Agenda

Basehor City Council
Work Session

September 7, 2016 - 7:00 p.m.
Basehor City Hall

1. Golf Cart Proposal
2. Establishing & Implementing Insurance Proceeds – Ordinance No. 680
3. Amending Appendix A of the Zoning Regulations – Ordinance No. 681
4. Executive Session *(If Needed)*

Per K.S.A. 75-438 the City Council Meeting agenda is available for review at Basehor City Hall, 2620 North 155th

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 1

Topic: Golf cart use on public streets within Falcon Lakes Subdivision

Action Requested: Consider passing an ordinance that would allow golf carts to be driven on public streets within the Falcon Lakes Subdivision.

Narrative: Mr. Essary made a formal request to be placed on the agenda to address the city council with regards to passing an ordinance allowing for golf carts to be driven on public streets within the Falcon Lakes Subdivision. Currently, Standard Traffic Ordinances for Kansas Cities do not allow golf carts on public streets (Section 114.4, see attached)

Presented by: Lloyd Martley, Chief of Police/City Administrator

Administration Recommendation: Staff does not recommend approving ordinance allowing golf cart use on any public street

Attachments:
Mr. Essary agenda request
Mr. Essary possible additions and clarifications for ordinance
Mr. Essary ILTVA State Laws
Mr. Essary Parkville Municipal Code
Mr. Essary City of Garden Plain Kansas Ordinance
Staff report with supporting documents

Projector needed for this item?

No

Basehor City Hall
2620 N. 155th St.
Basehor, KS 66007
(913)724-1370

To: City Administrator, Mayor and City Council

Please fill out name and address and a contact number

From : Michael Essary

14163 Belrive Circle

Basehor, KS 66007

Phone Number: (918) 809-6610

Requesting to be put on the City Council Agenda

Regarding: Amendment to city ordinance allowing golf courses on public streets with provisions in the attached document. (see attached document)

Signature Michael Essary

Possible additions/clarifications to the ordinance addendum

- Current driver's license (i.e. no kids driving carts)
- Posted speed limit less than 30 mph
- Sunrise to sunset only
- Persons operating subject to all duties applicable to a driver of a vehicle imposed by law (must drive the cart with the same rules as driving a car)
- Golf cart—not less than 4 wheels in contact with the ground; weigh no more than 1,800 pounds; not designed to operate more than 25 mph (no Razors, ATVs, etc); designed to carry not more than 6 persons including the driver

Other considerations similar cities have adopted

- Must possess minimum of liability insurance
- Annual inspection and fee to the city ($20?), not transferrable; annual inspections include brakes, no major defects, can safely seat occupants, etc.
- Golf carts must be driven within 1 mile of a golf course (could likely be much less but this is what other cities include to ensure golf carts are driven in golf course communities where golf carts and vehicles typically share the road)

State Laws Respecting Golf Cars and Personal Transportation Vehicles use on Public Roads[1] ("PTVs")

The following compendium of state laws respecting golf cars and PTVs was compiled in July 2013 by ILTVA®'s[2] general counsel. The data was retrieved from website sources, in most cases official state government sites.

The purpose of this compendium was to ascertain the extent of variations in state laws allowing golf cars and PTVs access to the public road and highway systems. As expected, there are wide differences in the various state laws when compared with one another. Some states may be perceived as unduly conservative or discriminatory[3], *e.g.*, requiring rear facing slow speed signs[4], while other states are more progressive in deference to the increasing public demand for their use in localities where the use may be made safe by appropriate local legislation, to include controlled operating environment guidelines[5] and enforcement.[6]

The laws reflected herein may not all be the most recent versions as state laws are continuously in revision and retrieval is not always available on line for the most current revisions. While in most instances we have checked the various state legislative websites for information, a more recent check may reveal more current or accurate information. Neither ILTVA nor its directors, officers or counsel make any representations, warranties or guarantees about the accuracy, currency, completeness, or adequacy of the information contained on this site or the information linked to this compilation. You are encouraged to check official sources. Users of the information in this compendium who do so without their own confirmation that the source(s) cited are currently valid and accurate do so at their own, sole risk. It is for this reason, among others, we have included

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[1] The use of the term "personal transportation vehicle" is limited herein to the vehicle described in ANSI/ILTVA 135-2012 Safety and Performance Specifications for Personal Transportation Vehicles. It is not intended to include the many variant colloquial meanings of the term which include, *e.g.*, bicycles, pocket bikes, power wheelchairs, motorized scooters, recumbents, tandems, Trikkes, Segways, Eliptigos, Street Striders, inline skates, electric bikes, and other transportation items.

[2] ILTVA is the official registered trademark of International Light Transportation Vehicle Association, Inc.

[3] For example, Va. Code § 46.2-1081 Slow-moving vehicle emblems (Virginia Statutes (2012 Edition) ¶ E. "The provisions of this section shall not apply to bicycles, electric power-assisted bicycles, or mopeds."

[4] Not typically required for other slow moving vehicles, *e.g.*, bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, or mopeds when using public streets.

[5] See, *e.g.*, model local ordinance available at http://iltva.org/local-legislation/.

[6] Indeed, at least one state (the Commonwealth of Virginia) requires the presence of police if a municipality desires to enact a golf car ordinance. See Virginia Code § 46.2-916.2 cited below.

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Atlanta, Georgia

copious footnotes relating to the sources used so the user has a starting point for investigation and confirmation.

The compendium does not purport to be a complete exposition of each state's laws regarding golf cars as editing decisions were necessary to keep the compendium manageable and useful as a starting point for investigation not as a definitive resource. For example, state administrative regulations may come into play as well as the cited statutes.

