to keep more than two cats and two dogs at the same address or on the same premises, the governing body or an appointed agent shall first view the premises, and if it is determined by the governing body or an appointed agent that the keeping of more than two cats and two dogs not to exceed four animals would be a nuisance or detrimental to the general welfare of the area, then the governing body may refuse to register or issue the license.

~~Registration fees as enumerated above may be prorated for newly acquired dogs and cats or for dogs and cats owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of a dog or cat or dogs or cats who shall fail to register the same prior to the 30th day of June of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$5.00.~~

(Ord. 449, Sec. 6; Code 2007)

2-202. DOG OR CATS TAGS. It shall be the duty of the police or city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee

hereinbefore required, to keep in a book suitable for the registration of dogs and ~~dogs~~ cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefore, and shall deliver to the owner or keeper of the dog or cat a ~~certificate~~ receipt, in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat may request a duplicate tag for the remainder of the registration period. When so requested, the police ~~or city~~ clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$5.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened. (Ord. 449, Sec. 7; Code 2007)

Article 4 ZONING ORDINANCE TO PREVAIL.

- 2-401 Conflict. In case of conflict between this chapter and the present or any future Zoning Ordinance, the provisions of the Zoning Ordinance shall prevail and supersede the provisions of this chapter.
- 2-402 Violation. No animal shall be kept in violation of the Zoning Ordinance.

**\*\*NOTE ALL SECTIONS, ARTICLES SHALL BE NUMBERED CONSECUTIVLY\*\***

## CHAPTER II. ANIMAL CONTROL AND REGULATION

Article 1. General Provisions

Article 2. Dogs and Cats

Article 3. Other Animals

---

### ARTICLE 1. GENERAL PROVISIONS

2-101. DEFINITIONS. For the purposes of this chapter, the following words and phrases shall mean:

(a) Abandon - includes the leaving of an animal by its owner or other person responsible for its care or custody without making effective provisions for its proper care.

(b) Animals - means all vertebrate and invertebrate animals such as but not limited to bovine cattle, horses and other equines, hogs, goats, dogs, cats, rabbits, sheep, chickens, ducks, geese, turkeys, pigeons, and other fowl or wild animals, reptiles, fish, bees or birds that have been tamed, domesticated or captivated.

(c) Animal Shelter - means the facility or facilities operated by the city or its authorized agents for the purpose of impounding or caring for animals under the authority of this chapter or state law.

(d) At-large - means to be outside of a fence or other enclosure which restrains the animals to a particular premise or not under the control, by leash or lead, of the owner or other authorized person capable of restraining the animal. Animals tethered to a stationary object within range of public thoroughfares are deemed to be At-large.

(e) Bite - means any actual or suspected abrasion, scratch, puncture, tear, bruise, or piercing of the skin, caused by any animal, which is actually or suspected of being contaminated or inoculated with the saliva from the animal, directly or indirectly, regardless of the health of the animal causing such bite.

(f) Cat - means any member of the species felis catus, regardless of sex.

(g) Dangerous or Vicious Animal - means any animal deemed to be dangerous or vicious per section 2-115.

(h) Dog - means any member of the species canis familiaris, regardless of sex.

(i) Fowl - means all animals that are included in the zoological class aves, which shall include; but not limited to, chickens, ducks, geese, turkeys, guineas and pigeons.

(j) Harbor - means any person who shall allow any animals to habitually remain or lodge or to be fed within his or her home, store, yard, enclosure or place of business or any other premises where he or she resides or controls.

(k) Humane Live Animal Trap - means any cage trap that upon activation encloses an animal without placing any physical restraint upon any part of the body of such animal.

(l) Humanely Euthanize - means the proper injection of a substance that quickly and painlessly terminates the life of an animal, or any other method

approved by the American Veterinary Medical Association or the American Humane Society.

(m) Immediate Control - means the regulation and supervision by a competent person so that an animal is unable to run or get loose at will.

(n) Kennel - means a place of business where dogs are bought, sold, bred, raised, or kept, for the purpose of sale, resale, training, or teaching, and which business is done commercially and for profit.

(o) Livestock - includes, but is not limited to cattle, horses, goats, sheep or other animals commonly regarded or used as farm or ranch animals.

(p) Neutered - means any male or female cat or dog that has been permanently rendered sterile.

(q) Own - means and includes own, keep, harbor, shelter, manage, possess, or have a part interest in any animal. If a minor owns any such animal subject to the provisions of this chapter, the head of the household of which such minor is a member shall be deemed to own such animal for the purposes of this chapter.

(r) Owner - means the one who owns, or his or her employee, agent, or other competent person into whose charge an animal has been placed by the actual owner as described in subsection (r) above.

(s) Vaccination - means an injection of a vaccine, approved by the State Board of Public Health and administered by a licensed veterinarian for the purpose of immunizing an animal against rabies.

(t) Veterinarian - means a doctor of veterinary medicine licensed by the State of Kansas.

(Ord. 15, Sec. 2; Ord. 185, Sec. 1; Code 1989)

2-102.

**ANIMAL CONTROL OFFICER; DUTY TO IMPOUND; CITATION ALTERNATIVE.** (a) There is hereby created the position of animal control officer for the city and such officer shall be charged with the enforcement of this chapter. Any person employed by the city as an animal control officer and commissioned by the chief of police of the city shall have such powers and authority as allowed by law in the enforcement of this chapter. All animal control officers shall be subject to the supervision and direction of the chief of police of the city.

(b) Except as provided in subsection (c), it shall be the duty of the animal control officer to take up and impound all animals found in the city in violation of the provisions of this chapter.

(c) As an alternative to the provisions of subsection (b) of this section, any law enforcement officer or the animal control officer may issue a citation to the owner, harbinger or keeper of an animal in violation of this chapter, and the person receiving the citation shall appear in the municipal court of the city to answer the charged violation of this chapter as provided in the city's notice or summons.

(Code 1999)

2-103.

**SAME; CAPTURE/DESTRUCTION.** When deemed necessary by law enforcement officers or the animal control officer for the health, safety and welfare of the residents of the city, such officers and/or their agents may:

(a) Place a humane trap on public or a requesting resident's property for the purpose of capturing any animal defined in this chapter as creating a nuisance in the city;

(b) Use any tranquilizer guns, humane traps, or other suitable devices to subdue and capture any animal that is deemed by the animal control officer, in his or her discretion, to be of a danger to itself or to the public health and safety.

(c) Use firearms or other suitable weapons to destroy any rabid animal, any vicious animal as defined in section 2-115, or any animal creating a nuisance as defined in section 2-111, where such animal is impossible or impractical to catch, capture or tranquilize.

(Ord. 185, Sec. 9; Code 1989)

2-104. SAME; RIGHT OF ENTRY; UNLAWFUL INTERFERENCE. (a) The animal control officer or any law enforcement officer shall have the right of entry upon any private unenclosed lots or lands for the purpose of collecting any animal whose presence thereupon is a violation of this chapter.

(b) It shall be unlawful for any person to interfere with the animal control officer in the exercise of his or her duties.

(Ord. 185, Sec. 18; Code 1989)

2-105. MUNICIPAL POUND ESTABLISHED. A municipal pound shall be established to carry out the provisions of this chapter. Such a pound may be operated by a contractor and all services required herein may be provided by a contractor. When so contracted, the pound shall have the following services and facilities as a minimum:

(a) Adequate pickup and impounding of all stray and ownerless dogs and cats and animals otherwise in violation of the provisions of this chapter.

(b) Group holding facilities for stray, ownerless and unvaccinated animals impounded for violation of the provisions of this chapter.

(c) Individual isolation facilities for sick, biting, rabid and suspected rabid animals.

(d) Facilities for the humane destruction of animals.

(Code 1989)

2-106. BREAKING POUND. (a) It shall be unlawful for any unauthorized person to open, unlock, break open or attempt to break open the pound, or to take or let out any animal placed therein, or take or attempt to take from an authorized officer of this city any animal taken up by him or her under the provisions of this chapter, or in any manner interfere with or hinder any authorized officer or employee of this city in catching, taking up, or impounding any animal.

(b) It shall be unlawful for any person or persons, other than those duly authorized, to care for, feed, attempt to feed, or interfere in any way with the care of impounded animals.

(Code 1989)

2-107. CRUELTY TO ANIMALS. It shall be unlawful for any person to:

(a) Willfully or maliciously kill, maim, disfigure, torture; beat with a stick, chain, club or other object; mutilate, poison, burn or scald with any substance; or otherwise cruelly set upon any animals, except that reasonable force may be employed to drive off vicious animals;

(b) Drive or work any animal cruelly or cruelly work any maimed, mutilated, infirm, sick or disabled animal, or cause, allow or permit the same to be done;

(c) Have, keep or harbor any animal which is infected with any dangerous or incurable and/or painfully crippling condition except as provided in section 2-108.

(d) Sell or offer for sale, barter, give away, or use as an advertising device or promotional display, living baby chicks, rabbits, ducklings or other fowl under two months of age in any quantity less than 12; or to sell, offer for sale, barter, give away, or display animals or fowls as specified in this section which have been dyed, colored or otherwise treated so as to impart to them an artificial or unnatural color. This section shall not be construed to prohibit the sale of animals or fowls as specified in this subsection, in proper facilities, by hatcheries or persons engaged in raising and selling such animals and fowls for recognized animal husbandry purposes;

(e) Promote, stage, hold, manage, or in any way conduct any game, exhibition, contest or fight in which one or more animals are engaged for the purpose of injuring, killing, maiming, or destroying themselves or any other animal;

(f) Neglect or refuse to supply such animal with necessary and adequate care, food, drink, air, light, space, shelter or protection from the elements as necessary for health and well-being of such kind of animal.

(g) Abandon or leave any animal in any place without making provisions for its proper care;

(h) These provisions shall not apply to the exceptions sanctioned under section 2-108.

In addition to the penalties provided in section 1-116 of this code, the municipal court judge may order a person convicted of violation under this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroyed humanely as soon thereafter as is conveniently possible.  
(Ord. 185, Sec. 10; Code 1989)

2-108. SAME; EXCEPTIONS. The provisions of section 2-107 shall not apply to:

(a) Normal or accepted veterinary or veterinary hospital practices or treatment of animals under active veterinary care;

(b) Bona fide experiments carried on by commonly recognized research facilities;

(c) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated;

(d) Rodeo practices accepted by the rodeo cowboys' association;

(e) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or by an authorized agent such as a licensed veterinarian, at the request of the owner;

(f) The humane killing of an animal by the animal control officer, a public health officer or a law enforcement officer in the performance of his or her official duty;

(g) The humane killing of an unclaimed animal after three full business days following the receipt of such animal at a municipal pound or an incorporated humane society shelter by the owner, operator or authorized agents of such establishments.

(h) Unwanted animals may be given to the animal control officer to be taken to the humane society at the owner's expense. The owner will be charged a fee of \$25.00 per animal(s), to be paid before the animal(s) will be picked up, and a time will be arranged for the animal control officer to collect the animal (Ord. 449, Sec. 1; Code 1989; Code 2007)

2-109. KEEPING ANIMALS. It shall be unlawful for the owner, lessee, occupant or person in charge of any premises in the city to possess and maintain any animal or fowl within the city or permit to be maintained thereon any stable, shed, pen or other place where horses, mules, cattle, sheep, goats or swine, or undomesticated animals are kept. This provision shall not apply to:

(a) The maintaining of a stockyard or sales barn for the loading, unloading, temporary detention and sale of such livestock, if the location of such stockyard or sales barn does not otherwise violate the zoning ordinances of the city;

(b) The maintaining of dogs which are regulated by Article 2 of this chapter;

(c) The maintaining of non-poisonous and non-vicious animals and fowl which are commonly kept as household pets, such as cats, hamsters, rabbits, parakeets, and comparable animals, when kept as household pets and in a safe and sanitary manner in accordance with section 2-113 of this chapter;

(d) The transporting of animals through the city by ordinary and customary means.

(e) Areas of the city in which certain animals are allowed pursuant to the zoning regulations of the city.

(f) Uses existing on the effective date of this code, in areas of the city where animals are allowed to be kept pursuant to the zoning regulations of the city. (Ord. 185, Secs. 14,16; Code 1989)

2-110. ANIMAL TRAPS. It shall be unlawful for any person to use, place, set out, or deploy any animal trap aboveground, which makes use of a spring gun, spring jaws, clamping devices, cutting or stabbing mechanism or any other devices that will damage or severely injure any animal when caught or trapped by the device or trap; except that nothing herein contained shall prohibit the use of animal traps that are so designed to trap and hold animals without injuring the animals. (Code 1989)

2-111. NUISANCE; ANIMAL ACTIVITIES PROHIBITED. It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a nuisance. For the purpose of this section, "nuisance" is defined as any animal which:

(a) Molests or interferes with persons in the public right-of-way;

(b) Attacks or injures persons, or animals;

(c) Damages public or private property other than that of its owner or harbinger by its activities or with its excrement;

(d) Scatters refuse that is bagged or otherwise contained;

(e) Causes any condition which threatens or endangers the health or well-being of persons or other animals.

If a summons is issued charging violation of this provision, a subpoena shall also be issued to the complainant to testify to the nuisance under oath. (Ord. 449, Sec. 2; Ord. 185, Sec. 11; Code 1989; Code 2007)

2-112. NOISY ANIMALS. The keeping, or harboring of any animal which by loud, frequent and habitual barking, howling, yelping, mewing, roaring or screeching shall disturb the peace of any neighborhood is hereby prohibited. It shall be the duty of any person harboring or keeping such loud or noisy animal or animals to abate the condition, and if he or she fails to do so, the city may abate it by taking up, impounding and/or disposing of the animal at the expense of the owner.  
(Code 1989)

2-113. ANIMAL CONFINES; SHELTERS. (a) It shall be unlawful for any person to keep or maintain any animal in any yard, structure or area that is not clean, dry and sanitary, free from debris and offensive odors that annoy any neighbor, and devoid of rodents and vermin.

(b) Excrement shall be removed at least once each week from any animal shelter, pen or yard area where animals are kept, or more often if necessary to prevent or control odors, fly breeding, or rodent infestation. If excrement is stored on the premises by any animal owner, it shall be stored in adequate containers with fly-tight lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(c) All animal shelters, pens and yards shall be so located that adequate drainage is obtained, normal drying occurs, and standing water is not present.

(d) All animals shelters and board fences confining animals shall be maintained in good repair, and all animal shelters and board fences confining animals subject to residential and commercial classification shall be protected from deterioration by painting or comparable treatment.

(e) Fences shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent animals from breaking out or causing hazard to persons or property. Barbed wire and electrically charged fences shall not be permitted for animal confines.

(f) All premises on which animals are kept shall be subject to inspection by the animal control officer, duly authorized law enforcement officer, or public health official. If the officer or official determines from such inspection that the premises are not being maintained in a clean and sanitary manner, he or she shall notify the owner of the animals in writing to correct the sanitation deficiencies within 24 hours after notice is served on the owner. Any animal kept under any condition which could endanger the public or animal health or create a health nuisance may be impounded. Animals shall be released after fees are paid and cause for impoundment has been corrected.

(Ord. 449, Sec. 3; Ord. 185, Sec. 10; Code 1989; Code 2007)

2-113A. SAME; STOCKYARDS; COMMERCIAL HOLDING PENS. Animal shelters owned or operated as a stockyard or commercial holding pen shall be adequately maintained and cleaned as often as is necessary, as determined by the health officer, to control fly breeding or to control other conditions adversely affecting the public health including the following:

(a) Collected fecal material and other solid organic waste shall be disposed of at a sanitary landfill, fertilizer processing plant, or by proper dispersal on land used for agricultural purposes.

(b) Grain or protein feed shall be stored in tightly covered rodent-proof metal containers or rodent-proof bins.

(c) Premises subject to the terms of this section shall be maintained free of rodent harborage and in accordance with sections 8-601:608 of this code.

(d) Wherever reasonable, use shall be made of anti-coagulant rodenticides for the control of rodents and organo-phosphorus insecticides for the control of flies or any other effective chemical means for the control of rodents and flies.

(e) Wherever reasonable, use shall be made of soil sterilants and herbicides or other effective means for the control of weeds and grass around structures and buildings.

(f) Enclosures including fences where animals such as horses, cows, sheep and goats are maintained shall be constructed in a manner, using dimension lumber materials, or other effective means to prevent such animals from breaking out or causing hazard to persons or property.