The compendium does not include state laws respecting low speed vehicles ("LSVs") as defined in 49 C.F.R. 351.500[7] A list of states providing for operation of LSVs on public roads is available from the Insurance Institute for Highway Safety[8] and other on line sources.

This compendium is designed for general information only. The information presented at this site should not be construed to be formal legal advice.

The reader is encouraged to report to us any perceived changes or errors in the cited legislation by email to fsomers@iltva.org. Timely responses to this request will enable us to maintain the list in a reasonably current status.

We find approximately one fourth of the states do not allow golf cars on public roads while usually allowing for low speed vehicles. However, the remaining states do allow the use of golf cars under varying conditions. Mostly, the condition is that a local municipality authorize their use. Some few states limit the use to specified localities.[9] Frequently, the state allowing for golf car use will specify the equipment required, similar to but usually not as exacting as specified pursuant to 49 C.F.R. 351.500.

The state laws are presented alphabetically. Not included are U.S. territories.

Kansas - "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.[42] Operation of golf cart; where; when. (a) It shall be unlawful for any person to operate a golf cart: (1) On any interstate highway, federal highway or state highway; (2) on any public highway or street within the corporate limits of any city unless authorized by such city; or (3) on any street or highway with a posted speed limit greater than 30 miles per hour. (b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour. (c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset. (d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.[43]

Kentucky - Local government may permit operation of golf cart on public roadway -- Ordinance -- Qualifications for operation -- Exemption from title, registration, and

Kansas - "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver.[42] Operation of golf cart; where; when. (a) It shall be unlawful for any person to operate a golf cart: (1) On any interstate highway, federal highway or state highway; (2) on any public highway or street within the corporate limits of any city unless authorized by such city; or (3) on any street or highway with a posted speed limit greater than 30 miles per hour. (b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour. (c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset. (d) This section shall be part of and supplemental to the uniform act regulating traffic on highways.[43]

Golf Cart & Low Speed Vehicle Registration

Per Parkville Municipal Code Title III, Chapter 362, Section 362.050, residents are allowed to operate golf carts or low-speed vehicles on public streets within the Parkville city limits. Each owner is required to register their vehicle at City Hall.

1. Complete and sign the online application
2. Bring application, license fee, proof of insurance and proper inspections (see #3) to City Hall
3. For vehicles two years or older, vehicle must be inspected (Qualified Inspector List)
    a. Inspector must also complete and sign the Certificate of Satisfactory Inspection
4. Once processed, you will receive a decal for your vehicle. The decal must be clearly displayed on the back of the vehicle.
5. Your registration is good for 2 years from the time of submission. Renewal notices will be mailed (or e-mailed) one month prior to expiration.

Fees

- $30 for 2-year registration per vehicle if registering 4 or fewer vehicles
- $20 for 2-year registration per vehicle if registering 5 or more vehicles

Renewal

Registrations Expire 2 Years from date new or renewed license is issued

For questions about golf cart and low-speed vehicle registrations, please contact City Hall at (816) 741-7676 or by e-mail.

by Valerie Verkamp
Landmark reporter

Come March 15, 2012 the City of Parkville will permit golf carts and low speed vehicles on public streets.

"When I started talking to people about this there was a lot of discussion about establishing Parkville from anywhere else," said Chris Fisher, alderman of Ward 3. "There is certainly not another city in the Kansas City area that allows this."

Fisher said everyone he has spoken with has been onboard with this idea including Park University, the police, the chamber, the downtown, the commons, and the EDC.

"Neighborhood vehicles" will be treated just like any other vehicle on the roadway. That is, the operator of the golf cart or low speed vehicle can be pulled over for the same reasons any other vehicle can be pulled over and ticketed.

As outlined in the Missouri Revised Statute 304.034, golf carts are prohibited from being operated on any state or federal highway. The statute also provides that no golf cart "shall cross any highway at an intersection where the highway being crossed has a posted speed limit of more than forty-five miles per hour."

Police Chief Kevin Chrisman, who spoke in favor of allowing neighborhood vehicles on public roads, said golf carts must be equipped with adequate brakes.

"Anybody who operates either one of these vehicles on a public street is subject to the actual traffic ordinances that we have currently on the books," said Chrisman.

The ordinance amending Title
III of the City of Parkville code of ordinances to allow "neighborhood vehicles" on public streets within the city limits of Parkville was drafted by Fisher.

A golf cart as defined in the ordinance states that a golf cart "is not capable of exceeding speeds in excess of 25 per hour."

On the other hand, low speed vehicles, described as 4-wheeled motorized vehicles that can reach speeds in excess of 25 miles per hour, however, cannot exceed twenty-five miles per hour.

Marc Sportsman, alderman of Ward 4, said the limited speed of golf carts does not make them any safer.

"If you're in Sun City West and you have two golf carts collide at 10 miles an hour that's one thing," said Sportsman. "If you're in Downtown Parkville or Bell Road (in a golf cart) and you collide with a car that weighs 3,000 pounds doing 25 miles an hour, that is different problem."

Sportsman, spoke out in further opposition citing his concern for safety and potential liability.

"Golf carts are built for golf courses. They have brakes on the back wheels and they're top heavy. They are great on a golf course, but I don't know how great they are mixed up in traffic."

When asked by Sportsman what the city attorney, Jack Campbell, thought of the issue of liability, Campbell acknowledged that Missouri law does permit the use of golf carts and LSV's on public streets but said he was "not in position to render an opinion" on policy given that he just received a copy of the city ordinance on Saturday and has not had a sufficient time to review all the details of the proposed ordinance.

Campbell then noted this was his final meeting as city attorney.
"I haven't looked at this ordinance enough to know what could be added to it with respect to golf carts to give an opinion," said Campbell.

Campbell then suggested moving forward with the passing of the ordinance with the option of preparing several amendments if necessary.