(g) The solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a residential classification permit as herein provided shall be stored in metal containers, with tight-fitting metal lids, and all such stored or accumulated wastes shall be disposed of at least once each week.

(h) Holding lots, pens and floors of sheds and buildings where animals are held and which are maintained by persons subject to a commercial, industrial or agricultural classification permit according to the terms of this chapter shall be surfaced with concrete or asphaltic materials and that the drainage system of such surfaced areas shall include proper retaining walls and traps to control the waste from draining into watercourses and such drainage system shall be subject to the approval of the health officer. The health officer shall waive this standard for domestic animal holding operations where such animal holding is longer than 24 hours for any domestic animal involved or where dirt lots are more appropriate to the proper care of cattle, horses or sheep.

(i) Solid wastes accumulated from the cleaning of animal shelters and holding pens maintained by persons subject to a commercial, industrial or agricultural permit according to the terms of this chapter shall be stored on concrete slabs or other facilities, such as dirt lots on which is stockpiled manure with an exposed perimeter as approved by the health officer; provided that all solid waste shall be properly disposed of at least once each week or as may be approved by the health officer.

(Code 1989)

2-114. DEATH OF ANIMALS. All dead animals shall be disposed of by the owner or keepers within 24 hours of the animal's death, by burial, incineration in a facility approved by the animal control officer, by rendering or by other lawful means approved by the animal control officer. No dead animal shall be dumped on any public or private property. (Code 1989)

2-115. VICIOUS DOGS. (a) Definitions.

(1) Animal Control Officer - shall mean the chief of police of the city, or any police officer of the city, or any other person designated by the chief of police or the mayor of the city.

(2) At Large - shall mean off the premises of the owner or keeper or not under the control or supervision of the owner or keeper.

(3) Dog - shall include both male and female dogs, three months of age or older.

(4) Own - shall mean and include own, keep, harbor, shelter, manage, possess, or have a part interest in any dog. If a minor owns a dog subject to the provisions of this article, the head of the household of which such minor is a member shall be deemed to own the dog for the purposes of this article.

(5) Owner - shall mean the one who owns, his or her employee, agent, or other competent person into whose charge the actual owner has placed the dog.

(6) Vicious Dog - as used in this section, shall mean and include any dog which by virtue of its breeding, training, characteristics, behavior or other factors the owner or custodian thereof knows or has reason to know has a propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or any other animal.

(b) Insurance. The owner or custodian of any vicious dog shall maintain a policy of insurance in an amount not less than \$200,000 per incident insuring the person against any claim, loss, damage or injury to any human being, any property, domestic pet, or livestock resulting from the acts of such dog. Such person shall produce evidence of the required insurance upon request of a law enforcement officer, animal control officer or public health officer. The owner or custodian of such dog must provide proof of insurance at the time the dog is registered. If the owner or custodian fails to provide such proof of insurance, the owner or custodian shall be denied registration and shall be subject to such other penalties provided for herein. In order to comply with the provisions of this section, the owner or custodian must provide insurance that specifically insures that specific breed of dog under the insurance policy. Such determination, if disputed, shall be resolved by the City Attorney, and his/her decision shall be final. This section shall not apply to dogs kept by law enforcement agencies.

(c) Leash and Muzzle. No person shall permit a vicious, ferocious or dangerous dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a vicious, ferocious or dangerous dog to be kept on a chain, rope or other type of leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all vicious ferocious or dangerous dogs on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

(d) Confinement. All vicious, ferocious or dangerous dogs shall be securely confined indoors or in a securely enclosed or locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine vicious, ferocious or dangerous dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than one foot. All structures erected to house vicious, ferocious or dangerous dogs must comply with all zoning and building regulations of the city. All such structures must be ventilated and kept in clean and sanitary conditions.

(e) Confinement Indoors. No vicious, ferocious or dangerous dogs may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in

a house or structure when screen doors are the only obstacle preventing the dog from exiting the structure.

(f) Signs. All owners, keepers or harborers of vicious, ferocious or dangerous dogs within the city shall within 10 days of the date of this ordinance display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(g) Registration of Vicious Dogs. All owners, keepers or harborers of vicious, ferocious or dangerous dogs within the city shall within 10 days of the date of this ordinance register the dogs with the city clerk. Such registration shall include a photograph of each vicious dog owned, kept or harbored.

(h) Ownership of Certain Vicious Dogs Prohibited. It shall be unlawful to keep, harbor, own or in any way possess any vicious dog which either:

(1) Attempts to attack, bite or otherwise do bodily harm to a human being or another animal; or

(2) Attacks bites, or otherwise does bodily harm to a human being or another animal.

This section shall not apply to dogs kept by law enforcement agencies.

(i) Disposition of Certain Vicious Dogs.

(1) Any public health officer, law enforcement officer, or licensed veterinarian, or any officer or agent of a duly incorporated humane society, may take into custody any dog suspected of being kept by its owner or custodian in violation of subsection (h). When a law enforcement agency takes custody of such dog, the agency may place the dog in the care of a duly incorporated humane society or license veterinarian for boarding, treatment, or such other care deemed necessary.

(2) Any vicious dog kept in violation of subsection (h) may be ordered by the court destroyed in a humane manner when, in the court's judgment, such vicious dog represents a continuing threat of serious harm to human beings or other animals. If the court does not order destruction of the dog, the court shall allow the owner or custodian thereof no more than 48 hours to remove the dog from the city. Failure to remove such dog within the time allowed by the court shall constitute a separate violation of subsection (h).

(3) Any person convicted of a violation of subsection (h) shall be assessed as costs all expenses for the care, treatment, boarding or other expenses necessitated by the seizure of any dog for the protection of the public, including all expenses for the humane destruction of such dog by order of the court.

(k) Insurance Requirements on Specific Breeds of Dogs. It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Basehor, Kansas:

(1) Any pit bull dog; provided, that pit bull dogs registered with the City may be kept within the City if the owner provides the necessary insurance as required in Section (b) herein. "Pit bull dog" is defined to mean:

(A) The Staffordshire bull terrier breed of dog;

(B) The American pit bull terrier breed of dog;

(C) The American Staffordsdshire terrier breed of dog;

(D) Any dog which has the appearance and characteristics of being predominantly of the breeds of Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier; or a combination of any of these breeds. The

registration of an animal at any time in any jurisdiction as a pit bull or any dog listed above shall constitute prima facie evidence the animal is subject to this Article.

(2) Any Rottweiler dog; provided, that Rottweiler dogs registered with the City may be kept within the City if the owner provides the necessary insurance as required in Section (b) herein. The registration of an animal at any time in any jurisdiction as a Rottweiler shall constitute prima facie evidence the animal is subject to this Article.

(3) Any wolf-hybrid; provided, that wolf-hybrids registered with the City may be kept within the City if the owner provides the necessary insurance as required in Section (b) herein. "Wolf-hybrid" is defined to mean a domesticated dog that has in its known genetic history and/or formal pedigree cross breeding with the wolf species to include, but not be limited to, animals referred to as wolf-hybrids or wolf-mix breeds or the breed known as Tundra Shepherd. The registration of an animal at any time in any jurisdiction as wolf-hybrid, wolf-mix breed or Tundra Shepherd shall constitute prima facie evidence the animal is subject to this Article.

The keeping of such specific breeds shall be subject to the following additional standards:

(1) No person shall permit a registered pit bull dog, Rottweiler dog or wolf-hybrid to go outside its kennel or pen unless such animal is securely leashed with a leash no longer than four feet in length. No person shall permit a pit bull dog, Rottweiler dog or wolf-hybrid to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all pit bull dogs, Rottweiler dogs or wolf-hybrids on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting a person or other animals.

(2) All registered pit bull dogs, Rottweiler dogs or wolf-hybrids shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine registered pit bull dogs, Rottweiler dogs or wolf-hybrids must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground not less than two feet. All structures erected to house pit bull dogs, Rottweiler dogs or wolf-hybrids must comply with all zoning and building regulations of the City of Basehor, Kansas. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) No pit bull dog, Rottweiler dog or wolf-hybrid may be kept on a porch, patio, or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such an may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.

(4) All owners, keepers or harborers of registered pit bull dogs, Rottweiler dogs or wolf-hybrids within the City of Basehor, Kansas shall within ten days of the effective date of this ordinance display in a prominent place on their premises a sign easily readable by the public, using the words, "Beware of Dog". In addition, a similar sign is required to be posted on the kennel or pen of such animal.

(5) All owners, keepers or harborers of registered pit bull dogs, Rottweiler dogs or wolf-hybrids must within ten days of the effective date of this ordinance provide proof to the Basehor City Clerk of and thereafter continuously provide public liability insurance in a single incident amount of \$200,000 per incident insuring the person against any claim, loss, damage or injury to any human being, any property, domestic pet, or livestock resulting from the acts of such dog. Such insurance policy shall provide that no cancellation of the policy will be made unless ten days written notice is given to the Basehor City Clerk.

(6) All owners, keepers or harborers of registered pit bull dogs, Rottweiler dogs or wolf-hybrids must within ten days of the incident, report in writing to the Basehor City Clerk the removal from the city or death of a registered pit bull dog, Rottweiler dog or wolf-hybrid, the birth of offspring of a registered pit bull dog, Rottweiler dog or wolf-hybrid, and the new address of a registered pit bull dog. Rottweiler dog or wolf-hybrid owner should the owner move within the corporate limits of the city of Basehor, Kansas.

(7) No person shall sell, barter, or in any other way, dispose of a pit bull dog, Rottweiler dog or wolf-hybrid registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such animal; provided that the registered owner of a pit bull dog, Rottweiler dog or wolf-hybrid may sell or otherwise dispose of a registered animal or the offspring of such animal to a person who does not reside within the city.

(8) All offspring born of pit bulls, Rottweiler dogs or wolf-hybrids registered within the city must be removed from the city within six weeks of the birth of such animal.

(9) It shall be unlawful for the owner, keeper or harborer of a pit bull dog, Rottweiler dog or wolf-hybrid registered with the city of Basehor, Kansas to fail to comply with the requirements and conditions set forth herein. Any animal found to be the subject of a violation of this Article shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(10) Any person violating any of the provisions of this ordinance shall upon conviction in the municipal court of the city of Basehor, Kansas be found guilty of a misdemeanor and fined a sum not less than \$1,000 nor more than \$10,000 and/or sentenced to imprisonment in the Leavenworth County Jail for a period not to exceed six months. In addition to the foregoing penalties, any person convicted of a violation herein may also be ordered to pay all expenses, including shelter, food, handling and veterinary care necessitated by enforcement. Any person convicted of violating this ordinance also may be ordered by the court to make full or partial restitution to any individual or another animal who has suffered bodily injury as the result of an attack by such person's vicious dog.

(Ord. 416, Secs. 1:10; Code 2007)

2-116.

RUNNING AT LARGE; PENALTY. In addition to the penalties provided in section 2-206 of this code, the municipal court judge may order a person convicted of violation of this section to turn the animal involved over to a designated humane society. All such animals taken by the designated agency may be placed with another or more suitable person or destroy humanely as soon thereafter as is convenient possible. (Code 1999)

2-117.

IMPOUNDMENT OF RABIES SUSPECTS. (a) Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in the city pound, securely penned and separated from other animals, or in a veterinary hospital or animal care facility for a period of not less than 10 days and not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection this animal will follow the guidelines of a vicious animal and periodically will be checked on by the animal control officer.

(b) In lieu of the provisions of subsection (a), the owner of any such animal may, at his or her own expense, take such animal to any duly qualified and licensed veterinarian in the city for observation. Such veterinarian shall report his or her findings in writing to the local health officer. If in the opinion of such veterinarian a microscopic examination is justified, then the animal shall be turned over to the animal control officer or any law enforcement officer to be killed and examination made by the state board of health.

(c) Any animal desired for observation by the local health officer under this section shall be delivered to the animal control officer or any law enforcement officer upon demand and shall not be withheld, hidden or harbored. Any person violating this provision shall be guilty of a violation of this code. Upon refusal of any person to so deliver such animal, the municipal judge shall cause a warrant to be issued for the arrest of such person, which warrant shall also provide for the surrender of the animal and shall be lawful authority for the apprehending and forcible taking of such animal.

(Ord. 449, Sec. 4; Ord. 185, Sec. 12; Code 1989; Code 2007)

2-118.

IMPOUNDMENT OF RABIES SUSPECTS. Any law enforcement officer or local health officer may take up, upon private or public property, any animal which has bitten or scratched a person or other animal and impound the animal in a veterinary hospital or animal care facility for a period of not more than 30 days during which time the local health officer shall determine whether or not such animal is suffering from a disease and, if not, the local health officer shall authorize the release of the animal upon payment by the owner of the boarding fee therefore. The health officer may authorize the keeping of any such animal on the owner's premises if the owner produces a rabies vaccination certificate showing that the animal has valid rabies vaccination protection. Impoundment costs shall be borne by the owner. (Code 1989)

2-119.

ANIMALS BITTEN BY RABID ANIMALS. Whenever a dog, cat or other animal is bitten by a rabid animal or an animal later proved to have been rabid, it shall be the duty of the owner of the animal that is bitten, to report that fact to the local health officer and/or the police department. It shall also be the duty of the owner of the bitten animal to either destroy or have his or her bitten animal destroyed unless:

(a) The animal which was bitten had been vaccinated against rabies at least three weeks before being bitten and has a current vaccination;

(b) If the bitten animal has a current vaccination, it shall be confined for 90 days;

(c) The bitten animal shall be released from confinement only upon written order from the local health officer, who declares the animal to be free of rabies; and

(d) If the animal is found to have contracted rabies during confinement, it shall be properly disposed of.

(Code 1989)

2-120. VEHICULAR ACCIDENTS INVOLVING ANIMALS. Any person who is the operator of a motor vehicle strikes any animal shall stop at once and shall immediately report such injury or death to the owner of such animal, or in the event that the owner cannot be ascertained, and located, the operator shall at once report the accident to the animal control officer or any law enforcement officer.  
(Code 1989)

2-121. EMERGENCY; PROCLAMATION. The mayor is hereby authorized whenever in his or her opinion the danger to the public safety from rabid animals is made imminent to issue a proclamation ordering all persons owning any animal in the city to confine the animal in a good and sufficient enclosure from which the animal cannot escape, or fasten such animal by means of a chain on the premises where the owner may reside, for such time as may be specified in such proclamation. Any animal not confined during such time may be disposed of wherever found by any police officer, or the animal control officer of the city. The owner of such animal shall be prosecuted for such violation thereof. (Code 1989)

2-122. KENNEL LICENSES. (a) In the event that an owner has five or more animals, the owner shall be required to obtain a kennel license as provided herein.

(b) Kennel licenses must be renewed annually. No kennel license shall be issued until an inspection certificate has been issued by the animal control officer certifying approval of the kennel and compliance with the applicable laws of the city and the State of Kansas, and a certificate by the zoning code enforcement officer has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the police or city clerk has not received any protest against the kennel, the police or city clerk may issue a renewal of an existing kennel license at the same location without any report from the animal control officer and zoning code enforcement officer. If the animal control officer or the zoning code enforcement officer finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the police or city clerk, and the license shall not be renewed except after a public hearing before the governing body.

(c) The animal control officer, the zoning enforcement officer, or any law enforcement officer shall have the right to inspect any premises licensed under this section at any reasonable time and nothing shall prevent the entry onto private property for the purpose of inspection. The application for a kennel shall constitute consent to such entry and inspection.

(d) The governing body may suspend or revoke a kennel license if, pursuant to a public hearing, it finds any of the following:

(1) The kennel is maintained in violation of any applicable law of the State of Kansas, or of the city.

(2) The kennel is maintained so as to be a public nuisance.

(3) The kennel is maintained so as to be detrimental to the health, safety or peace of mind of persons residing in the immediate vicinity.

(e) The annual kennel license fee shall be \$250.00. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this chapter.

(f) The kennel is not allowed to house more than two animals per run, and not more than a total of 10 animals, ages 6 months and older, within the kennel.

(g) Any animal in violation of section of 2-112 shall be required to be housed indoors.

(h) This section shall not apply to and will not be construed to require a kennel license for a licensed veterinarian to operate an animal hospital.

(Ord. 449, Sec. 5; Code 2007)

2-123.