Similarly to any other vehicle on the roadway, golf cart and low speed vehicles will be registered with the city, which includes a $50 fee.

Golf cart operators must have a valid driver's license, but will not be required to wear seat belts nor helmets. The statute further provides that low speed vehicles must be equipped with headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, as well as an exterior and or interior mirror.

Mayor Gerry Richardson asked the EDC to weigh in on this matter because of their interest in the passing of the ordinance, as well as the timing of its passing.

"Certainly from our perspective sooner is better than later, but not in the context of cutting off debate or having a full or open discussion of what is best for the community," said Jim Allen, board member of the EDC.

Allen added that Parkville has numerous things which distinguish the city from any other city and would like to see neighborhood vehicles on the public streets of Parkville.

"It is one more thing that makes us distinctive," said Allen.

Aldermen then passed the ordinance which allows "neighborhood vehicles" on public streets effective March 15, 2012.

(First published in the Times Sentinel _____, 2013)

THE CITY OF GARDEN PLAIN, KANSAS

ORDINANCE NO. 642

AN ORDINANCE AUTHORIZING THE OPERATION OF CERTAIN WORK-SITE UTILITY VEHICLES AND GOLF CARTS WITHIN PUBLIC RIGHTS-OF-WAY WITHIN THE CORPORATE LIMITS OF THE CITY OF GARDEN PLAIN, KANSAS; PROVIDING FOR PENALTIES FOR VIOLATION THEREOF; AND, REPEALING SECTIONS 114.4 AND 114.5 OF THE 2012 EDITION OF THE STANDARD TRAFFIC ORDINANCE, AS ADOPTED BY ORDINANCE NO. 638

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN, KANSAS:

Section 1. OPERATION.

(a) Work-Site Utility Vehicles.

(1) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Garden Plain, Kansas.

(2) No work-site utility vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless such vehicle is equipped with lights as required by law for motorcycles. No work-site utility vehicle shall be operated on any interstate highway, federal highway, or state highway.

(3) Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the City of Garden Plain, Kansas shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(b) Golf Carts.

(1) Golf carts may be operated upon the public highways, streets, roads, and alleys within the corporate limits of the City of Garden Plain, Kansas; provided, however, that no golf cart may be operated upon any public highway, street, road and alley with a posted speed limit in excess of 30 miles per hour. No golf cart shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit greater than 30 miles per hour.

(2) No golf cart shall be operated on any public highway, street, road or alley between sunset

and sunrise.

(3) Every person operating a golf cart on the public highways, streets, roads and alleys of the City of Garden Plain, Kansas shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

Section 2. VALID DRIVER'S LICENSE REQUIRED; PENALTY. No person under the age of 16 years old shall operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Garden Plain, Kansas. No such personal shall operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Garden Plain, Kansas without a valid driver's license. Violation of this section is punishable by a fine of not more than $1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 3. DEFINITIONS.

(a). "Work-site utility vehicle" means any motor vehicle which is not less than 48 inches in width, has an overall length including the bumper, of not more than 135 inches, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more low pressure tires, a steering wheel and bench or bucket type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

(b). "Micro utility truck" means any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. "Micro utility truck" does not include a work-site utility vehicle.

(c) "Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be operated at not more than 25 miles per hour and is designed to carry not more than four persons, including the driver.

Section 4. PENALTY. A violation of this Ordinance shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201 of the 2012 Edition of the Standard Traffic Ordinance, and amendments thereto.

Section 5. DISPLAY OF SLOW-MOVING VEHICLE EMBLEM.

(a) It shall be illegal to operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Garden Plain, Kansas unless such vehicle displays a slow moving vehicle emblem on the rear of the vehicle.

(b) For purposes of this section, "slow-moving vehicle emblem" has the same meaning as contained in K.S.A. 8-1717, and amendments thereto.

(c) the slow-moving vehicle emblem shall be mounted and displayed in compliance with K.S.A. 8-1717, and amendments thereto.

Section 6. INSURANCE REQUIRED; PENALTY.

(a) Every owner of a work-site utility vehicle or golf cart operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Garden Plain, Kansas shall provide liability coverage in accordance with Section 200 of the 2012 Edition of the Standard Traffic Ordinance, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq. , and amendments thereto.

(b) All provisions of Section 200 of the 2012 Edition of the Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of work-site utility vehicles and golf carts operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Garden Plain, Kansas.

Section 7. REGISTRATION AND LICENSE; FEE; APPLICATION; INSPECTION; PENALTY.

Before operating any work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Garden Plain, Kansas, the vehicle shall be registered with the City of Garden Plain, Kansas, upon inspection by its police department, and display a valid registration decal affixed and displayed in such a manner as to be clearly visible from the rear of the vehicle. The application shall be made upon forms provided by the City and each application shall contain the name of the owner, the owner's residence address, or bona fide place of business, and a brief description of the vehicle to be registered (including make, model, and serial number, if applicable). Proof of insurance, as required in Section 6, shall be furnished at the time of application for registration. The annual registration shall be renewable on January 1 st of each year. The annual registration for a work-site utility vehicle or golf cart to be operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Garden Plain, Kansas shall be $30.00. The full amount of the license fee shall be required regardless of the time of year that the application is made. The license issued hereunder is not transferrable.

Section 8. REPEAL. Sections 114.4 and 114.5 of the 2012 Edition of the Standard Traffic Ordinance, as adopted pursuant to Ordinance No. 638 of the City of Garden Plain, Kansas are hereby repealed.

Section 9. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the official city newspaper.

Passed by the City Council this 6th day of February, 2013.

Approved by the Mayor this 6th day of February, 2013.