RIDING, HORSES, ETC., ON SIDEWALKS OR PAVEMENTS. No person shall ride, drive or lead any horse, mare, mule, gelding or other animal upon any of the sidewalks within this city. Nothing contained herein shall prohibit the use of the streets located within the city for riding, etc. (Ord. 185, Sec. 17)

## ARTICLE 2. DOGS AND CATS

### 2-201. REGISTRATION AND VACCINATION REQUIRED; FEE; REGISTRATION.

(a) Every owner of any dog or cat over six months of age shall annually register with the police or city clerk his or her name, address and phone number with the name, sex, description and rabies tag number of each dog or cat owned and kept within the city. It shall be unlawful for the owner of any newly acquired dog or cat or any dog or cat brought into the city to fail to register such animal within 30 days from acquisition or bringing the dog or cat into the city. It shall be unlawful for the owner of any previously registered dog or cat to fail to maintain current registration of such dog or cat.

(b) Upon registration, the owner shall present a current, completed certificate of immunization against rabies showing the dog or cat has been inoculated or vaccinated within eleven months prior to the date of application. No registration shall follow without evidence of this document, and it shall be unlawful for the owner of any dog or cat over six months of age to fail to maintain effective rabies immunization of such dog or cat.

(c) The police or city clerk shall collect an annual registration fee of \$5.00 for each dog or cat.

(d) The registration year shall be from June 1st through May 31st of each year. The fee shall be payable before June 30th of each year without penalty. The amount shall be a \$5.00 penalty fee from June 30th of each year or within 30 days of acquisition.

(e) Limit on Dogs and Cats. The police or city clerk shall not register nor issue license on more than two cats and two dogs not to exceed four animals that are to be kept at the same address or on the same premises without the consent of the governing body. In such cases where an owner or keeper desires to keep more than two cats and two dogs at the same address or on the same premises, the governing body or an appointed agent shall first view the premises, and if it is determined by the governing body or an appointed agent that the keeping of more than two cats and two dogs not to exceed four animals would be a nuisance or detrimental to the general welfare of the area, then the governing body may refuse to register or issue the license.

Registration fees as enumerated above may be prorated for newly acquired dogs and cats or for dogs and cats owned by a person or persons moving to and establishing a home in the city during a calendar year. Every owner or harbinger of a dog or cat or dogs or cats who shall fail to register the same prior to the 30th day of June of each year shall pay in addition to the registration fee herein provided a penalty fee for late registration of \$5.00.

(Ord. 449, Sec. 6; Code 2007)

### 2-202. DOG OR CATS TAGS. It shall be the duty of the police or city clerk or designated agent, upon a showing of current rabies immunization and receipt of the registration fee hereinbefore required, to keep in a book suitable for the registration of dogs and cats, the time of the registration, the name of the owner or keeper, the number of the registration and the amount paid therefore, and shall deliver to the owner or keeper of the dog or cat a certificate in writing, stating that the person has registered the dog or cat and the number by which the dog or cat is registered, and

shall also deliver to the owner or keeper of the dog or cat a tag with the registration number and the registration year thereon, which shall be, by the owner or keeper, attached to the collar to be used on the dog or cat so registered. When any tag has become lost during a registration period, the owner of the dog or cat may request a duplicate tag for the remainder of the registration period. When so requested, the police or city clerk shall, upon presentation of the registration certificate, issue a duplicate of such tag upon the payment of \$5.00 fee. It shall be unlawful for any person to take off or remove the city registration tag from any dog or cat belonging to another, or remove the strap or collar on which the same is fastened.  
(Ord. 449, Sec. 7; Code 2007)

- 2-203. SAME; COUNTERFEIT TAG. It shall be unlawful for any person to place on any dog or cat a tag issued for any other dog or cat or to make or use any false, forged or counterfeited tag or imitation thereof. (Code 1989)
- 2-204. EVIDENCE OF VACCINATION. It shall be unlawful for the owner of any dog or cat kept within the city to fail to display a current certificate of immunization against rabies issued by an accredited veterinarian evidencing the vaccination of such dog or cat within one year, when requested by the animal control officer or any law enforcement officer. (Code 1999)
- 2-205. VISITING DOGS AND CATS. The provisions of this article with respect to registration shall not apply to any dog or cat owned by any person visiting or temporarily remaining within the city for less than 30 days. However, such dogs and cats shall be kept under restraint by the owner thereof at all times. (Code 1989)
- 2-206. RUNNING AT LARGE; FINE. (a) It shall be unlawful for the owner or harbinger of any dog or cat to permit such dog or cat to run at large within the city at any time;  
(b) Any dog or cat running at large within the city shall be impounded as set out in section 2-207;  
(c) Every person convicted of violating subsection (a), shall be deemed guilty of an infraction and shall pay the cost of the board bill and, upon first conviction pay a fine in the amount of \$25.00, upon second conviction pay a fine in the amount of \$50.00, and, upon a third or subsequent conviction pay a fine of not less than \$75.00 nor more than \$500.00 along with the required court costs.  
(Ord. 449, Sec. 8; Code 1989; Ord. 274, Sec. 1; Code 2007)
- 2-207. IMPOUNDMENT, CITATIONS, DISPOSAL. (a) The intent of this article is to require dog or cat owners to comply with the law, not merely to operate an impoundment program. Police officers and animal control officers shall therefore place primary emphasis upon the apprehending and initiating prosecution of violators of this article. Citations under this article may be issued upon a uniform complaint and notice to appear form in conformity with K.S.A. 12-4205.  
(b) Dogs and cats not licensed pursuant to this article, or found not under restraint or abandoned, may be seized and impounded by any police officer or animal control officer. Impoundment may be in any animal shelter designated by the city council.

(c) If the dog or cat wears a license tag or if the owner can by any other reasonable means be identified and located, the owner shall, within 12 hours, be notified that the dog or cat has been impounded.

(d) If a dog or cat is not redeemed by the owner within four days after impoundment, the dog or cat may be disposed of in one of the following ways, but no other ways: (1) Euthanasia, using a method approved by the Humane Society of the United States; (2) Release for adoption by a new owner who shows evidence of ability and intention to provide the dog or cat with an appropriate home and humane care; provided, that no un-spayed female dog or cat shall be released for adoption unless a licensed veterinarian certifies in writing that he or she has been paid in full for spaying of the dog or cat and will perform the operation within 30 days or before the dog or cat's first oestral period.

(e) An owner redeeming a dog or cat from impoundment shall pay, before release, a boarding charge as charged to the city by the veterinarian for each 24 hours or fraction thereof that the dog or cat has been impounded, plus a license fee for a certificate of license.

(f) At the discretion of the police or animal control officer, if the owner of the dog or cat can be determined, such animal may, but need not, be seized and impounded. Upon finding that dog or cat owner is in violation of any of the provisions of this article, the police or animal control officer may issue a notice to the owner that the dog or cat owner is in violation of this article and the officer shall specify within the notice what the dog or cat owner must do to bring himself or herself and their dog or cat into compliance with this article. Every person convicted of violating subsection (a) shall be deemed guilty of an infraction and shall pay the costs of the board bill and upon first conviction pay a fine in the amount of \$25.00, upon a second conviction pay a fine in the amount of \$50.00, and upon a third or subsequent conviction pay a fine of not less than \$75.00 nor more than \$500.00 along with the required court costs.

(Ord. 449, Sec. 9; Code 2007)

2-208.           DISPOSITION OF UNCLAIMED DOGS OR CATS. If any dog or cat is not redeemed by its owner or harbinger within the time allowed for redemption as specified in section 2-207 thereof, the animal control officer, any authorized law enforcement officer, any authorized veterinarian or any duly authorized pound personnel may destroy such dog or cat or sell the same for the costs of impoundment and keeping, plus any registration fee due for the current year.  
(Code 1989)

2-209.           CONFINEMENT OF DOGS OR CATS IN HEAT. Any unspayed female dog or cat in the stage of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and the area of enclosure shall be so constructed that no other dog or cat may gain voluntary access to the confined animal except for purposes of planned breeding. Any animal that is in the state of estrus (heat) and that is not properly confined, or any such animal that is creating a neighborhood nuisances, shall be removed to a boarding kennel, to a veterinary hospital or to the animal shelter. All expenses incurred as a result of the confinement shall be paid by the owner. The owner of animals removed to the animal shelter shall be charged at the rate established from time to time by the animal shelter for routine confinement. (Ord. 185, Sec. 8; Code 1989)

- 2-210. MUZZLING. Whenever the mayor shall deem it necessary for the protection and welfare of the inhabitants of the city, he or she shall issue an order requiring all dogs kept within the city to be effectively muzzled for such length of time as may be specified in the order, to prevent them from biting or injuring persons or animals. Such order shall be published in the official newspaper of the city for such period of time as the mayor may deem necessary. (Code 1989)
- 2-211. DOGS ON SCHOOL GROUNDS OR RECREATION AREAS. Owners shall not permit their dogs on any school ground when school is in session, or on any public recreation area when an organized activity is being conducted, unless the dog is controlled by a lease or similar device to prevent the dog from biting any person or animal. (Ord. 185, Sec. 7)

### ARTICLE 3. OTHER ANIMALS

2-301.

EXOTIC ANIMALS. (a) It shall be unlawful for any person, firm or corporation to keep, maintain or have in his or her possession or under his or her control within the city any poisonous reptile or any other dangerous wild animal or reptile, any vicious or dangerous animal or any other animal or reptile of wild, vicious or dangerous propensities.

(b) It shall be unlawful for any person to keep, maintain or have in his or her possession or under his or her control within the city any of the following animals:

- (1) All poisonous animals including rear-fang snakes.
- (2) Apes: Chimpanzees; gibbons; gorillas, orangutans; and saimangs.
- (3) Baboons.
- (4) Badgers.
- (5) Bears.
- (6) Bison.
- (7) Bobcats.
- (8) Cheetahs.
- (9) Crocodilians, 30 inches in length or more.
- (10) Constrictor snakes, six feet in length or more.
- (11) Coyotes.
- (12) Deer; includes all members of the deer family, for example, white-tailed deer, elk, antelope and moose.
- (13) Elephants.
- (14) Game cocks and other fighting birds.
- (15) Hippopotami.
- (16) Hyenas.
- (17) Jaguars.
- (18) Leopards.
- (19) Lions.
- (20) Lynxes.
- (21) Monkeys.
- (22) Ostriches.
- (23) Pumas; also known as cougars, mountain lions and panthers.
- (24) Raccoons.
- (25) Rhinoceroses.
- (26) Skunks.
- (27) Tigers.
- (28) Wolves.

(c) The prohibitions of this section shall not apply to bona fide pet shops, zoos, circuses, carnivals, educational institutions, or medical institutions, if:

(1) Their location conforms to the provisions of the zoning ordinance of the city.

(2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.

(3) Animals are maintained in quarters so constructed as to prevent their escape.

(d) The municipal judge shall have the authority to order any animal deemed vicious confined, destroyed or removed from the city  
(Ord. 185, Sec. 15; Code 1989)



## CHAPTER III. BEVERAGES

|            |                         |
|------------|-------------------------|
| Article 1. | General Provisions      |
| Article 2. | Cereal Malt Beverages   |
| Article 3. | Alcoholic Liquor        |
| Article 4. | Private Clubs           |
| Article 5. | Drinking Establishments |
| Article 6. | Caterers                |
| Article 7. | Temporary Permits       |

---

### ARTICLE 1. GENERAL PROVISIONS

3-101.

DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

(a) Alcohol - means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) Alcoholic Liquor - means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) Caterer - means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

(d) Cereal Malt Beverage - means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

(e) Class A Club - means a premises which is owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

(f) Class B Club - means a premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(g) Club - means a Class A or Class B club.

(h) Drinking Establishment - means premises which may be open to the general public, where alcoholic liquor by the individual drink is sold.

(i) General Retailer - means a person who has a license to sell cereal malt beverages at retail.

(j) Limited Retailer - means a person who has a license to sell cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(k) Place of Business. - Any place at which cereal malt beverages or alcoholic beverages or both are sold.

(l) Temporary Permit - means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(m) Wholesaler or distributor. - Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell cereal malt beverages at retail.  
(Ord. 210, Sec. 1; Code 1989)

3-102.            **RESTRICTION ON LOCATION.** (a) No alcoholic liquor shall be sold or served by a person holding a license or permit from the city whose place of business or other premises are located within 200 feet of any church or school said distance to be measured from the nearest property line of such church or school, to the nearest portion of the building occupied by the premises.

(b) The distance location of subsection (a) above shall not apply to a club, drinking establishment, caterer or temporary permit holder when the license or permit applicant petitions for and receives a waiver of the distance limitation from the governing body. The governing body shall grant such a waiver only following public notice and hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(c) No license or permit shall be issued for the sale of alcoholic liquor if the building or use does not meet the zoning ordinance requirements of the city or conflicts with other city laws, including building and health codes.  
(Code 1989)

3-103.            **MINORS ON PREMISES.** (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.

(b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.

(c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.  
(Code 1989)

3-104.            **CONSUMPTION ON PUBLIC PROPERTY.** No person shall drink or consume any alcoholic liquor on city owned public property.  
(K.S.A. Supp. 41-719; Code 1989)

- 3-105. PUBLIC SALE; CONSUMPTION. (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Ord. 210, Sec. 2; Code 1989)
- 3-106. OPEN CONTAINER. (a) It shall be unlawful for any person to transport in any vehicle upon a highway or street any cereal malt beverage or alcoholic beverage unless such beverage is:
- (1) In the original, unopened package or container, the seal of which has not been broken and from which the original cap or cork or other means of closure has not been removed;
- (2) In the locked, rear trunk or rear compartment or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion or;
- (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle as defined by K.S.A. 75-1212 or a bus as defined by K.S.A. 8-1406, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b) As used in this section "highway" and "street" have meanings provided by K.S.A. 8-1424 and K.S.A. 8-1473 and amendments thereto. (K.S.A. 8-1599; Ord. 210, Sec. 3; Code 1989; Code 2007)
- 3-107. CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719, 41-2720; Code 1989)
- 3-108. IDENTIFICATION CARD. (a) It shall be unlawful for any person to:
- (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(4) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

(b) It shall be unlawful for any person to:

(1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.

(2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.

(Code 1989)

3-109. UNDERAGE PURCHASER. (a) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase, consume, obtain or attempt to obtain any cereal malt beverage.

(b) It shall be unlawful for any person under 21 years of age to purchase or attempt to purchase, consume, obtain or attempt to obtain any alcoholic liquor.

(c) No person shall knowingly or unknowingly sell, give away, dispose of, exchange or deliver or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age; and no such minor shall represent that he or she is of age for the purpose of asking for, purchasing or receiving alcoholic liquor from any persons, except in cases authorized by law. No person under 21 years of age shall attempt to purchase or purchase alcoholic liquor from any person. No minor shall possess alcoholic liquor. No person over 21 years of age shall purchase alcoholic liquor from any person for, on behalf of or at the request of any person under 21 years of age.

(K.S.A. 41-715, 41-2721; Ord. 81, Sec. 8; Ord. 210, Secs. 4:5; Code 1989)

## ARTICLE 2. CEREAL MALT BEVERAGES

- 3-201. LICENSE REQUIRED OF RETAILERS. (a) It shall be unlawful for any person to sell any cereal malt beverage at retail without a license for each place of business where cereal malt beverages are to be sold at retail.
- (b) It shall be unlawful for any person, having a license to sell cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any cereal malt beverage in any other manner. (K.S.A. 41-2702; Code 1989)
- 3-202. APPLICATION. Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:
- (a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;
- (b) The particular place for which a license is desired;
- (c) The name of the owner of the premises upon which the place of business is located;
- (d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.
- (e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;
- (f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 8 of this code.
- (g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 7 of this code.
- The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the governing body not later than five working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements.
- (Code 1989)

- 3-202A. LICENSE APPLICATION PROCEDURES. (a) All applications for a new and renewed cereal malt beverage license shall be submitted to the city clerk 10 days in advance of the governing body meeting at which they will be considered.
- (b) The city clerk's office shall notify the applicant of an existing license 30 days in advance of its expiration.
- (c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with chapters 7 and 8 of this code. The departments will then recommend approval, or disapproval, of applications within five working days of the department's receipt of the application.
- (d) The governing body will not consider any application for a new or renewed license that has not been submitted 10 days in advance and been reviewed by the above city departments.
- (e) An applicant who has not had a cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.
- (Code 1989)
- 3-203. LICENSE GRANTED; DENIED. (a) The journal of the governing body shall show the action taken on the application.
- (b) If the license is granted, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- (c) No license shall be transferred to another licensee.
- (d) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.
- (Code 1989)
- 3-204. LICENSE TO BE POSTED. Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Code 1989)
- 3-205. LICENSE, DISQUALIFICATION. No license shall be issued to:
- (a) A person who has not been a resident in good faith of the state of Kansas for at least one year immediately preceding application and a resident of Leavenworth County for at least six months prior to filing of such application.
- (b) A person who is not a citizen of the United States.
- (c) A person who is not of good character and reputation in the community in which he or she resides.
- (d) A person who, within two years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
- (e) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
- (f) A corporation if any manager, officer or director thereof or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation

would be ineligible to receive a license hereunder for any reason other than nonresidence within the city or county.

(g) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25 percent of the stock of such corporation, has been an officer, manager or director, or a stockholder owning in the aggregate more than 25 percent of the stock, of a corporation which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.

(h) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.

(i) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (i) shall not apply in determining eligibility for a renewal license. (Code 1989)

3-206.

RESTRICTION UPON LOCATION. (a) No license shall be issued for the sale at retail of any cereal malt beverage on premises which are located in areas not zoned for such purpose.

(b) It shall be unlawful to sell or dispense at retail any cereal malt beverage at any place within the city limits that is within a 200-foot radius of any church or school.

(c) Provisions of this section shall not apply to any establishment holding a private club license issued by the State of Kansas.

(d) The distance limitation of subsection (b) above shall not apply to any establishment holding a cereal malt beverage license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation. The governing body shall grant such a waiver only following public notice and hearing. (K.S.A. 41-2704; Code 1989)

3-207.

LICENSE FEE. The rules and regulations regarding license fees shall be as follows:

(a) General Retailer - for each place of business selling cereal malt beverages at retail, \$100.00 per calendar year.

(b) Limited Retailer - for each place of business selling only at retail cereal malt beverages in original and unopened containers and not for consumption on the premises, \$50.00 per calendar year.

Full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

(K.S.A. 41-2702; Ord. 82, Sec. 1; Code 1989)

3-208.

SUSPENSION OF LICENSE. The chief of police, upon five days' written notice, shall have the authority to suspend such license for a period not to exceed 30 days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages, which violation does not in his or her judgment justify a

recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven days from the date of such order. (Code 1989)

- 3-209. LICENSE SUSPENSION/REVOCATION BY GOVERNING BODY. The governing body of the city, upon five days' written notice, to a person holding a license to sell cereal malt beverages shall permanently revoke or cause to be suspended for a period of not more than 30 days such license for any of the following reasons:
- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
  - (b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;
  - (c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling cereal malt beverages;
  - (d) The sale of cereal malt beverages to any person under 21 years of age;
  - (e) For permitting any gambling in or upon any premises licensed under this article;
  - (f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
  - (g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing cereal malt beverages;
  - (h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
  - (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;
  - (j) The nonpayment of any license fees;
  - (k) If the licensee has become ineligible to obtain a license under this chapter;
  - (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.
- (K.S.A. 41-2708; Code 1989)

- 3-210. SAME; APPEAL. The licensee, within 20 days after the order of the governing body revoking any license, may appeal to the district court of Leavenworth county and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation or suspension during the pendency of such appeal. In case of the revocation of the license of any licensee, no new license shall be issued to such person or any person acting for or on his or her behalf, for a period of six months thereafter. (K.S.A. 41-2708; Code 2007)

- 3-211. CHANGE OF LOCATION. If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee of \$25.00. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall

be issued for the new location for the balance of the year for which a current license is held by the licensee. (Code 1989)

3-212.           WHOLESALE AND/OR DISTRIBUTORS. It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales. (K.S.A. 41-307:307a; Code 1989)

3-213.           BUSINESS REGULATIONS. It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(c) Except as provided by subsection (d), no cereal malt beverages may be sold or dispensed between the hours of 12:00 midnight and 6:00 a.m., or consumed between the hours of 12:30 a.m., and 6:00 a.m., or on Sunday, except in a place of business which is licensed to sell cereal malt beverage for consumption on the premises, which derives not less than 30 percent of its gross receipts from the sale of food for consumption on the licensed premises, closing hours for clubs shall conform to K.S.A. 41-2614 and any amendments thereto.

(d) Cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

(f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(h) No licensee or agent or employee of the licensee shall sell or permit the sale of cereal malt beverage to any person under 21 years of age.

(i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.

(j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.

(k) No licensee or agent or employee of the licensee shall employ any person under 21 years of age in dispensing cereal malt beverages. No licensee shall employ any person who has been judged guilty of a felony.

(Code 1989)

3-214.

PROHIBITED CONDUCT ON PREMISES. The following conduct by a cereal malt beverage licensee, manager or employee of any licensed cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

(a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of males/females pubic hair, anus, buttocks or genitals;

(b) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;

(c) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;

(d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:

(1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or

(2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.

(e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this section.

(f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:

(1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;

(2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;

(3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.

(g) As used in this section, the term "premises" means the premises licensed by the city as a cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 1989)

3-215.

SANITARY CONDITIONS REQUIRED. All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive

odors and shall be at all times subject to inspection by the city health officer or designee. (Code 1989)

3-216.

MINORS ON PREMISES. (a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of cereal malt beverages is licensed for on-premises consumption.

(b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than 30% of its gross receipts in each calendar year from the sale of cereal malt beverages for on-premises consumption.

(Code 1989)

### ARTICLE 3. ALCOHOLIC LIQUOR

- 3-301. STATE LICENSE REQUIRED. (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a state license to do so.  
(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license.  
(Ord. 81, Secs. 2,5; Code 1989)
- 3-302. OCCUPATIONAL TAX. There is hereby levied an annual occupation tax of \$100.00 on any person holding a license issued by the state director of alcoholic beverage control for the retail sale within the city of alcoholic liquors for consumption off the premises. Such tax shall be paid by the retailer to the city clerk before business is begun under an original state license and shall be paid within five days after any renewal of a state license. (Ord. 81, Sec. 1; Code 1989)
- 3-303. POSTING OF RECEIPT. Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises.  
(Ord. 81, Sec. 3; Code 1989)
- 3-304. HOURS OF SALE. No person shall sell at retail any alcoholic liquor:  
(a) On any Sunday;  
(b) On Decoration Day or Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day;  
(c) Before 9:00 a.m. or after 11:00 p.m. on any day when the sale thereof is permitted.  
(K.S.A. 41-712; Ord. 81, Sec. 6; Code 1999)
- 3-305. BUSINESS REGULATIONS. It shall be unlawful for a retailer of alcoholic liquor to:  
(a) Permit any person to mix drinks in or on the licensed premises;  
(b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;  
(c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;  
(d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or  
(e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.  
(f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.  
(Ord. 81, Sec. 7; Code 1989)

- 3-306. RESTRICTIONS ON LOCATION. No person shall knowingly or unknowingly sell, give away, furnish, dispose of, procure, exchange or deliver, or permit the selling, giving away, furnishing, disposing of, procuring, exchanging or delivering of any alcoholic beverage in any building, structure or premises, for consumption in such building or upon such premises if such consumption is within 200 feet from the nearest property line of any existing hospital, school, church or library.  
(K.S.A. 41-710; Code 1989)

#### ARTICLE 4. PRIVATE CLUBS

- 3-401. LICENSE REQUIRED. It shall be unlawful for any person granted a private club license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a local license from the city clerk. (Code 1989)
- 3-402. LICENSE FEE. (a) There is hereby levied an annual license fee on each private club located in the city which has a private club license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license. The city license fee for a Class A club shall be \$250 and the city license fee for a Class B club shall be \$250.  
(b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.  
(c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.  
(d) Every licensee shall cause the city club license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.  
(Code 1989)
- 3-403. BUSINESS REGULATIONS. (a) No club licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.  
(b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.  
(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or cereal malt beverages be given, sold or traded to any person under 21 years of age.  
(Code 1989)

## ARTICLE 5. DRINKING ESTABLISHMENTS

- 3-501. LICENSE REQUIRED. It shall be unlawful for any person granted a drinking establishment license by the State of Kansas to sell or serve any alcoholic liquor authorized by such license within the city without first obtaining a city license from the city clerk. (Code 1989)
- 3-502. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$250.00 on each drinking establishment located in the city which has a drinking establishment license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the city drinking establishment license to be placed in plain view next to or below the state license in a conspicuous place on the licensed premises.  
(Code 1989)
- 3-503. BUSINESS REGULATIONS. (a) No drinking establishment licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor on its premises between the hours of 2:00 a.m. and 9:00 a.m. on any day.
- (b) Cereal malt beverages may be sold on premises licensed for the retail sale of cereal malt beverage for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.
- (c) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.  
(Code 1989)

## ARTICLE 6. CATERERS

- 3-601. LICENSE REQUIRED. It shall be unlawful for any person licensed by the State of Kansas as a caterer to sell alcoholic liquor by the drink, to sell or serve any liquor by the drink within the city without obtaining a local caterer's license from the city clerk. (Code 1989)
- 3-602. LICENSE FEE. (a) There is hereby levied an annual license fee in the amount of \$25.00 per day of operation with a maximum of \$250.00 in any 12-month period from January 1 to December 31 on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five days after any renewal of a state license.
- (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
- (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
- (d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises.  
(Code 1989)
- 3-603. BUSINESS REGULATIONS. (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.
- (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age.  
(Code 1989)
- 3-604. NOTICE TO CHIEF OF POLICE. Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least 72 hours prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving.  
(Code 1989)

## ARTICLE 7. TEMPORARY PERMITS

- 3-701. PERMIT REQUIRED. It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 1989)
- 3-702. PERMIT FEE. (a) There is hereby levied a temporary permit fee in the amount of \$25.00 per day on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.  
(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.  
(Code 1989)
- 3-703. CITY TEMPORARY PERMIT. (a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least four days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:  
(1) the name of the applicant;  
(2) the group for which the event is planned;  
(3) the location of the event;  
(4) the date and time of the event;  
(5) any anticipated need for police, fire or other municipal services.  
(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.  
(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.  
(Code 1989)
- 3-704. PERMIT REGULATIONS. (a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.  
(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age.  
(Code 1989)

## CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. Building Code
- Article 2. Electrical Code
- Article 3. Plumbing and Gas-Fitting Code
- Article 4. Moving Buildings
- Article 5. Dangerous and Unfit Structures
- Article 6. Dangerous Buildings Code
- Article 6A. Uniform Housing Code
- Article 7. Uniform Mechanical Code
- Article 8. Signs and Billboards
- Article 9. House Numbering
- Article 10. Parabolic & Dish Antenna
- Article 11. Mobile Homes

---

### ARTICLE 1. BUILDING CODE

- 4-101. DEFINITIONS. As used in this article, the words and phrases herein defined shall have the following meanings unless the context otherwise requires:
- (a) Whenever the word "municipality" is used in the building code, it shall be held to mean the City of Basehor, Kansas;
  - (b) Whenever the term "corporation counsel" is used in the building code, it shall be held to mean the city attorney of the City of Basehor;
  - (c) Whenever the term "building official" is used in the building code, it shall be held to mean the building inspector or his or her authorized designee.
- (Code 1989)
- 4-102. INTERNATIONAL BUILDING CODE. (a) That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the International Building Code, 2003 edition, including Appendix Chapters C, E, and I (see International Building Code Section 101.2.1, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Basehor, in the State of Kansas for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any.

(b) The following sections are hereby revised: 101.1, 101.4.1, 101.4.7 is deleted, 105.1.1 is deleted, 105.1.2 is deleted, 105.2, 108.3, 109.3.7 is deleted and Chapter 9, section 903 is amended, Chapter 13 is deleted, 1612.13, 3109.4, 3303.4 and 3410.2.  
(Ord. 503, Secs. 1:2; Code 2007)

4-102A. INTERNATIONAL RESIDENTIAL CODE INCORPORATED. That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the International Residential Code, 2003 edition, including Appendix Chapters A, B, C, E, G, J, K and L (see International Residential Code Section R102.5, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Basehor, in the State of Kansas for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees there for; and each and all of the regulations, provisions, penalties, conditions and terms of said Residential Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any.

(b) The following sections are hereby revised and/or amended:

Section R101.1, R101.2, R102.7, 105.2 #1, 105.2.1, 105.7, 106.2, 108.2, 109.4, 202, R301.2, 309.1, 309.1.1, 309.2, 309.5, 311.4.3, 317.2.2, 321.1, 401.3, 402.1, 403.1.1.1, 404.1.3, 801.3, Chapter 11 is deleted, M1501.3, 2503.5.1, 2503.5.2 # 2, P2603.6.1, P3103.1, P3114.3, E3501.6.2, E3801.4.2, E3802.11 is deleted.

(Ord. 504, Secs. 1:2; Code 2007)

4-103. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-102. (Code 1989)

4-104. BUILDING OFFICIAL; POWERS; DUTIES. (a) This and other articles of the city relating generally to building and structures shall be administered and enforced by the mayor. The mayor shall act as chief building official and may assume the responsibilities of or with the consent and approval of the governing body appoint a building inspector and such other assistants as may be advisable for the issuance of building permits and the inspection of building work.

(b) The chief building official shall prepare such application, permit, inspection and record forms as may be required for the purposes of the article. The chief building official may make and promulgate the necessary rules and regulations to obtain conformity with this article pertaining to the making of applications for building permits, issuing of building permits and inspecting of buildings and building works.

(Code 1989)

- 4-105. BUILDING INSPECTOR; APPOINTMENT. The mayor may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of building inspector as may be required, subject to the consent and approval of the governing body. (Code 1989)
- 4-106. SAME; DUTIES. The building inspector shall have the following duties:  
(a) To enforce all regulations relating to construction, alteration, repair, removal and demolition of building and structures;  
(b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;  
(c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and;  
(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official without his or her written consent.  
(Code 1989)
- 4-107. SAME; POWERS. The building inspector shall have the following powers:  
(a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;  
(b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;  
(c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the building regulations of the city, subject to the right of any builder or owner to appeal to the governing body.  
(Code 1989)
- 4-108. SAME; RIGHT OF ENTRY. The building inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter.  
(Code 1989)
- 4-109. CLARIFICATION; MODIFICATION. (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the building code which may be unclear, ambiguous, or requiring interpretation.  
(b) The building inspector shall have power to modify any of the provisions of the building code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the

strict letter of the code. In approving modifications, the building inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the building inspector and a signed copy shall be furnished to the applicant.  
(Code 1989)

4-110. BUILDING PERMIT REQUIRED; APPLICATION; APPROVAL; PENALTY.

(a) It shall be unlawful for any person to hereafter erect or cause to be erected within the city any building or structure of any kind or enlarge or add to the outside dimension thereof, or relocate any building or structure already erected or which may hereafter be erected or remodel any building or structure within the city without a building permit being first obtained therefor from the city clerk, after approval by the chief building official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure or the foundation thereof, or before the removal of any building begins.

(b) The erection or construction of a building or other structure without a separate building permit for each such building or structure is declared to be unlawful and deemed a crime, and shall be punishable according to subsection (e).

(c) Construction Code shall mean the Uniform Building Code, the Uniform Plumbing Code, the Uniform Mechanical Code, the Uniform Fire Code and the National Electrical Code or such other construction codes as may be adopted by the governing body.

(d) The construction or erection of a building, or any part thereof, in violation of any one or more of the construction codes of the city is unlawful and shall be deemed a crime, punishable as set out in subsection (e) hereof.

(e) Any crime or violation described in subsection (a) through (d) shall be punishable by a fine of not more than \$300.00 per day, providing that each day such violation continues shall be counted as a separate count or offense.