MAYOR, LARRY LAMPE

SEAL

ATTEST:

CITY CLERK, RONDA MOLLENKAMP

Sec. 114.4. Unlawful Operation of a Golf Cart.

(a) It shall be unlawful for any person to operate a golf cart:

(1) On any interstate highway, federal highway, or state highway;

(2) On any public highway or street within the corporate limits of any city unless authorized by such city; or

(3) On any street or highway with a posted speed limit greater than 30 miles per hour.

(b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.

(c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset. (K.S.A. Supp. 8-15,108)

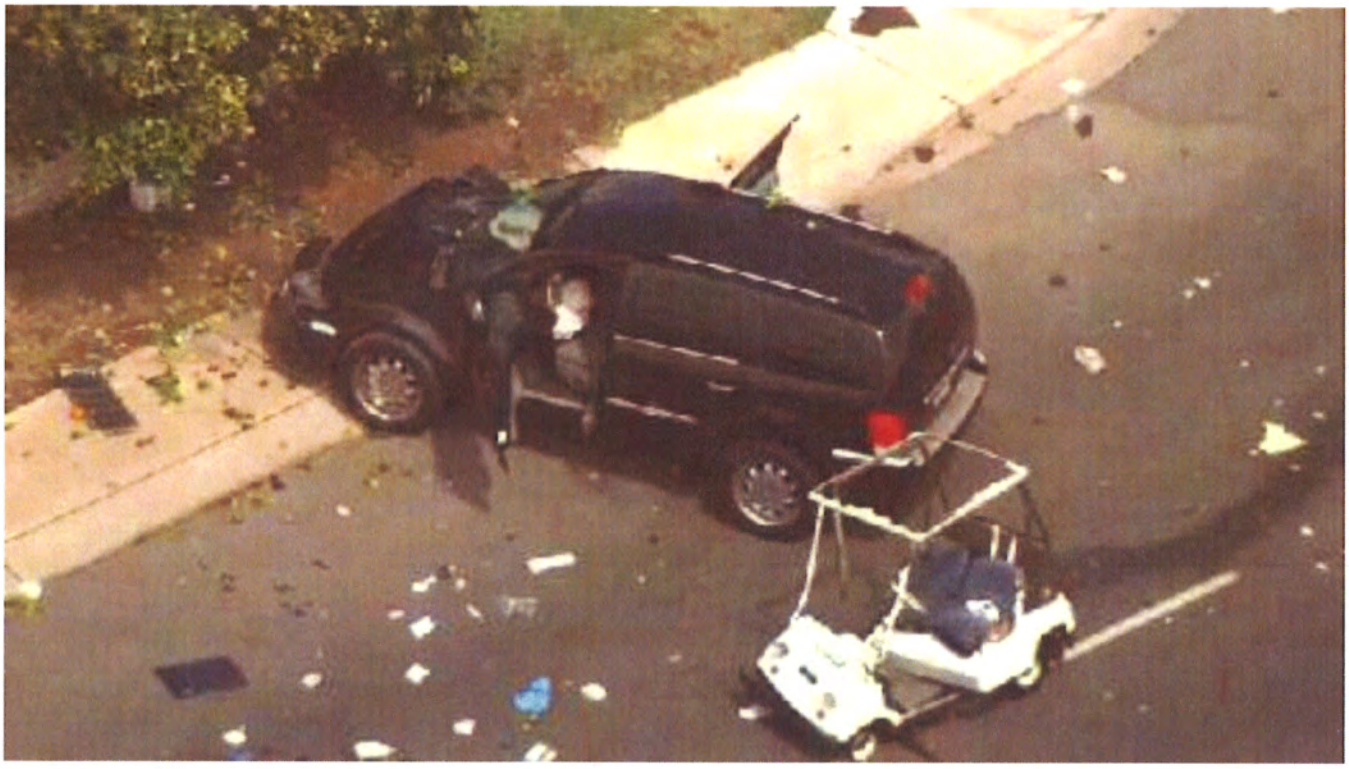
GOLF CART ACCIDENTS ARE TYPICALLY FAR MORE SEVERE THAN CAR CRASHES

Besides providing legal representation to golf cart accident victims, we're golfers too. So we understand why golf carts and other electric vehicles may appear harmless, particularly because they are quieter and slower than cars, and due to their association with the peace and tranquility of golf courses. But even the picturesque golf links and nearby public roads can be deadly for golf cart drivers and passengers. The risk of golf carts is complex, having to do with a lack of safety features, other drivers on the road avoiding running into golf carts.

With No Seatbelts, Airbags, Car Body or Rollover Bar, Golf Carts Can Be Deadly

Most golf carts—along with Neighborhood Electric Vehicles (NEVs) or "low-speed vehicles"—offer very little protection to passengers. Though they are legally allowed on secondary roads up to 35 miles per hour, golf carts don't have airbags and even if golf carts have seatbelts, many golfers don't wear seat belts. Golf carts also don't have a typical car body, car roof, or the rollover protection structure (ROP) with which many open-top utility vehicles are equipped. So while cars, trucks and motorcycles can travel at faster speeds and on more hazardous roads, they have mandatory safety features and laws that help keep those passengers safer. And even though car, truck and motorcycle drivers are supposed to follow golf cart laws and make room for golf carts on secondary roads, many do not. Golf carts are no match for full-size vehicles and golf cart occupants are therefore very vulnerable when it comes to accidents. Put simply, the type of accident that might cause a minor whiplash in a car, could be a traumatic brain injury for a moped rider or golf cart driver.

Matthews & Megna, LLC



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Club Car

Golf carts do not require seatbelts be worn during operation; in fact, many (if not most) golf cart models do not come equipped with seat belts at all.

However, it's this relaxed approach to golf carts and their use that leads to thousands of serious injuries every year and, in some extreme cases, death.

1.) 147,696 Injuries From 1990 to 2006

Perhaps the most striking statistic regarding golf cart accidents deals with the **sheer number** of these accidents that have occurred in recent decades. When you think of golf cart accidents, you probably think they are few and far between; a freak accident occurrence that shouldn't warrant recognition by reputable legal organizations.

However, the truth is that these accidents are much more common than you are likely to believe. In an analysis of the National Electronic Injury Surveillance System in 2007, it was found that over 147,000 injuries occurred in the U.S. in the sixteen years from 1990 to 2006.

2.) Children Account for One Third of All Injury Victims

Even more unsettling than the above statistic is that small children and teenagers account for almost one-third of **all** golf cart-related injuries and accidents (31.2%, as reported by the American Journal of Preventative Medicine).

This harsh reality is due in part where teens can operate golf carts. A common sight in golf communities is teens using golf carts to travel around the area, visit friends and go to parks or recreation centers. While it may seem innocent enough, all it takes is one wrong turn or traffic accident for disaster to strike.

3.) Rollovers Account for 10% of All Accidents

Complete golf cart rollovers account for a substantial one-tenth of all golf cart accidents; these types of accidents often result in the most serious golf cart injuries, and sometimes even death.

This is largely due to the **lack of golf cart seat belt regulations.** As golf carts are not fully considered motor vehicles, but rather equipment used for sport, they are exempt from seat belt requirements as determined by the American National Standards Institute. This is the standard for all golf carts that come with stock speeds below 15 mph; any modified carts, capable of speeds up to 25 mph, are instead classified as personal transport vehicles.

All too often, carts are modified beyond their stock capabilities, making them much faster, and much more dangerous, than originally possible. This puts teen drivers (and any drivers, for that matter) at increased risk of injury behind the wheel of a golf cart; all it takes is one reckless maneuver or street crossing to spell tragedy.

4.) Modern Estimates Average Around 15,000 Injuries Per Year

In a report by the Consumer Products Safety Commission, it was found that golf cart related injuries occur in around 15,000 cases every year. This is at a greater ratio than determined by the 2007 National Electronic Injury Surveillance System study **because these injuries are on the rise**, and have been for years as golf cart use for general transportation becomes more and more popular. (Lowman Law Firm)

STAFF REPORT

To: Governing Body

From: Lloyd Martley, Chief of Police/City Administrator

REQUEST FOR ORDINANCE TO BE ADOPTED ALLOWING FOR GOLF CARTS TO BE DRIVEN WITHIN THE FALCON LAKES SUBDIVISION.

MEETING DATE: **September 7, 2016**

REQUEST: Mr. Essary is asking for City Council to approve an ordinance that will allow golf carts to legally be driven on public streets within the Falcon Lakes Subdivision.

BACKGROUND: Currently, the Standard Traffic Ordinances for Kansas Cities do not allow for golf carts to be driven on public streets (section 114.4). Staff does not support adopting an ordinance due to the fact that golf cart accidents are typically far more severe than car crashes. Golf carts have no seat belts, airbags, rollover bars and golf cart accidents can be deadly. In a 16 year study there have been over 147,000 injuries involving golf carts. Children account of one third of all injury victims and rollovers account for 10% of those accidents. In 2015 our traffic study showed that there is approximately 767 vehicles per day driving on 141st and Falcon Lakes Drive where the speed limit is 30 mph. Next year we are expecting that number to raise significantly due to new construction which will add to even more dangerous opportunities if golf carts are on the roadways. It has been estimated that nearly 15,000 golf cart accidents occur every year and these numbers are on the rise.

STAFF RECOMMENDATION: Based on the statistics, photos and current law, staff does not recommend moving forward with adopting an ordinance to allow golf carts be driven on any public street within the city limits of Basehor.

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 2

Topic: Establishment and implementation of an insurance proceeds fund pursuant to K.S.A. 40-3901.

Action Requested: Approve Ordinance 680 updating new legislation regarded to K.S.A. 40-3901.

Narrative: Currently, Ordinance 316 gives municipalities the authority to place a lien on the proceeds of any covered claims for damage to a structure in excess of 75% of the face value on the insurance policy. On July 1, 2016, a new bill was passed and Cities are required to adopt a new ordinance reflecting those changes.

Presented by: Katherine Renn, City Clerk

Staff Recommendation: Staff recommends approval of Ordinance 680 providing for amendments to Ordinance No. 316 so that City of Basehor is current on policy and procedures regarding insurance proceeds.

Committee Recommendation: **N/A**

Attachments:
Ordinance 680

Projector needed for this item?
No

ORDINANCE NO. 680

AN ORDINANCE AMENDING ARTICLE X OF THE BASEHOR CITY CODE, ENTITLED "BUILDING INSURANCE PROCEEDS FUND"

WHEREAS, during the 2016 legislative session the Kansas legislature adopted changes to K.S.A. 40-3901 et seq. which must be reflected in Article X of the Basehor City Code, entitled, "Building Insurance Proceeds Fund".

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

Section 1: That Article X of the Basehor City Code be amended with the addition of underlined text, and deletion of the stricken text as follows:

ARTICLE X. - BUILDING INSURANCE PROCEEDS FUND

Sec. 8-527. - Scope and application.

The city is hereby authorized to utilize the procedures established by K.S.A. 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city ~~arising out of any fire, explosion, or windstorm,~~ where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this article.

Sec. 8-528. - Lien created.

The ~~mayor and city council~~ governing body of the city hereby creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, ~~caused by or arising out of a fire, explosion, or windstorm,~~ where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of 75 percent of the face value of the policies covering such building or other insured structure. The lien arises upon any unpaid tax, special advalorem levy or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Sec. 8-529. - Encumbrances.