Nothing in this section shall be construed as preventing or limiting the city from enforcing such construction codes by civil lawsuit.  
(Ord. 90, Sec. 1; Ord. 204, Secs. 1:4; Code 1989)

4-111. SAME; APPLICATION INFORMATION REQUIRED. (a) A building permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

- (1) The name of the owner of the lot or tract of ground;
- (2) The location of the building or structure;
- (3) The building work proposed;
- (4) The outside dimensions of the building by floors and dimensions of the basement (if any);
- (5) The class of occupancy;
- (6) The class of construction;
- (7) The kind of materials to be used for walls, floors, ceilings, roofs, and foundations;
- (8) The estimated cost of the work;
- (9) The date work will commence;

- (10) Expected date of completion;
- (11) Name and address of contractor or contractors doing the work;
- (12) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for a building permit shall be signed by the owner. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed contractor or contractors doing the work described, or a building permit may be issued to the owner upon his or her application disclosing satisfactory evident that the proposed work will be performed by the owner, himself or herself and not by a licensed contractor, and likewise subject to the final approval of the building inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the chief building official or his or her assistant shall issue a permit to the owner or contractor authorizing the building work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than four months from the date of issuance unless the permittee shall have commenced, within the period so limited, the building work authorized by such permit. Building work commenced for the purpose of this section shall mean the beginning of building work other than the preparation of plans or the staking out of the building location or the letting of a building contract.

(e) If the owner ceases work to complete the building for more than 60 days, the building permit shall be deemed revoked and the owner shall reapply for a new building permit before commencing work again.

(Code 1999)

4-112. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a building permit is made, the chief building official may, if he or she finds it necessary to determine whether building work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed building as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete architectural and engineering plans and specifications for such building, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any building work for conformity with this article. (Code 1989)

4-113. SAME; FEES. The fee for a building permit shall be as provided in the Uniform Building Code 1994 Edition. (Code 1999)

4-114. SAME; POSTING. A copy of the building permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The building inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 1989)

- 4-115. CERTIFICATE OF APPROVAL. Upon the completion of any work under a building permit, the chief building official, the building inspector or his or her designee is authorized to issue a certificate of approval for the occupancy and use of the building or structure. The certificate shall show the number of inspections made and the orders and corrections required during the course of the work. A copy of such certificate shall be given the owner. (Code 1989)
- 4-116. INSPECTIONS OF BUILDING; LAYOUT OF BUILDING; FOUNDATIONS AND FOOTINGS; NOTICE TO INSPECTOR. (a) The contractor or builder having a permit for new construction, or additions to existing buildings, shall notify the chief building official or building inspector immediately upon the marking or laying out of the site and foundation for such work. The official or inspector shall inspect the layout for conformity with this article and with respect to lot lines, setbacks and location of the proposed buildings to determine conformity with the city zoning regulations. In case of doubt respecting the required location, the chief building official may require an official survey of the lot lines to determine conformity, at the expense of the permit holder.  
(b) Upon completion of the excavation for the building foundation and footings and the construction of the necessary forms thereof and before the foundation and footings are poured or laid, the official or inspector shall be notified as in the first case, and it shall be his or her duty to inspect all such work for conformity with laws respecting location of the building foundations and footings.  
(c) The building inspector shall during the course of all building make such other inspections as may be directed by the chief building official to be made during any successive stage of the construction or other work covered by a permit in order to secure compliance with laws pertaining thereto.  
(Code 1989)
- 4-117. REQUEST FOR INSPECTION. Upon the completion of any building construction work covered by this article, it shall be the duty of the person doing such work to notify the building inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 1989)
- 4-118. INSPECTION FEE. An inspection fee shall be charged as provided in the Uniform Building Code. (Code 1999)
- 4-119. WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the building inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. (Code 1999)
- 4-120. LIABILITY. This article shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein. (Code 1989)

4-121. SEVERABILITY. If any section of the Uniform Building Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 1989)

## ARTICLE 2. ELECTRICAL CODE

4-201. DEFINITIONS. For the purpose of this article, the words and phrases used herein shall have the meanings ascribed to them in this section, unless the context clearly indicates to the contrary.

(a) Approved - shall mean approved by the chief building official, the electrical inspector or his or her designee.

(b) Authorized person - shall mean any individual, firm or corporation who or which is licensed under the provisions of this article to do the work as permitted under the specified provisions of this article.

(c) City - shall mean the territory within the corporate limits of this city.

(d) Conductor - shall mean a wire or cable or other form of metal suitable for carrying the electric current or potential.

(e) Electrical construction or installation - shall mean and include all work and materials used in installing, maintaining or extending a system of electrical wiring and all appurtenances, apparatus or equipment used in connection therewith, inside or attached to any building, structure, lot or premises, except industrial plants where fulltime maintenance is provided and other agencies providing inspections of installations and facilities. Electrical construction shall not be held to mean or include any of the following:

(1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where inspections come under the scope of other inspection agencies.

(f) Equipment - shall mean conductors, materials, fittings, devices, appliances, fixtures, apparatus, motors and the like, used as a part of or in connection with an electrical installation.

(g) Inspector - shall mean the chief building official or any individual who has been appointed by the city as electrical inspector.

(h) Person - shall mean a natural person, his or her heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors, assigns, or the agent of any of the aforesaid.

(i) Special permission - shall mean the written consent of the chief building official or the electrical inspector.

(j) Special ruling - shall mean a written ruling filed in the office of the chief building official or the electrical inspector.

(Code 1989)

- 4-202. ADOPTION OF NATIONAL ELECTRICAL CODE BY REFERENCE. (a) That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the National Electrical Code, 2002 edition, as published by the National Fire Protection Association, be and is hereby adopted as the Electrical Code of the City of Basehor, in the State of Kansas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Electrical Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section (b) of this ordinance.
- (b) The following sections are hereby revised: Article 210-12 is deleted and Article 230-70.
- (c) That nothing in this provision, or in the Electrical Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section (b) of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this provision.
- (Ord. 509, Sec. 1; Code 2007)
- 4-203. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-202. (Code 1989)
- 4-204. BUILDING OFFICIAL; AUTHORITY. The mayor or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an electrical inspector in accordance with section 4-104 of this chapter, which shall apply in a like manner to this article. (Code 1989)
- 4-205. ELECTRICAL INSPECTOR; APPOINTMENT. The mayor may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of electrical inspector as may be required, subject to the consent and approval of the governing body. (Code 1989)
- 4-206. SAME; DUTIES. The electrical inspector shall have the following duties:
- (a) To enforce all regulations relating to electrical construction, alteration, repair or removal;
- (b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of electrical construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;
- (c) To examine all buildings requiring electrical construction in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the permit given and in

compliance with the regulations of the city pertaining to such work, including zoning regulations; and

(d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official or electrical inspector without his or her written consent.

(Code 1989)

- 4-207. SAME; POWERS. The electrical inspector shall have the following powers:
- (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;
- (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;
- (c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the electrical regulations of the city, subject to the right of any installer or owner to appeal to the governing body.
- (Code 1989)
- 4-208. SAME; RIGHT OF ENTRY. The electrical inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter.
- (Code 1989)
- 4-209. CLARIFICATION; MODIFICATION. (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the electrical code which may be unclear, ambiguous, or requiring interpretation.
- (b) The electrical inspector shall have power to modify any of the provisions of the electrical code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the electrical inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the electrical inspector and a signed copy shall be furnished to the applicant.
- (Code 1989)
- 4-210. ELECTRICAL PERMIT REQUIRED; APPLICATION; APPROVAL. (a) Except as provided in subsection (b), it shall be unlawful for any person to engage in any electrical construction as defined in section 4-201 within the city without an electrical permit being first obtained therefor from the city clerk, after approval by the chief building official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before any electrical construction work is commenced.
- (b) No electrical permit shall be required for any of the following:

(1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where the issuance of electrical permits come under the scope of other agencies.

(Code 1989)

4-211.

SAME; APPLICATION INFORMATION REQUIRED. (a) An electrical permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

(1) The name of the owner of the lot or tract of ground;

(2) The location of the building or structure;

(3) The electrical construction work proposed;

(4) The class of occupancy;

(5) The class of electrical construction;

(6) The kind of materials to be used;

(7) The estimated cost of the work;

(8) The date work will commence;

(9) Expected date of completion;

(10) Name and address of electrical contractor or contractors doing the work;

(11) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for an electrical permit shall be signed by the owner or his or her duly authorized agent, or an electrician or electrical contractor licensed by the city. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed electrician or electrical contractor or contractors doing the work described, or an electrical permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed electrical contractor, and likewise subject to the final approval of the electrical inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the chief building official or his or her assistant shall issue a permit to the owner, electrician or electrical contractor authorizing the electrical construction work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the electrical construction work authorized by such permit. Electrical construction work commenced, for the purpose of this section, shall mean the beginning of electrical construction work other than the preparation of plans or the letting of an electrical contract.

(Code 1989)

- 4-212. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a electrical permit is made, the chief building official or the electrical inspector may, if he or she finds it necessary to determine whether electrical construction work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed electrical construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the building official may require the applicant to file complete electrical and engineering plans and specifications for such electrical construction, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any electrical construction work for conformity with this article. (Code 1989)
- 4-213. SAME; POSTING. A copy of the electrical permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The electrical inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 1989)
- 4-214. REQUEST FOR INSPECTION. Upon the completion of any electrical work covered by this article, it shall be the duty of the person doing such work to notify the electrical inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 1989)
- 4-215. INSPECTION; CONCEALMENT OF PRIOR WORK. (a) When any electric equipment is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the equipment shall notify the building inspector and such equipment shall not be concealed until it has been inspected, approved or authorized by the electrical inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of equipment proceeds continuously, the person, firm or corporation installing the electrical equipment shall give the electrical inspector due notice and inspections shall be made periodically during the progress of the work.  
(b) The electrical inspector shall have the authority to require building contractors to open such work which, in any manner, conceals electrical wiring that has been closed without his or her knowledge or permission, and in no case shall the inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The inspector shall also have the right to refuse to issue a certificate of approval on any wiring, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.  
(Code 1989)
- 4-216. INSPECTION FEE. Any inspection fee shall be charged as provided in the National Electrical Code. (Code 1999)

4-217. CERTIFICATE OF APPROVAL. (a) When the electrical inspector finds an electrical construction or installation to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the electrical construction work or making the installation, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the installation and connection to the supply of electricity.

(b) When a certificate of approval is issued authorizing the connection and use of a temporary installation, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the electrical inspector.

(c) In no case shall certificates of approval be issued on electrical construction, installations or parts of installations where the work installed does not conform to the requirements of this article.

(d) If, upon inspection, the installation is not found to be fully in conformity with the provisions of this article, the electrical inspector shall immediately notify the person, firm, or corporation performing the electrical construction work or making the installation of the existing defects.

(e) No certificate of approval shall be issued unless the electric conductor or equipment has been installed in strict conformity with the provisions of this article and unless the electrical construction or installation is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.

(f) The electrical inspector shall be deemed the judge of whether the installation of electric conductors and equipment has been made in accordance with the requirements of this article.

(g) No certificate of approval shall be required for any of the following:

(1) The replacement of lamps, fuses, bulbs or the connection of portable electrical equipment to suitable permanently installed receptacles and replacement of receptacles and switches, lighting fixtures and apparatus where no changes or alterations are made to the wiring;

(2) Any work involved in the manufacturing, repair or testing of any electrical equipment or apparatus, but not including any permanent wiring; or

(3) Any work in industrial establishments where inspections come under the scope of other inspection agencies.

(Code 1989)

4-218. CONNECTION TO INSTALLATIONS. It shall be unlawful for any person, firm, or corporation to make connection to a supply of electricity to any building or electrical equipment for which an inspection is required, or which has been disconnected by the order of the electrical inspector, until a certificate of approval has been issued by the electrical inspector authorizing the connection and use of such electric supply. The electrical inspector may, at his or her discretion, authorize a temporary connection. (Code 1989)

4-219. REINSPECTION. The electrical inspector shall periodically reinspect existing installations of electrical conductors and equipment. When the installation of any conductors or equipment is found to be in a dangerous or unsafe condition, the person, firm, or corporation owning, using, or operating the installation shall be notified in writing and shall make the necessary repairs or changes required to place

the conductors or equipment in safe condition and have the work completed within the period specified by the electrical inspector. (Code 1989)

4-220. CONDEMNATION; APPEAL. (a) If in the judgment of the electrical inspector, after an inspection, any electrical conductors, appliances or equipment in any building are unsafe or dangerous to persons or property, the inspector shall have the power to cause the wires or appliances to be disconnected from the source of electrical energy supplying these conductors or equipment, and may, at his or her discretion, seal the control switches for the same in an open or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit electric current to be supplied to the electrical conductors, appliances or equipment so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

(b) It shall be the duty of the electrical inspector to cause all dead wires, unused poles or electric apparatus on the outside of the buildings or in streets or alleys to be removed at the expense of the owners thereof by giving the owners written notice.

(c) When the electrical inspector condemns all or part of any electrical installation, the owner may, within 10 days after receiving written notice thereof, file a petition in writing for review of the action of the building inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and within 10 days from receiving the petition make a decision in accordance with their findings.

(Code 1989)

4-221. INTERFERENCE BY UNAUTHORIZED PERSON. It shall be unlawful for any unauthorized person to, in any manner, change or alter electrical conductors or equipment in or on any building. If in the course of the erection of a building or structure, electrical conductors or equipment are in such position as to interfere with the erection or completion of the structure, notice shall be immediately given the authorized person or firm installing the electrical conductors or equipment, and the needed change shall be made by such authorized person or firm. (Code 1989)

4-222. WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally performing any electrical construction or installing electrical wiring or equipment within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the electrical inspector as to his or her ability to perform such work or install such electrical wiring, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive a certificate of approval. (Code 1999)

4-223. APPROVED MATERIALS. No electric materials for wiring of appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and property. Conformity of materials for wiring appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence

that the materials, devices, appliances and equipment comply with the requirements of this article. (Code 1989)

4-224.           LIABILITY. This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or installing any electrical equipment for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or reinspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 1989)

4-235.           SEVERABILITY. If any section of the National Electrical Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the National Electrical Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 1989)

### ARTICLE 3. PLUMBING AND GAS-FITTING CODE

- 4-301. DEFINITION OF PLUMBING. The term "plumbing" as used in this article shall be construed to mean the installation of gas or water pipes, fixtures, apparatus and the necessary connections either for supplying gas or water to premises or for the removing of liquid and water-borne wastes from premises in the city, or both such purposes, and shall also denote installed fixtures, drainage and vent systems and gas or water distribution systems as the case may be. (Code 1989)
- 4-302. INTERNATIONAL PLUMBING CODE INCORPORATED. (a) That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the International Plumbing Code, 2003 edition, including Appendix Chapters B, E and F, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Basehor, in the State of Kansas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any.  
(b) The following sections are hereby revised: 101.1, 106.6.2, 106.6.3, 108.4, 108.5, 305.6.1, 312.9, 410.1, 604.9, 904.1 and 1113.1.1. (Ord. 505, Secs. 1:2; Code 2007)
- 4-302a. INTERNATIONAL FUEL GAS CODE INCORPORATED. (a) That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the International Fuel Gas Code, 2003 edition, including Appendix Chapters A, B, C and D (see International Fuel Gas Code Section 101.3, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Basehor, in the State of Kansas for regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any.  
(b) The following sections are hereby revised: 101.1, 103.1, 106.5.2, 106.5.3, 108.4, 108.5, 403.4.4, 403.5.1, 403.5.2 and 406.4.1. (Ord. 506, Secs. 1:2; Code 2007)
- 4-303. ADDITIONAL PROVISIONS. The following sections of this article are in addition to the provisions of the standard code incorporated by reference in section 4-302. (Code 1989)
- 4-304. BUILDING OFFICIAL; AUTHORITY. The mayor or his or her authorized designee shall be responsible for the administration and enforcement of this article

and appointment of a plumbing inspector in accordance with section 4-104 of this chapter, which apply in a like manner to this article. (Code 1989)

4-305. PLUMBING INSPECTOR; APPOINTMENT. The mayor may assume the responsibilities of or appoint some qualified officer or employee of the city to be and perform the duties of plumbing inspector as may be required, subject to the consent and approval of the governing body. (Code 1989)

4-306. SAME; DUTIES. The plumbing inspector shall have the following duties:

- (a) To enforce all regulations relating to plumbing construction, alteration, repair or removal;
- (b) May permit, with the approval of the governing body, on the basis of duly authenticated reports from recognized sources, the use of new materials or modes of construction, not provided for in this article, and may, for the purpose of carrying out the intent of this article adopt an accepted standard of material or workmanlike practices of federal or state bureaus, national, technical organizations or fire underwriters;
- (c) To examine all buildings in the process of erection, construction, alteration or relocation in the city for the purpose of determining whether the work is in compliance with the plumbing permit given and in compliance with the regulations of the city pertaining to such work, including zoning regulations; and
- (d) To keep comprehensive records of applications, of permits or certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection during stated office hours, but shall not be removed from the office of the building official or plumbing inspector without his or her written consent.