Prior to final settlement on any claim covered by section 8-528, the insurer or insurers shall contact the ~~c~~County ~~t~~ Treasurer of Leavenworth County, Kansas, to determine whether any such encumbrances are presently in existence. If the same are found to exist, the insurer or insurers shall execute and transmit in an amount equal to that owing under the encumbrances a draft payable to the County Treasurer, Leavenworth, Kansas.

Sec. 8-530. - Transfer on pro rata basis.

Such transfer of proceeds shall be on a pro rata basis by all insurance companies insuring the building or other structure.

Sec. 8-531. - Procedure.

(a) When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement exceeds 75 percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city treasurer in an amount equal to the sum of 15 percent of the covered claim payment, unless the chief building inspector of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or repaired, rebuilt, or otherwise made the premises are and secure.

(b) Such transfer of funds shall be on a pro ratea basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

(c) Upon the transfer of the funds as required by subsection (a) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the chief building inspector shall contract the named insured or insureds by certified mail, return receipt requested, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this article.

Sec. 8-532. - Fund created; deposit of moneys.

The city treasurer is hereby authorized to and shall create a fund to be known as the "Insurance Proceeds Fund". All moneys received by the city treasurer as provided for by this article shall be placed in the fund and deposited in an interest-bearing account.

Sec. 8-533. - Building inspector; investigation, removal or structure.

(a) Upon receipt of moneys as provided for by this article, the city treasurer shall immediately notify the chief building inspector of said receipt, and transmit all documentation received from the insurance company or companies to the chief building inspector.

(b) Within ~~20~~ 30 days of the receipt of said moneys, the chief building inspector shall determine after prior investigation, whether the city shall instigate proceedings under the provisions of K.S.A. 12-1750 et seq., as amended.

(c) Prior to the expiration of the ~~20~~ 30 days established by subsection (b) of this section, the chief building inspector shall notify the city treasurer whether he intends to initiate proceedings under K.S.A. 12-1750 et seq., as amended.

(d) If the chief building inspector has determined that proceedings under K.S.A. 12-1750 et seq., as amended, shall be initiated, he will do so immediately, but no later than ~~30~~ 45 days after receipt of the moneys by the city treasurer.

(e) Upon notification to the city treasurer by the chief building inspector that no proceedings shall be initiated under K.S.A. 12-1750 et seq., as amended, the city treasurer shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within ~~30~~ 45 days of the receipt of the moneys from the insurance company or companies.

Sec. 8-534. - Removal of structure; excess moneys.

If the chief building inspector has proceeded under the provisions of K.S.A. 12-1750 et seq., as amended, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure, less salvage value, if any, shall be paid to the insured.

Sec. 8-535. - Disposition of funds.

If the chief building inspector, with regard to a building or other structure damaged ~~by fire, explosion, or windstorm,~~ determines that it is necessary to act under K.S.A. 12-1756, any proceeds received by the city treasurer under the authority of section 8-531(a) relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in proceeding under K.S.A. 12-1756. Upon reimbursement from the insurance proceeds, the chief building inspector shall immediately effect the release of the lien resulting therefrom. Should the expenses insured by the city exceed the insurance proceeds paid over to the city treasurer under section 8-531(a), the chief building inspector shall publish a new lien as authorized by K.S.A. 12-1756, in an amount equal to such excess expenses incurred.

Sec. 8-536. - Effect upon insurance policies.

This article shall not make the city a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Sec. 8-537. - Insurers; liability.

Insurers complying with this article or attempting in good faith to comply with this article shall be immune from civil and criminal liability and such action shall not be deemed in violation of K.S.A. 40-2404 and any amendments thereto, including liability for withholding payment of any insurance proceeds pursuant to this article, or release or disclosing of any information pursuant to this article.

Section 2: That this ordinance shall take effect and be in force from an after its publication in the official newspaper of the City of Basehor, Kansas as provided by law.

PASSED by the City Council this 21st day of September, 2016.

APPROVED by the Mayor this 21st day of September, 2016.

SEAL

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

City of Basehor

Agenda Item Cover Sheet

Agenda Item No. 3

Topic: Amend the Zoning Regulations, Appendix A, of the City of Basehor to allow for new Conditionally Permitted uses in existing zoning districts.

Action Requested: Approve Ordinance 681, Conditionally Permitted Uses within the given zoning districts.

Narrative: Currently, Kennels-Boarding and Breeding facilities are allowed in R-O (Suburban Residential) zoning districts and only as a Conditionally Permitted Use. At this time there are facilities that have the ability to board pets located within the city. These currently would be classified as 'non-conforming' uses. These locations were in existence prior to annexation and have been allowed to continue such use. Through prior discussions with Planning Commission; staff had presented information regarding allowances for kennels and boarding facilities in I-1 districts. At the August 9th Planning Commission meeting it was presented and approved by a 5-0 vote to allow for Kennel and Boarding facilities to be allowed within the I-1 Light Industrial Zoning Districts via a Conditional Use Permit. Staff feels that allowing for boarding facilities and kennels in an industrial zoning district is a suitable use and should be allowed within this zoning district.

Presented by: Mark Lee, Planning & Zoning Director

Staff Recommendation: Staff recommends approval of Ordinance 681 providing for amendments to Appendix A of the Zoning Regulations of the City of Basehor to allow for the operation of kennels and boarding facilities within the I-1 (Light Industrial) Zoning District.

Committee Recommendation: **N/A**

Attachments:
Staff report

Projector needed for this item?
No

ORDINANCE NO. 681

AN ORDINANCE AMENDING APPENDIX A OF THE BASEHOR ZONING ORDINANCE ENTITLED, PERMITTED AND CONDITIONALLY PERMITTED USE TABLE TO ALLOW KENNELS AND BOARDING FACILITIES AS CONDITIONAL USES IN THE I-1 LIGHT INDUSTRIAL ZONING DISTRICT

WHEREAS, city staff initiated an application to amend Appendix A of the Basehor Zoning Ordinance, entitled Permitted and Conditionally Permitted Use Table, to allow Kennels and Boarding Facilities as conditional uses in the I-1 Light Industrial Zoning District; and

WHEREAS, a public hearing was held by the Basehor Planning Commission on August 9th, 2016, and notice of such public hearing was provided in accordance with Kansas state law and the Basehor Zoning Ordinance; and

WHEREAS, on August 9th, 2016 the Basehor Planning Commission considered the application and recommended approval of the amendment to Appendix A of the Basehor Zoning Ordinance to allow Kennels and Boarding Facilities as conditional uses in the I-1 Light Industrial Zoning District; and

WHEREAS, as a conditional use, Kennels and Boarding Facilities in the I-1 Light Industrial Zoning District shall be required to obtain a conditional use permit and meet the additional requirements set out in Article 11, Section 7(e) of the Basehor Zoning Ordinance, which states:

a. Kennels – Breeding and Boarding:

i. The minimum lot size shall not be less than one (1) acre

ii. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property line

iii. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or the excitement of the dogs. Such screening shall be either a solid or semi-solid fence or wall at least six (6) feet, but not more that eight (8) feet tall, and having a density of not less than eighty percent (80%) per square foot; and

WHEREAS, the Planning Commission's recommendation was presented to the Governing Body at its regularly scheduled meeting on September 21st , 2016, for consideration.

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

Section 1: That Appendix A of the Basehor Zoning Ordinance, entitled Permitted and Conditionally Permitted Use Table, be amended with the addition of Kennel and Boarding Facilities as a conditional use in the I-1, Light Industrial Zoning District.

Section 2: That this ordinance shall take effect and be in force from and after its publication in the official newspaper of the City of Basehor, Kansas as provided by law.

PASSED by the City Council this 21st day of September, 2016.

APPROVED by the Mayor this 21st day of September, 2016.

SEAL

_____
David K. Breuer, Mayor

ATTEST:

_____
Katherine M. Renn, City Clerk

APPROVED AS TO FORM:

_____
Shannon M. Marcano, City Attorney

REQUEST FOR APPROVAL TO AMEND THE ZONING REGULATIONS OF THE CITY OF BASEHOR, APPENDIX A, TO ALLOW FOR CERTAIN USES WITHIN THE I-1 (LIGHT INDUSTRIAL) ZONING DISTRICT.

MEETING DATE: **August 9, 2016**
REPORT WRITTEN: **July 18, 2016**

REQUEST:

- The request for approval to amend Appendix A (permitted and conditionally permitted uses) and the Zoning Regulations of the City of Basehor to allow for specific uses within the I-1 (Light Industrial) Zoning District not previously allowed.

BACKGROUND:

Staff is presenting an amendment to Appendix A- Permitted and Conditionally Permitted Use table to allow for Kennel and Boarding Facilities to be allowed via a Conditional Use Permit in I-1 Light Industrial Zoning Districts. Staff believes this use is appropriate for the industrial zoning category. Other uses allowed within industrial zoning districts would be compatible with the noise associated with Kennel and Boarding Facilities and related outdoor kennel runs.

Article 11, Section 7(e) of the zoning regulations places specific conditions on Kennels-Breeding and Boarding facilities. These conditions are currently applied to all conditional use permits for Kennels-Breeding and Boarding facilities, along with any further conditions the Planning Commission or Governing Body approves for individual applications. They are as follows:

a. **Kennels – Breeding and Boarding:**

i. The minimum lot size shall not be less than one (1) acre

ii. No kennel buildings or runs shall be located nearer than seventy-five (75) feet to any property line

iii. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or the excitement of the dogs. Such screening shall be either a solid or semi-solid fence or wall at least six (6) feet, but not more that eight (8) feet tall, and having a density of not less than eighty percent (80%) per square foot.

The Comprehensive Plan describes the I-1 Light Industrial District as follows:

The Industrial designation is intended to provide locations for manufacturing, warehousing and distribution, indoor, and screened outdoor storage, and a wide range of other industrial services and operations.

Because of their potential environmental impacts, industrial uses should generally be located away from population centers or must be adequately buffered. Traffic generated by industrial uses should not pass through residential areas. Sites should have access to one or more major arterials or highways capable of handling heavy truck traffic. Railroad access is also beneficial to certain types of industrial uses. Light industrial uses can typically be located in areas that also contain some

highway-oriented commercial uses, and might benefit from close proximity and better access to their local customer base.

Storage, loading, and work operations should be screened from view along all industrial area boundaries (when adjacent to non-industrial uses) and along all public streets. Such screening shall incorporate features such as trees, plantings and berms.

STAFF RECOMMENDATION:

Staff recommends approval to amend Appendix A- Permitted and Conditionally Permitted Uses to add the use of kennels and dog boarding facilities via a Conditional Use Permit in the I-1, Light Industrial Zoning District.