(Code 1989)

4-307. SAME; POWERS. The plumbing inspector shall have the following powers:

- (a) To enter any building or structure or premises at any reasonable hour, whether complete or in the process of erection, to perform the duties contained in this chapter;
- (b) To adopt and enforce all such prudent emergency measures as he or she may deem necessary and expedient for the public safety under the laws of the city;
- (c) May cause any work done in violation of this chapter to be discontinued until he or she shall have satisfactory evidence that the work will be done in accordance with the plumbing regulations of the city, subject to the right of any plumber, plumbing contractor or owner to appeal to the governing body.

(Code 1989)

4-308. SAME; RIGHT OF ENTRY. The plumbing inspector, or his or her agent, upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour to perform his or her duties as set out in this chapter. (Code 1989)

4-309. CLARIFICATION; MODIFICATION. (a) The governing body shall be the final determiner of the scope and meaning of all provisions of the plumbing code which may be unclear, ambiguous, or requiring interpretation.

(b) The plumbing inspector shall have power to modify any of the provisions of the plumbing code upon application in writing by the owner or lessee or his or her authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code. In approving modifications, the plumbing inspector shall see that the spirit of the code is observed, public safety secured and substantial justice done. The particulars of a modification when granted or allowed and the decision of the inspector thereon shall be entered upon the records of the plumbing inspector and a signed copy shall be furnished to the applicant.  
(Code 1989)

4-310. PLUMBING PERMIT REQUIRED; EXCEPTION. (a) It shall be unlawful to install, alter or reconstruct any plumbing or plumbing system, as defined by the plumbing code and section 4-301, in any building in the city without first making application to and receiving a permit therefor from the city clerk, after approval by the chief building official or his or her authorized assistant. The application for such permit shall be made and the permit obtained before any plumbing work is commenced.

(b) No permit shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.  
(Code 1989)

4-311. SAME; APPLICATION INFORMATION REQUIRED. (a) A plumbing permit shall be issued upon an application in writing to the office of city clerk on a form or forms provided for the purpose. This application shall, among other things, disclose the following:

- (1) The name of the owner of the lot or tract of ground;
- (2) The location of the building or structure;
- (3) The plumbing work proposed;
- (4) The class of occupancy;
- (5) The class of construction;
- (6) The kind of materials to be used;
- (7) The estimated cost of the work;
- (8) The date work will commence;
- (9) Expected date of completion;
- (10) Name and address of plumber, plumbing contractor or contractors doing the work;
- (11) Such other information as may be pertinent to the issuance of the required permit.

(b) An application for a plumbing permit shall be signed by the owner. If the application is made by the owner or his or her agent, it shall contain the name or names of the licensed plumber, plumbing contractor or contractors doing the work described, or a plumbing permit may be issued to the owner upon his or her application disclosing satisfactory evidence that the proposed work will be performed by the owner, himself or herself and not by a licensed plumber or plumbing contractor, and likewise subject to the final approval of the plumbing inspector for work performed.

(c) Upon approval of the completed application and a determination that a permit should be issued, the chief building official or his or her assistant shall issue a permit to the owner or contractor authorizing the plumbing work covered by the application.

(d) Any permit issued under this section shall be valid and subsisting for a period of not more than six months from the date of issuance unless the permittee shall have commenced, within the period so limited, the plumbing work authorized by such permit. Plumbing work commenced for the purpose of this section shall mean the beginning of plumbing work other than the preparation of plans or the letting of a plumbing contract.

(Code 1999)

4-312. SAME; PLANS AND SPECIFICATIONS. Whenever an application for a plumbing permit is made, the chief building official or the plumbing inspector may, if he or she finds it necessary to determine whether work described in the application will comply with the laws pertaining to such work, require that the applicant file a written description or drawing of the proposed plumbing construction as may be prepared for the purpose. If such drawing or description is insufficient for the purposes of determining whether a permit should be issued, the chief building official or the plumbing inspector may require the applicant to file complete architectural and engineering plans and specifications for such building or construction, or any part thereof, as may be necessary for the inspector to determine compliance with this article. The filing of such plans and specifications and the approval thereof in connection with an application for a permit shall not in any way affect the authority of the city to deny or issue a permit, or to inspect any plumbing work for conformity with this article. (Code 1989)

4-313. SAME; POSTING. A copy of the plumbing permit shall be kept on the premises for public inspection during the performance of the work and until the completion of the same. The plumbing inspector may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work to the completion thereof. (Code 1989)

4-314. REQUEST FOR INSPECTION. Upon the completion of any plumbing work covered by this article, it shall be the duty of the person doing such work to notify the plumbing inspector and request that it be inspected; after which such work shall be inspected promptly as hereinafter provided. (Code 1989)

4-315. INSPECTION; CONCEALMENT OF PRIOR WORK. (a) When any plumbing is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the plumbing shall notify the plumbing inspector and such equipment shall not be concealed until it has been inspected, approved or authorized by the plumbing inspector or until 24 hours, exclusive of Saturdays, Sundays and holidays, shall have elapsed from the time of such notification. On large installations, where the concealment of plumbing proceeds continuously, the person, firm or corporation installing the plumbing shall give the plumbing inspector due notice and inspections shall be made periodically during the progress of the work.

(b) The plumbing inspector shall have the authority to require owners or contractors to open such work which, in any manner, conceals plumbing that has been closed without his or her knowledge or permission, and in no case shall the inspector issue a certificate of approval until satisfied that the work is in accordance with the provisions of this article. The inspector shall also have the right to refuse to issue a certificate of approval on any plumbing, that is concealed in such manner that it cannot be fully determined that it has been done in accordance with this article.

(Code 1989)

4-316. INSPECTION FEE. Any inspection fee shall be charged as provided in the Uniform Plumbing Code. (Code 1999)

4-317. CERTIFICATE OF APPROVAL. (a) When the plumbing inspector finds plumbing construction to be in conformity with the provisions of this article, he or she shall issue to the person, firm, or corporation performing the plumbing construction, a certificate of approval, with duplicate copy for delivery to the owner, authorizing the use of the plumbing system and connection to the supply of gas or water, as the case may be.

(b) When a certificate of approval is issued authorizing the connection and use of a temporary gas or water supply, the certificate shall expire at a time to be stated therein and shall be revocable for cause by the plumbing inspector.

(c) In no case shall certificates of approval be issued on plumbing or plumbing systems or parts of systems where the work installed does not conform to the requirements of this article.

(d) If, upon inspection, the plumbing or plumbing system is not found to be fully in conformity with the provisions of this article, the plumbing inspector shall immediately notify the person, firm, or corporation making the installation of the existing defects.

(e) No certificate of approval shall be issued unless the plumbing or plumbing system has been installed in strict conformity with the provisions of this article and unless the plumbing or plumbing system is made in compliance with nationally approved methods of construction for safety to life and property as herein set forth.

(f) The plumbing inspector shall be deemed the judge of whether the plumbing or plumbing system has been made in accordance with the requirements of this article.

(g) No certificate of approval shall be required for making minor repairs of any plumbing including repair of leaks in water pipes, traps or cocks, opening up stoppage in waste or supply pipes, traps or drains, replacing fixtures when waste pipes are not disturbed, or replacing frozen pipes inside the building, and like repair work not involving original installation or reconstruction.

(Code 1989)

4-318. CONNECTION TO GAS OR WATER SUPPLY. It shall be unlawful for any person, firm, or corporation to make connection to a supply of gas or water for which an inspection is required, or which has been disconnected by the order of the plumbing inspector, until a certificate of approval has been issued by the plumbing inspector authorizing the connection and use of such plumbing or plumbing system.

The plumbing inspector may, at his or her discretion, authorize a temporary connection. (Code 1989)

4-319. CONDEMNATION; APPEAL. (a) If in the judgment of the plumbing inspector, after inspection, the plumbing or plumbing system in any building are unsafe or dangerous to persons or property, the inspector shall have the power to cause the plumbing or plumbing system to be disconnected from the supply of gas or water and may, at his or her discretion, seal the control valves for the same in a closed or disconnected position, whereupon he or she shall give notice to the owner, or his or her agent, or by posting such notice at the site and shall also notify the utilities serving the premises. Thereafter, it shall be unlawful for any person to cause or permit gas or water to be supplied to the plumbing or plumbing system so sealed until they shall have been made safe and the inspector shall have issued a certificate of approval to that effect.

(b) When the plumbing inspector condemns all or part of any plumbing system, the owner may, within 10 days after receiving written notice thereof, file a petition in writing for review of the action of the plumbing inspector by the governing body, upon the receipt of which the governing body shall at once proceed to determine the facts, and within 10 days from receiving the petition make a decision in accordance with their findings.  
(Code 1989)

4-320. EXCAVATIONS. When it appears that the laying or repairing of any water or sewer pipes or the making of any connection therewith shall require excavation in any street, alley or public way of the city or the cutting or removal of any pavement, curb or gutter or any sidewalk, during the course of such work, the application for a permit shall so state and describe the location and extent of the excavation, cutting or removal. Before the city clerk shall issue any permit for such work, the applicant shall pay any fee required by this code. All excavations shall be barricaded and guarded as provided by the appropriate sections of this code. Before any such excavation shall be backfilled, new plumbing work therein shall be inspected and the bottom of the excavation holding any sewer, drain or water pipe shall be so filled, leveled and tamped as to properly support the pipe and permit proper drainage when carrying sewage, and the excavation shall be backfilled and all paving, curbing, guttering or sidewalks shall be restored as near as possible to their last condition, subject always to the approval of the plumbing inspector or the superintendent of streets. (Code 1989)

4-321. WORK BY PROPERTY OWNERS. Nothing herein contained shall prohibit any property owner from personally installing plumbing piping or equipment within and upon his or her own residence and intended for his or her personal use and permanent occupancy; provided, the owner shall satisfy the plumbing inspector as to his or her ability to install such piping or equipment, secure a permit, pay required fees, do work in accordance with this article, and apply for an inspection and receive approval. (Code 1999)

4-322. APPROVED MATERIALS. No plumbing materials, appliances or equipment shall be installed in the city unless they are in conformity with the provisions of this article and with the approved standards of construction for safety to life and

property. Conformity of materials for plumbing materials, appliances and equipment to the standards of the Underwriters Laboratories, Inc. shall be prima facie evidence that the materials, devices, appliances and equipment comply with the requirements of this article. (Code 1989)

4-323.           LIABILITY. This article shall not be construed to relieve from or lessen the responsibility or liability of any party owning, operating, controlling or performing any plumbing construction for damages to persons or property caused by any defect therein, nor shall the city be held as assuming any such liability, by reason of the inspection or reinspection authorized herein, or the certificate of approval of any work or equipment authorized herein or by reason of any permit or license granted herein. (Code 1989)

4-324.           SEVERABILITY. If any section of the Uniform Plumbing Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining provisions of the Uniform Plumbing Code or of this article, the section is to be completely severable from the remaining provisions which shall continue in full force and effect. (Code 1989)

## ARTICLE 4. MOVING BUILDINGS

- 4-401. BUILDING OFFICIAL; AUTHORITY. The building inspector or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with sections 4-104:109 of this chapter, which apply in a like manner to this article. (Code 1989)
- 4-402. PERMIT REQUIRED. No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 1989)
- 4-403. SAME: APPLICATION FOR PERMIT. All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and hour said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved and stating whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. (K.S.A. 17-1915; Code 1989)
- 4-404. SAME; BOND, INSURANCE REQUIRED. (a) It shall be the duty of any person at the time of making application for a permit as provided in this article to give a good and sufficient surety bond to the city, to be approved by the governing body, indemnifying the city against any loss or damage resulting from the failure of any such person to comply with the provisions of this article or for any damage or injury caused in moving any such house or structure. The bond herein shall be in the sum of \$5,000, or cash may be deposited in lieu of such surety bond.  
(b) A public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of \$100,000 per person, \$300,000 per accident as to personal injury, and \$50,000 property damage may be permitted in lieu of a bond.  
(Code 1989)
- 4-405. SAME; FEE. Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee of not less than \$50 to the city clerk; plus the additional cost for the time for any city crews involved in such moving. (Code 1999)
- 4-406. ROUTE; DUTIES OF BUILDING OFFICIAL. The city clerk shall, upon filing of the above application, refer the same to the chief building official or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less

danger to street and travel, then he or she may designate such other route as the one to be used and shall notify the applicant of the same. The building official may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. (Code 1989)

4-407. NOTICE TO OWNERS. (a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation.

(K.S.A. 17-1916; Code 1989)

4-408. DUTY OF OWNERS. (a) It shall be the duty of the person or the city owning or operating such poles or wires after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the holder of the moving permit.

(b) The owner of any wires, cables or other aerial equipment, after service of notice as provided in section 4-408, shall be liable to the permit holder for damages in an amount not to exceed \$100 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations.

(K.S.A. 17-1917; Code 1989)

4-409. INTERFERING WITH POLES; WIRES. It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment.

(K.S.A. 17-1918; Code 1987)

4-410. DISPLAY OF LANTERNS. It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display red lanterns thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise. (Code 1989)

## ARTICLE 5. DANGEROUS AND UNFIT STRUCTURES

- 4-501.           PURPOSE. The governing body has found that there exist within the corporate limits of the city structures which are unfit for human use or habitation because of dilapidation, defects increasing the hazards of fire or accidents, structural defects or other conditions which render such structures unsafe, unsanitary or otherwise inimical to the general welfare of the city, or conditions which provide a general blight upon the neighborhood or surrounding properties. It is hereby deemed necessary by the governing body to require or cause the repair, closing or demolition or removal of such structures as provided in this article.  
(K.S.A. 12-1751; Code 1989)
- 4-502.           DEFINITIONS. For the purpose of this article, the following words and terms shall have the following meanings:  
          (a) Structure - shall include any building, wall, superstructure or other structure which requires location on the ground, or is attached to something having a location on the ground.  
          (b) Public Officer - means the building inspector or his or her authorized representative.  
(K.S.A. 12-1750; Ord. 37, Sec. 2; Code 1989)
- 4-503.           PUBLIC OFFICER; DUTIES. The public officer is hereby authorized to exercise such powers as may be necessary to carry out the purposes of this article, including the following:  
          (a) Inspect any structure which appears to be unsafe, dangerous or unfit for human habitation;  
          (b) Have authority to enter upon premises at reasonable hours for the purpose of making such inspections. Entry shall be made so as to cause the least possible inconvenience to any person in possession of the structure. If entry is denied, the public officer may seek an order for this purpose from a court of competent jurisdiction;  
          (c) Report all structures which he or she believes to be dangerous, unsafe or unfit for human habitation to the governing body;  
          (d) Receive petitions as provided in this article.  
(Code 1989)
- 4-504.           PROCEDURE; PETITION. Whenever a petition is filed with the public officer by at least five residents charging that any structure is dangerous, unsafe or unfit for human habitation, or whenever it appears to the public officer on his or her own motion that any structure is dangerous, unsafe or unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, report such findings to the governing body. (Code 1989)
- 4-505.           SAME; NOTICE. The governing body upon receiving a report as provided in section 4-504 shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of records and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished. (K.S.A. 12-1752; Code 1989)

- 4-506. SAME; PUBLICATION. (a) The resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing.  
(b) A copy of the resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lienholder and occupant at the last known place of residence and shall be marked "deliver to addressee only."  
(K.S.A. 12-1752; Code 1989)
- 4-507. SAME; HEARING, ORDER. (a) If, after notice and hearing, the governing body determines that the structure under consideration is dangerous, unsafe or unfit for human use or habitation, it shall state in writing its findings of fact in support of such determination and shall cause to be served upon the owner or agent an order directing such owner to either repair or demolish or remove the structure.  
(b) If the repair, alteration, or improvement of the structure can be made at a cost which shall not exceed 50 percent of the fair market value of the structure, the owner of the property shall, within the time specified in the order, repair, alter or improve the structure to render it safe and fit for human use or habitation, or shall vacate and close the structure until such time as he or she has complied with the order.  
(c) If the repair, alteration or improvement of the structure cannot be made at a cost of 50 percent or less of its fair market value, the owner shall, within the time specified in the order, remove or demolish the structure.  
(Code 1989)
- 4-508. DUTY OF OWNER. Whenever any structure within the city shall be found to be dangerous, unsafe or unfit for human use or habitation, it shall be the duty and obligation of the owner of the property to render the same secure and safe or to remove the same. (Code 1989)
- 4-509. SAME; FAILURE TO COMPLY. (a) If, within the time specified in the order, the owner fails to comply with the order to repair, alter, improve or vacate the structure, the public officer may cause the structure to be repaired, altered, improved, or to be vacated and closed.  
(b) If, within the time specified in the order, the owner fails to comply with the order to remove or demolish the structure, the public officer may cause the structure to be removed and demolished.  
(Code 1989)
- 4-510. SAME; MAKE SITE SAFE. Upon removal of any structure, the owner shall fill any basement or other excavation located upon the premises and take any other action necessary to leave the premises in a safe condition. If the owner fails to take such action, the public officer may proceed to make the site safe. (Code 1989)
- 4-511. ASSESSMENT OF COSTS. (a) The cost to the city of any repairs, alterations, improvements, vacating, removal or demolition by the public officer, including making the site safe, shall be reported to the city clerk.  
(b) The city shall give notice to the owner of the structure by restricted mail of the cost of removing the structure and making the premises safe and secure.