I-1 **LIGHT** INDUSTRIAL **PERMITTED** USES	**I-1 LIGHT** INDUSTRIAL **CONDITIONALLY PERMITTED** USES
1. AIR CONDITIONING, REFRIGERATION-EQUIPMENT and SUPPLIES - WHOLESALE	1. AGRICULTURAL CHEMICALS and FERTILIZERS - WHOLESALE
2. ALCOHOLIC BEVERAGES - WHOLESALE	2. ASPHALT MIXING PLANTS
3. APPLIANCE REPAIR SERVICES	3. BAIT SHOPS
4.APPLIANCES-WHOLESALE	4. BEVERAGE MANUFACTURING-NON ALCOHOLIC
5. AUTOMOBILE and VEHICLE REPAIR SERVICES	5. BEVERAGE MANUFACTURING-ALCOHOLIC
6. AUTOMOBILE RENTAL SERVICES	6. BOTTLED GAS- RETAIL
7. BOOKBINDING and RELATED WORK-MANUFACTURING	7. CONCRETE - READY MIX PLANTS
8. BOOKS and NEWSPAPER DISTRIBUTING - WHOLESALE	8. FABRICATED METAL PRODUCTS-MANUFACTURING
9. BOOKS- PUBLISHING and PRINTING	9. FEEDS, GRAIN, and HAY- RETAIL
10. BUILDING CONSTRUCTION CONTRACTOR	10. FERTILIZERS- RETAIL
11. BUILDING MATERIALS- WHOLESALE	11. FUEL OIL- RETAIL
12. BUS GARAGING and MAINTENANCE	12. GAS STORAGE and DISTRIBUTION
13. BUSINESS FORMS- MANUFACTURING	13. LIQUEFIED PETROLEUM GAS-WHOLESALE
14. BUS TERMINALS	14. LIVESTOCK- WHOLESALE
15. CABINET MAKING- MANUFACTURING	15. PETROLEUM BULK and TERMINALS
16. CARPENTRY and WOOD FLOORING SERVICES	16. SALVAGE YARD
17. CAR WASH SERVICES	17. TRUCK WASH
18. CARPET CLEANING and REPAIR SERVICES	18. WAREHOUSING OF HAZARDOUS PRODUCTS
19. CEMETERIES and MAUSOLEUMS	
20. CHURCHES, SYNAGOGUES, and TEMPLES	
21. COMMERCIAL and INDUSTRIAL EQUIPMENT- WHOLESALE	
22. COMMUNICATION EQUIPMENT-MANUFACTURING	

I - 1 **LIGHT** INDUSTRIAL **PERMITTED** USES	I - 1 **LIGHT** INDUSTRIAL PERMITTED USES
24. DRUGS and SUNDRIES - WHOLESALE	48. LAWN CARE
25. DRY GOODS and APPAREL- WHOLESALE	49. LINEN SUPPLY SERVICES
26. ELECTRICAL REPAIR- NOT RADIO and TV.	50. MEDICAL and DENTAL LABORATORIES
27. ELECTRICAL SUPPLIES- RETAIL	51. METALS and MINERALS - WHOLESALE EXCEPT SCRAP
28. ELECTRONIC PARTS and SUPPLIES- WHOLESALE	52. MOVIE DISTRIBUTION SERVICES
29. EQUIPMENT and SUPPLIES for SERVICE ESTABLISHMENTS- WHOLESALE	53. MOTOR FREIGHT GARAGING and MAINTENANCE
30. EQUIPMENT- RENTAL and LEASING	54. MOTOR VEHICLES and EQUIPMENT - WHOLESALE
31. EXTERMINATING SERVICES	55. OUTDOOR ADVERTISING SERVICES
32. FARM EQUIPMENT - WHOLESALE	56. PAPER PRODUCTS - WHOLESALE
33. FARM PRODUCTS STORAGE, EXCLUDING STOCKYARDS	57. PARKS and PLAYGROUNDS- PUBLIC
34. FARM PRODUCTS - WHOLESALE	58. PATTERN SHOPS
35. FREIGHT TERMINALS	59. OFFICE and ART SUPPLIES- MANUFACTURING
36. FURNITURE - WHOLESALE	60. PHOTOCOPYING and BLUEPRINTING SERVICES
37. FURNITURE and UPHOLSTERY SERVICES	61. PHOTOENGRAVING and ELECTROTYPING
38. FUR STORAGE and SERVICES	62. PLUMBING SUPPLIES- RETAIL
39. GASOLINE SERVICE STATIONS- RETAIL	63. PLUMBING and HEATING EQUIPMENT- WHOLESALE
40. GREENHOUSES	64. POTTERY - MANUFACTURING
41. GROCERY PRODUCTS - WHOLESALE	65. PRINTING- COMMERCIAL
42. HARDWARE - WHOLESALE	66. PRINTING and PUBLISHING - BOOKS
43. HEATING SUPPLIES- RETAIL	67. PRINTING and PUBLISHING -PERIODICAL
44. ICE - MANUFACTURING	68. PROFESSIONAL EQUIPMENT and SUPPLIES -WHOLESALE
45. JANITORIAL SERVICES	69. ROAD and UTILITY MAINTENANCE YARDS
46. LANDSCAPING SERVICES	
47. LAPIDARY WORK	

I- 1 LIGHT INDUSTRIAL
PERMITTED USES

70. SCRAP and WASTE MATERIALS- NONMETALLIC - WHOLESALE

71. SIGNS and ADVERTISING- MANUFACTURING

72. TAXI- DISPATCH and MAINTENANCE

73. TELE-COMMUNICATION EXCHANGE STATIONS

74. TRANSPORTATION EQUIPMENT and SUPPLIES - WHOLESALE

75. TELE-COMMUNICATION RELAY TOWERS

76. VENDING MACHINE OPERATORS - RETAIL

77. WAREHOUSING OF HOUSEHOLD GOODS

78. WAREHOUSING OF NON-HAZARDOUS PRODUCTS

79. WATER TREATMENT PLANTS and STORAGE FACILITIES

80. WELL DRILLING SERVICES (WATER)

81. WELDING and BLACKSMITHING SERVICES

82. YARNS and THREADS - MANUFACTURING

83. GARMENT and APPAREL - MANUFACTURING

84. SMALL ENGINE REPAIR

85. ELECTRONIC COMPONENTS and ACCESSORIES - MANUFACTURING