The notice shall also state that payment of the cost is due and payable within 30 days following receipt of the notice.

(c) If the costs remain unpaid after 30 days following receipt of notice, the city clerk may sell any salvage from the structure and apply the proceeds or any necessary portion thereof to pay the cost of removing the structure and making the site safe. Any proceeds in excess of that required to recover the costs shall be paid to the owner of the premises upon which the structure was located.

(d) If the proceeds of the sale of salvage is insufficient to recover the cost, or if there is no salvage, the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the costs to the county clerk who shall extend the same on the tax roll of the county.

(K.S.A. 12-1755; Code 1989)

4-512. IMMEDIATE HAZARD. When in the opinion of the governing body any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, the governing body may direct the public officer to erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay. Such action may be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any action under this section shall be assessed against the property as provided in section 4-511. (K.S.A. 12-1756; Code 1989)

4-513. APPEALS FROM ORDER. Any person affected by an order issued by the governing body under this article may, within 30 days following service of the order, petition the district court of the county in which the structure is located for an injunction restraining the public officer from carrying out the provisions of the order pending final disposition of the case. (Code 1989)

4-514. SCOPE OF ARTICLE. Nothing in this article shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this article shall be in addition to and supplemental to the powers conferred by the constitution, any other law or ordinance. Nothing in this article shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise or to exercise those powers granted specifically by K.S.A. 12-1750:1756. (Code 1989)

## ARTICLE 6. DANGEROUS BUILDINGS CODE

4-601. UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS; INCORPORATED. The Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, the same being a standard code for the abatement of dangerous buildings and available in book or pamphlet form, is hereby incorporated by reference herein and made a part of this article, the same as if fully set out herein, except such part or portions thereof as are specifically changed, omitted or added to in this article. The standard code shall constitute the minimum regulations for the abatement of dangerous buildings under the provisions of this article except as hereinafter provided.

Marked Copies of Uniform Code for the Abatement of Dangerous Buildings on File. There shall be no less than three copies of the code kept on file in the office of the city clerk and made available for inspection for the public at all reasonable business hours. The file copies of the code shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 219." (Ord. 288, Sec. 1)

4-602. AMENDMENTS TO THE UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS. The amendments to the Uniform Code for the Abatement of Dangerous Buildings shall be as set out in this section. All references to section and chapter numbers in the text of this section shall be construed as if followed by the words "of the Uniform Code for the Abatement of Dangerous Buildings," unless clearly indicated to the contrary. The Uniform Code for the Abatement of Dangerous Buildings," unless clearly indicated to the contrary.

1. Sec. 201(b) is deleted in its entirety and the following is substituted therefore:

Inspections. The chief building inspector is hereby authorized to make inspections and take such actions as may be required to enforce the provisions of this code.

2. Sec. 401(a), (b), (c), (d) and (e) are deleted in entirety and the following is substituted therefore:

Determination.

(a) Whenever the enforcing officer shall file with the governing body a statement in writing that any such structure, describing the same and where located, is unsafe or dangerous, the governing body shall by resolution fix a time and place at which the owner, the owner's agent, any lienholder of record, and any occupant of such structure, may appear and show cause why such structure should not be condemned and ordered repaired or demolished.

(b) Such resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the first publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three days after its first publication to each such owner, agent, lienholder or occupant at their last known place of residence and shall be marked "Deliver to Addressee Only" provided, that if the owner is a resident of the county, the resolution shall be personally served within five days on such owner or delivered to their last known address in lieu of mailing the same, and in this

case, at least one week shall elapse between the service on such owner and the date set for the hearing.

(c) On the date fixed for hearing or any adjournment thereof, the governing body shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure, as well as evidence submitted by the enforcing officer filing the statement and shall make findings by resolution. If the governing body finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premiss made safe or secure. Such resolution shall be published once in the official city newspaper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided in the notice of hearing. The resolution shall fix a reasonable time within which the repair or the removal of such structure shall be commenced, and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated, or fails to diligently prosecute the same until the work is completed, the governing body shall cause the structure to be raised and removed or repaired.  
(Ord. 219, Sec. 2; Ord. 287, Sec. 1)

4-603. SAME. Chapter 4 Notices and Orders of Building Official, be amended by adding a section:

Immediate Hazard. When in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored, or otherwise made safe without delay, and such action may, under such circumstances be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided in Chapter 9 of the Uniform Code for the Abatement of Dangerous Buildings.  
(Ord. 219, Sec. 3)

4-604. SAME. Chapter 9, Recovery of Cost of Repair or Demolition, is deleted in its entirety and the following is substituted therefore:

Abatement by City; Collection of Costs. If the owner of any structure fails to commence the repair or removal of such structure within the time stated in the resolution or has failed to diligently prosecute the same thereafter, the city may proceed to raise and remove the structure, make the premises safe and secure or let the same to contracts. The city shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the costs of removing such structure and making the premises secure. All monies in excess of that necessary to pay such costs and the cost of publication of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located. If there is no salvageable material or money received from the salvage is insufficient to pay the cost of such work, such cost, or any portion thereof, including an administrative cost, shall be assessed as a special assessment against the parcel of land on which the structure is located and the city clerk shall, at the time of certifying other city taxes, certify the unpaid portion of the aforesaid costs, and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. Whenever any structure is removed from

any premises under the provisions of this article, the city clerk shall certify to the county assessor that such structure, describing the same, has been so removed.

If there is no salvageable material, or if the monies received from the sale of salvage is insufficient to pay the cost of the work, such cost, or any portion thereof in excess of that received from the sale of the salvage may be or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of K.S.A. 12-1755, a tax levy at the first tax levying period for the purposes of paying such warrants and the interest thereon, all as provided in K.S.A. 12-1755, and amendments thereto.

(Ord. 219, Sec. 4)

4-605.

SAME. The Uniform Code for the Abatement of Dangerous Buildings be amended by adding:

Duties of Owner After Removal of Structure. The owner of any structure upon removing the same, shall fill any basement or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition.

(Ord. 219, Sec. 5)

## ARTICLE 6A. UNIFORM HOUSING CODE

4-6A01. HOUSING CODE INCORPORATED. That certain documents, three copies of which are on file in the office of the city clerk of the City of Basehor be marked and designated as "Uniform Housing Code," 1994 edition, be and the same is hereby adopted and incorporated by reference by the City of Basehor; and each and all of the regulations, provisions, conditions and terms of such "Uniform Housing Code," 1994 edition, on file in the office of the city for the City of Basehor are hereby referred to, adopted and made a part hereof as if fully set out in this article, except that any provisions relating to the collection of fees and any provisions relating to a permit procedure are hereby deleted. (Ord. 289, Sec. 1)

## ARTICLE 7. MECHANICAL CODE

4-701. INTERNATIONAL MECHANICAL CODE INCORPORATED. (a) That a certain document, three (3) copies of which are on file in the office of the City Clerk of the City of Basehor, being marked and designated as the International Mechanical Code, 2003 edition, including Appendix Chapter A (see International Mechanical Code Section 101.2.1, 2003 edition), as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Basehor, in the State of Kansas regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code on file in the office of the City of Basehor are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in Section (b).

(b) The following sections are hereby revised: 101.1, 103, 106.5.2, 106.5.3, 108.4, 108.5, 301.2 and 301.7.  
(Code 2007)

## ARTICLE 8. SIGNS AND BILLBOARDS

- 4-801.           PURPOSE. The purpose of this article shall be to coordinate the type, placement, and physical dimensions of signs within different land-use zones; to recognize the commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to allow for special circumstances; and to guarantee equal treatment under the law through accurate record keeping and consistent enforcement. These shall be accomplished by regulation of the display, erection, use, and maintenance of signs. The use of signs is regulated according to zoning districts. The placement and physical dimensions of signs are regulated primarily by type and length of street frontage. No sign shall be permitted as a main or accessory use except in accordance with the provisions of this ordinance. (Ord. 397; Code 2007)
- 4-802.           APPLICABILITY. No land or building or structure shall be used for sign purposes except as specified herein. All signs in existence at the time of passage of this ordinance must register with the Planning and Zoning Department. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of this regulation, no sign shall be erected, enlarged, constructed, or otherwise installed without first obtaining a building permit. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial. (Ord. 397; Code 2007)
- 4-803.           DEFINITIONS. For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meaning given herein:
- (a) Abandoned Sign - A sign which no longer identifies or advertises a bona-fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found.
  - (b) Administrator - The code administrator or his/her designated representative.
  - (c) Advertising Sign - See "Off-Site Sign".
  - (d) Animated Sign - Any sign which uses movement or change of lighting to depict action.
  - (e) Awning - A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. (Compare Marquee)
  - (f) Awning Sign - A sign painted on, printed on, or attached flat against the surface of an awning.
  - (g) Banner - A sign made of fabric or any non-rigid material with no enclosing framework.
  - (h) Beacon - A stationary or revolving light which flashes or projects illumination, single color or multi-colored, in any manner which is intended to attract or divert attention; except, however, this term is not intended to include any kind of

lighting device which is required or necessary under safety regulations described by the Federal Aviation Agency or similar agencies.

(i) Billboard - See "Off-Site Sign"

(j) Building - As defined in the definition section of the most recent edition of the Building Code adopted by the City.

(k) Bulletin Board Sign - A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcements of events or activities occurring at the institution. Such sign may also present a greeting or similar message.

(l) Business Sign - A sign that directs attention to a business or profession conducted, or to products, services, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

(m) Changeable Copy Sign(Automatic) - A sign on which the copy changes automatically on a lamp bank or through mechanical means; eg. Electrical or electronic time and temperature units.

(n) Changeable Copy Sign (Manual) - A sign on which copy is changed manually; eg. Signs with changeable letters.

(o) City - Unless the context clearly discloses a contrary intent, the word "city" shall mean the City of Basehor, Kansas.

(p) Clearance (of a sign) - The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

(q) Construction Sign - A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.

(r) Controlled Access Highway - Any state or federal numbered highway designated by ordinance as a controlled access highway by the Governing Body of the City.

(s) Copy - The wording on a sign surface in either permanent or removable letter form.

(t) Double-Faced Sign - A sign with two faces.

(u) Electrical Sign - A sign or sign structure in which electrical wiring, connections, or fixtures are used.

(v) Erect - To build, construct, attach, hang, place, suspend, or affix a sign, or paint a wall sign.

(w) Façade - The entire building front, including the parapet.

(x) Face of Sign - The area of a sign on which the copy is placed.

(y) Flashing Sign - An illuminated sign on which artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use.

(z) Free-Standing Sign - A sign which is attached to or a part of a completely self-supporting structure. The supporting structure shall be firmly in or below the ground surface and not attached to any building or any other structure whether portable or stationary.

(aa) Frontage - The length of the property abutting on one side of a street, measured along the dividing line between the property and the street right-of-way.

(bb) Frontage, Building - The length of an outside building wall on a public or private right-of-way.

(cc) Government Sign: Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.

(dd) Gross Area - See General Standards.

(ee) Ground Sign - Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property, where the bottom edge of the sign is less than six (6) feet above the ground.

(ff) Height of a Sign - As measured from the ground elevation at the base of the sign to the highest point of the sign.

(gg) Identification Sign - A sign whose copy is limited to the name and address of a building, institution, or person, and/or to the activity or occupation being identified.

(hh) Illegal Sign - A sign which does not meet the requirements of this code and which has not received legal nonconformance status.

(ii) Illuminated Sign - A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

(kk) Incidental Sign - A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises; e.g., a credit card sign or a sign indicating hours of business.

(ll) Lot - A parcel of land legally defined on a subdivision map or defined by a legal record of survey map and recorded with the land registry office.

(mm) Maintenance - For the purpose of this ordinance, the cleaning, painting, repair, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign.

(nn) Mansard - A sloped roof or roof-like façade architecturally comparable to a building wall.

(oo) Marquee Sign - Any sign attached to or supported by a marquee structure.

(pp) Nameplate - See "Identification Sign"

(qq) Nonconforming Sign - A sign which was erected legally but which does not comply with subsequently enacted sign restrictions and regulations, or a sign which does not conform to the sign code requirements but for which a variance has been authorized.

(rr) Occupancy - The portion of a building or premises owned, leased, rented, or otherwise occupied for a given use.

(ss) Off-Site Sign - A sign structure advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured, or furnished at the property on which the sign is located; e.g., billboards.

(tt) On-Site Sign - A sign which pertains to the use of the premises on which it is located.

(uu) Owner - A person recorded as such on official records. For the purposes of this ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign, unless facts to the contrary are officially recorded or otherwise brought to the attention of the Code Administrator; e.g., a sign leased from a sign company.

(vv) Painted Wall Sign - Any sign which is applied with paint or similar substance on the face of a wall.

(ww) Parapet - The extension of a false front or wall above a roof line.

(xx) Person - For the purposes of this ordinance, any individual, corporation, association, firm, partnership, or similarly defined interest.

(yy) Pole Sign - Any sign placed upon, or supported by, the ground independent of the principle building or structure on the property, where the bottom edge of the sign is six (6) feet or more above the ground level.

(zz) Political Sign - For the purpose of this ordinance, a temporary sign used in connection with a local, state, or national election or referendum.

(a1) Portable Sign - Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or a building.

(b1) Portable Swinger Sign and "A" Frame or Sandwich Sign - An advertising device in the shape of an "A" or some variation thereof, located on the ground, easily moveable, not permanently attached thereto, and which is usually two-sided.

(c1) Portable Temporary Attraction Sign - A single or double surface painted or poster panel type sign or some variation thereof, which is temporary in nature, usually mounted on wheels, easily moveable, not permanently attached thereto.

(d1) Premises - parcel of land with its appurtenances and buildings.

(e1) Projecting Sign - A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure specifically designed to support the sign.

(f1) Real Estate Sign - A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale.

(g1) Roof line - The top edge of a roof or building parapet, whichever is higher, excluding any cupolas, pylons, chimneys, or minor projections.

(h1) Roof Sign - Any sign erected over or on the roof line of a building.

(i1) Rotating Sign - A sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.

(j1) Sign - Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

(k1) Subdivision Identification Sign - A sign identifying a recognized subdivision, condominium complex, or residential development.

(l1) Temporary Sign - A sign constructed or intended for a period of use not to exceed sixty (60) days, and a frequency of use of not more than three (3) times a year.

(m1) Use - The purpose for which a building, lot, sign, or structure is intended, designed, occupied, or maintained.

(n1) Wall Sign - A sign attached parallel to and extending not more than twelve (12) inches from the wall of a building. This definition includes painted, individual letter, cabinet signs, and signs on a mansard.

(o1) Window Sign - A sign installed inside or painted on a window and intended to be viewed from the outside.

(Ord. 397; Code 2007)

4-804.

GENERAL STANDARDS. (a) Gross Area of Sign. Gross area shall include the entire area within a single continuous perimeter enclosing the outer limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is used for copy, then the area of both sides shall be used to compute the gross area of the sign. On multi-faced signs with the same

copy on all faces, only one face of the sign shall be used to compute the gross area. On lots where more than one sign is located, the total gross area of all signs shall not exceed the maximum gross area permitted by this regulation.

For computing the gross area of any wall sign that consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

(b) Lineal Street Frontage. In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one (1) street, the lineal street frontage shall be determined by using the whole dimension of the fronting street and one-half (1/2) the dimension of the adjacent (2nd) street.

(c) Lighting. Unless otherwise specified by this ordinance, all signs may be illuminated, However, no sign regulated by this ordinance may utilize:

(1) An exposed incandescent lamp with an external reflector and without a sun screen or comparable diffuser.

(2) Any exposed incandescent lamp in excess of 150 watts unless a screen is attached or unless the sign is placed over twenty (20) feet above the ground.

(3) Electronic time/temp message centers are acceptable.

(d) Changeable Copy. Unless otherwise specified by this ordinance, any sign herein allowed may use manual or automatic changeable copy.

(e) Prohibitions:

(1) Public Property. No signs other than signs placed by agencies of government shall be erected on any public property.

(2) Private Property. No sign shall be placed on any private property without the consent of the owner of the property.

(3) Access way or Window. No sign shall block any required access way or window.

(4) Signs on Trees or Utility Poles No sign shall be attached to a tree or utility pole on public property or in public right-of-way and no sign greater than two (2) sq. ft. shall be attached to any tree or utility pole on private property.

(5) Beacon/Spotlight. It shall be unlawful for any person to operate or erect any attraction device or sign which contains a beacon of any type/or contains a spotlight providing direct illumination, without a Conditional Use Permit.

(6) Flashing. Blinking Signs. It shall be unlawful for any person to erect an attraction device or sign that flashes, blinks, or is animated. Illumination of attraction devices or signs that fluctuate in light intensity shall be prohibited.

(7) Roof Signs. No roof sign shall be placed on the roof of any building or structure in any zoning district of the city, unless all requirements of the Building Codes for the structure and sign and the Fire Department are met.

(8) Free-Standing Signs. It shall be unlawful to erect any free-standing sign whose total height is greater than the height specified for each zoning district.

(9) Projecting Signs. It shall be unlawful to erect any projecting sign that projects more than six (6) feet from the wall of the building upon which it is erected and closer than five (5) feet to any curb line or which projects beyond the end or top of the wall to which it is attached. Display surface area of projecting signs shall not exceed thirty (30) square feet. Only one (1) projecting sign per business shall be permitted, and a projecting sign shall not be permitted on property which has a free-standing sign.

(10) Off-Site (Billboard) Signs. It shall be unlawful to erect any off-site (billboard) sign in any zoning district of the city. No property wishing to be annexed into the city shall have any off-site (billboard) sign on the property.

(f) Traffic Safety.

(1) No sign shall be maintained at any location where by reason of its position, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead, or confuse traffic.

(2) Any sign located within three (3) feet of a driveway or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level; however, no sign shall be placed so as to project over any public right-of-way.

(3) No sign shall be placed in the sight triangle as defined in the Technical Specifications for Public and Private Improvements of the City of Basehor, Kansas.

(g) Nonconforming Signs.

(1) Legal Nonconforming Signs. Existing signs which do not conform to the specific provisions of this ordinance may be eligible for the designation of "legal nonconforming", provided that:

(A) The code administrator or his/her designated representative determines that such signs are properly maintained and do not in any way endanger the public.

(B) The sign was covered by a valid sign permit or variance or complied with all applicable laws on January 1, 2002.

(2) Loss of Legal Nonconforming Status. A legal nonconforming sign may lose the designation if:

(A) The sign is relocated or replaced.

(B) The structure or size of the sign is altered in any way except towards compliance with this ordinance. This does not refer to change of copy or normal maintenance.

(h) Sign Maintenance:

(1) Permit Number. Every sign hereafter registered shall show the permit number and date of permit in a conspicuous place on site.

(2) Free Standing Signs. All free-standing signs and the premises surrounding the same shall be maintained by the owner thereof in a clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish, and weeds.

(3) Enforcement. If the code administrator or his/her designated representative finds that any sign or other advertising structure regulated by this code is unsafe, insecure, a menace to the public, abandoned, maintained in a dilapidated condition, or has been constructed or erected or is being maintained in violation of the provisions of this article, the code administrator or his/her designated representative shall give written notice to the permittee or property owner thereof. If the permittee or property owner fails to remove or alter the structure so as to comply with the standards herein set forth within ten (10) days after such notice, such sign or other advertising structure may be removed or altered to comply, at the direction of the code administrator and at the expense of the permittee or owner of the property upon which it is located. The code administrator shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed.

(4) Dangerous Signs. The code administrator may cause any sign or other advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.  
(Ord. 397; Code 2007)

4-805. PERMITS. Unless otherwise provided by this ordinance, all new or altered signs shall require permits and payment of fees. No permit is required for the maintenance of a sign or the change of copy on painted, printed, or changeable copy signs.

(a) Application for Permit. Application for a permit for the erection, alteration, or relocation of a sign shall be made to the Planning and Zoning Department upon a form provided by the department and shall include the following information:

- (1) Name and address of the owner of the sign.
- (2) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- (3) Name of person, firm, corporation, or association erecting the sign.
- (4) The type and size of the sign or sign structure as defined in this ordinance.

(5) A site plan showing the proposed location of the sign, along with the locations and square footage areas of all existing signs on the same premises.

(b) Permit Fees. Every applicant, before being granted a permit, shall pay to the City of Basehor a permit fee of \$125.00 (one-hundred-twenty-five dollars).

(c) Issuance of Permit. It shall be the duty of the Code Administrator, upon the filing of an application for a permit, to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure, and if it shall appear that the proposed structure is in compliance with all the requirements of this article and all other laws and ordinances of the city, the code administrator shall then issue the permit. If the work authorized under a permit has not been completed within six (6) months after the date of issuance, the said permit is null and void.  
(Ord. 397; Code 2007)

4-806. EXEMPTIONS. (a) Total Exemptions. The following signs shall be exempt from all requirements of this article, except for the provisions of 4-804 above:

(1) Flags or emblems of a governmental or political, civic, philanthropic, educational, or religious organization, displayed on private property.

(2) Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.

(3) Memorial signs or tablets, names of buildings and dates of erection, when cut into any masonry surface or when constructed of bronze or other noncombustible materials.

(4) Directional, identification, and informational signs, provided that such signs are limited to wall and free-standing signs with a maximum of four (4) square feet of display surface area.

(5) Scoreboards on athletic stadiums.

(6) Political campaign signs, not exceeding eight (8) square feet in area in residential districts and sixteen (16) square feet in commercial districts, displayed during no more than a four (4) week period preceding and a one (1) week period following an election. This exemption does not permit the placement of political signs in the public right-of-way.

(7) Temporary signs for garage or porch sales at residences for a period not to exceed three (3) days.

(b) Exemptions from Sign Permit. The following signs shall comply with all of the other regulations imposed by this article, but shall be exempt from the requirement to obtain a sign permit:

(1) Bulletin board signs six (6) feet or less in height, with display surface area up to sixteen (16) square feet.

(2) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

(3) Construction signs not exceeding eight (8) square feet in area.

(4) Home occupation signs erected flat against the wall of the building and not exceeding four (4) square feet in area.

(5) One on-site building construction sign on each construction site in any zoning district, provided that the maximum display surface area shall not exceed a total of eight (8) square feet.

(6) Private sales event signs, placed on private property to advertise a special sales event.

(7) Professional name plates erected flat on walls of buildings and not exceeding four (4) square feet of display surface area.

(8) Real estate signs not exceeding eight (8) square feet in area. See zoning districts for maximum allowable square footage with a permit.

(9) Repainting of signs, or the changing of letters or numbers on signs designed for changeable lettering or numbering which were legally erected and maintained for such purposes.

(10) All signs located within a building that are not visible to the public outside said building.

(11) Signs painted on, or affixed to, glass surfaces of windows or doors and pertaining to the lawful business conducted within.

(12) One temporary subdivision identification sign indirectly illuminated, not to exceed 32 (thirty-two) square feet in area per surface may be erected at any principal entrance to a subdivision, provided that in no event shall such sign remain for more than six months within 50 (fifty) feet of an occupied structure.

(13) Temporary signs and banners. (See definition of temporary signs)

(14) Time and temperature displays without advertising matter, providing all clearances prescribed herein for signs similarly located are maintained.

(Ord. 397; Code 2007)

4-807.

#### DISTRICT REGULATIONS.

(a) "R-0" Rural Residential District:

(1) Functional Types Permitted

(a) Advertising Signs

(b) Business signs, pertaining to the sale of agricultural products produced on the premises and home occupations.

(c) Construction signs.

- (d) Identification signs.
- (e) Name plate signs.
- (f) Real estate signs.
- (g) Bulletin board signs
- (2) Structural Types Permitted:
  - (a) Pole signs.
  - (b) Wall signs.
  - (c) Ground signs.
- (3) Number of signs permitted: One sign per six-hundred-sixty (660) feet of frontage
- (4) Maximum Gross Area:
  - (a) Advertising Signs: Seven-hundred (700) square feet per sign
  - (b) Bulletin Board: Twenty-four (24) square feet
  - (c) Business / Home Occupation Signs: Four (4) square feet
  - (d) Construction Signs: Eight (8) square feet
  - (e) Identification Signs: Four (4) square feet
  - (f) Name Plate Signs: Four (4) square feet
  - (g) Real Estate Signs: Eight (8) square feet per one-hundred-sixty-five (165) feet of frontage to a maximum of thirty-two (32) square feet per six-hundred-sixty (660) feet or more of frontage.
- (5) Maximum Height: Forty-five (45) feet.
- (6) Setbacks. None, except that advertising signs shall observe any setback required by state or federal law.
  - (b) "R-1" Single Family, "R-2" Duplex, "R-3" Multi-Family, "MH-1" and "MH-2" Mobil Home Park, "RV" Recreational Vehicle Park, and "PR" Planned Residential Districts
    - (1) Functional Types Permitted:
      - (a) Business signs pertaining to home occupations and subject to the sign requirements of the home occupation section of this regulation.
      - (b) Construction signs.
      - (e) Identification signs.
      - (d) Name plate signs.
      - (e) Real estate signs.
    - (2) Structural Types Permitted:
      - (a) Ground signs.
      - (b) Wall signs.
    - (3) Number of Signs Permitted: One (1) per zoning lot
    - (3) Maximum Gross area:
      - (a) Business Signs: Home Occupations: Four (4) square feet
      - (b) Identification Signs: Fifty (50) square feet
      - (c) Construction Signs: twenty (20) square feet
      - (d) Name Plate Signs: Four (4) square feet
      - (e) Real Estate Signs: Eight (8) square feet, one per lot.
    - (4) Maximum Height: Fifteen (15) feet
    - (5) Setback: No sign shall be placed closer to the front property line than one-half (1/2) the distance of the front yard in residential uses. For commercial uses, the setback shall be as required in the associated zoning classification for the proposed commercial use.
- (c) "CP-1" NEIGHBORHOOD BUSINESS; "CP-2" GENERAL BUSINESS

- (1) Functional Types permitted:
  - (a) Advertising signs.
  - (b) Business signs.
  - (c) Construction signs.
  - (d) Identification signs.
  - (e) Name Plate signs.
  - (f) Real Estate signs.
- (2) Structural Types Permitted:
  - (a) Awning, Canopy, or Marquee signs.
  - (b) Ground signs.
  - (c) Pole signs.
  - (d) Projecting signs.
  - (e) Wall signs.
- (3) Number of Signs Permitted: In no event shall more than a total of three signs be permitted per zoning lot.
  - (a) Awning, Canopy, Marquee, or wall signs: No limitation
  - (b) Ground and Pole signs: Two (2) per zoning lot.
  - (c) Projecting signs: One (1) per zoning lot.
  - (d) Advertising signs: One (1) per zoning lot in "CP-2" Districts, none in "CP-1" Districts.
  - (e) Real Estate signs: One (1) per zoning lot.
  - (4) Maximum Gross Surface Area: Four (4) square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of three hundred (300) square feet.

EXCEPTION:

- (a) Real Estate signs shall not exceed sixteen (16) square feet.
- (5) Maximum Height: Forty (40) feet.
- (6) Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.
- (d) "I-1" Light Industrial, "1-2" Heavy Industrial, and "P-1" Planned Industrial Districts:
  - (1) Functional types Permitted:
    - (a) Advertising Signs.
    - (b) Bulletin Board Signs.
    - (c) Business Signs.
    - (d) Construction Signs.
    - (e) Identification Signs.
    - (f) Name Plate Signs.
    - (g) Real Estate Signs.
  - (2) Structural Types Permitted:
    - (a) Awning, Canopy, and Marquee Signs.
    - (b) Ground Signs.
    - (c) Pole Signs.
    - (d) Projecting Signs.
    - (e) Wall Signs.
  - (3) Number of Signs Permitted: Two (2) per zoning lot

EXCEPTION:

Real Estate signs are allowed one sign per zoning lot  
(4) Maximum Gross Surface Area: Four (4) square feet per lineal foot of street frontage, provided no single sign exceeds a gross surface area of seven hundred (700) square feet.

**EXCEPTION:**

Real Estate signs shall not exceed thirty-two (32) square feet.

(5) Maximum Height: Thirty (30) feet

(6) Setback. None, except that advertising signs shall maintain the same setback as required for principal structures.

(Ord. 397; Code 2007)

## **ARTICLE 9. HOUSE NUMBERING**

- 4-901. HOUSE NUMBERING. The owners of all property upon which buildings are situated shall number the buildings thereon in accordance with the house numbering plan for the city as submitted and approved by the city planning commission. (Ord. 41, Sec. 1)
- 4-902. SAME. All properties shall be numbered. (Ord. 41, Sec. 2)
- 4-903. SAME. All future construction within the city shall be numbered in accordance with the numbering plan approved by the planning commission within 30 days after construction has been completed. (Ord. 41, Sec. 3)
- 4-904. PENALTY. Any person failing to number a building or property owned by it or them, shall be deemed guilty of a code violation and shall be fined not less than \$1.00 nor more than \$10.00 for such offense. (Ord. 41, Sec. 4)

## ARTICLE 10. PARABOLIC DISH ANTENNA

- 4-1001.           GENERALLY. Except as provided herein, no parabolic or dish type antenna shall be erected, constructed, altered or maintained on any lot within the city. (Ord. 186, Sec. 1)
- 4-1002.           DEFINITION. Parabolic or Dish Type Antenna means any circular, dish or similar shape antenna for communications or for receiving television signals from a satellite. (Ord. 186, Sec. 2)
- 4-1003.           REQUIREMENTS. All parabolic or dish type antennas located outside of the building shall meet the following requirements:
- (a) Building permit and payment of a fee as provided in the building code.
  - (b) Maximum number per residential lot - one.
  - (c) Maximum height - 15 feet.
  - (d) Maximum diameter - 13 feet.
  - (e) Minimum setback from any property line of lot - 10 feet.
  - (f) No antenna may be located in a front or side yard.
  - (g) All parabolic dish type antenna shall be mounted at ground level.
  - (h) no parabolic or dish type antenna shall be roof-mounted on a tower or similar forms of structural support.
  - (i) All cables and lines serving the parabolic or dish type antenna shall be located underground.
  - (j) All parabolic or dish type antennas shall be attached to the ground and shall be permanently affixed on a concrete pad with mounting attachment to assure stability.
  - (k) Any parabolic or dish type antenna three feet or less in diameter shall be exempt from this article.
  - (l) This article shall not apply to those antennas set out in and regulated by Section 18, "special uses" of the zoning ordinance.
- (Ord. 196, Sec. 3)
- 4-1004.           PENALTY. Any violation of this article shall be deemed to be a code violation and upon conviction for each and every offense be sentenced to pay a fine of not more than \$100.00. Each day a continued violation of this article, after written notice thereof, shall constitute a separate violation. (Ord. 186, Sec. 6)
- 4-1005.           PROHIBITIONS. The prohibition of some sections of this article may be waived by the board of zoning appeals upon a showing by the landowner that a compliance with this article would cause the landowner undue hardship and that a waiver of some sections of this article would not be detrimental to the welfare of the surrounding community. (Ord. 186, Sec. 5)

**ARTICLE 11. MOBILE HOMES**

4-1101.           **MOBILE HOME REQUIREMENTS.** The mobile home regulations as required in the city are hereby incorporated by reference. (Code 1999)