

Citizen Government Review Committee Minutes
June 4, 2025

City Hall, First Floor Conference Room, Topeka, Kansas, June 4, 2025. Committee Vice Chair Connie Jacobson called the meeting to order at 11:00 A.M. with the following Committee Members present: Brian Broxterman, Connie Jacobson (Vice Chair), Shampayne Lloyd and Tamara Martin -4 Absent: Jim Kaup (Chair) and Zachary Surritt (Alternate) -2.

APPROVAL of the May 21, 2025, meeting minutes.

Vice Chair Jacobson stated Chair Kaup was requesting the following underlined amendments on page 35 of the minutes:

Bill Fiander, Lecturer, Washburn University Political Science Department, statements focused on the City's Charter Ordinance and the need to implement an enforcement mechanism for the instructions set out in the Charter Ordinance. He spoke in support of the current form of government if the integrity could be kept. He referenced his experience of over 20 years working for the City of Topeka and the lack of accountability of political intrusion in personnel and/or administration matters by council members and the difficult position it puts the city manager in. He stated he believes the question that the Committee needs to consider is "Who enforces the charter ordinance instructions?" He continued to explain that in his experience in working for the City of Topeka this issue created a difficult work environment and a culture of ~~tolerance~~ intrusion by council members causing the loss of new and existing talent.

Brian Broxterman moved to approve the meeting minutes as amended. The motion seconded by Shampayne Lloyd carried unanimously on voice vote. (4-0-0)

DISCUSSION to finalize the proposed charter ordinance amendments related to penalty language, report introduction, summary of committee recommendations and detailed recommendations.

Shampayne Lloyd referenced the memorandum distributed from Mary Kuckelman Spinelli, Senior City Attorney (Attachment A) outlining the checks and balances of the City's Charter Ordinance. She stated that she was satisfied with the enforcement mechanisms in place as outlined in the City's Charter Ordinance as well as State law creating certain ethical obligations that Governing Body members must follow and in her opinion, they only need to address how the charter ordinance should be enforced.

Vice Chair Jacobson distributed a handout on behalf of Chair Jim Kaup concerning identification of code provisions prohibiting governing body interference with the duties of a city manager (Attachment B).

Brian Broxterman stated he concurs with Shampayne Lloyd.

06-04-25

Zachary Surritt entered the room.

Senior Attorney Kuckelman Spinelli clarified that if a member of staff was concerned that a Governing Body member has attempted to exert undue influence, the proper recourse would be to express those concerns to a direct supervisor who will communicate up the chain of command to the City Manager. The City Manager will then determine the appropriate course of action, which may include the City Manager discussing the matter with an individual Governing Body member or the Mayor. If warranted, the Mayor may recommend that the matter be referred to outside legal counsel for investigation, refer the matter to the District Attorney for ouster considerations, or recommend censure to the Governing Body as a whole. Staff members who report violations of the City's Charter Ordinance, or other local, state, or federal laws have protection under the Kansas Municipal Whistleblower Act. Staff are made aware of their rights under this Act through notices that are posted with other employment-related notices on bulletin boards in prominent locations.

Discussion ensued on the possible need for a tracking mechanism to determine if the "suggestion of influence" was occurring with City employees and if it had a direct impact on the high turnover of city managers. It was the consensus of the Committee that these types of issues would be considered a personnel matter and handled internally through the City's Human Resources Department making it difficult or impossible to track.

Brian Broxterman suggested a reminder be sent to City staff members and elected officials that enforcement mechanisms are in place to address these types of situations.

Zachary Surritt suggested new and existing elected officials sign a code of ethics to be used in conjunction with other enforcement mechanisms already in place outlined in the City's Charter Ordinance and State law.

Tamara Martin suggested new and existing elected officials also sign an acknowledgment of the Governing Body Rules & Procedures that are in place.

Following discussion, it was the consensus of the Committee to have new and existing elected officials sign a code of ethics as well as an acknowledgment of the Governing Body Rules & Procedures to address concerns raised about city council members interference with city manager duties with the intent to focus on integrity and code of conduct of elected officials.

Shampayne Lloyd stated she would draft the explanatory statement and recommendation for the Committee to review and include in the final report.

Vice Chair Jacobson confirmed the following recommendations to be included in the report and asked the Committee if they believed they would have sufficient time at the June 11, 2025 Committee meeting to finalize the report.

2025 Final Recommendations

- Retain the Current Form of Government.
- Elections, Terms and City Council Districts
- Follow-up Mechanism for Committees/Boards/Commissions
- Interlocal Cooperation
- Establish the Office of City Auditor
- Composition of the Review Committee
- Integrity and Code of Conduct – Enforcement Mechanisms of Charter Ordinance

Brenda Younger, City Clerk, stated the report must be finalized by June 12, 2025, to be included in the June 17, 2025, Governing Body meeting agenda packet.

Following discussion, it was the consensus of the Committee that they would have sufficient time to accomplish finalizing the report at the June 11, 2025, Committee meeting.

No further business appearing the meeting was adjourned at 11:47 a.m.

Brenda Younger, M.M.C.
City Clerk



CITY OF TOPEKA

Legal Department -- General Government
215 SE 7th Street, Room 353
Topeka, KS 66603

Tel: (785) 368-3883
Fax: (785) 368-3901
www.topeka.org

MEMORANDUM

To: Citizen Government Review Committee
From: Mary Kuckelman Spinelli
Re: Checks and Balances in the Charter Ordinance
Date: June 2, 2025

This memorandum follows up on discussion from the May 21, 2025 Citizen Government Review Committee meeting regarding the balance of power outlined in the City of Topeka's Charter Ordinance between the City Council, Mayor, and City Manager. The balance and primary method of enforcement comes from provisions of the Charter Ordinance, although state law also provides further ethics obligations and the enforcement options. Governing Body members are expected to be familiar with the obligations placed on them by the Charter Ordinance and state law and remain compliant, which is similar to the approach of other cities, such as Salina, Manhattan, and Lawrence, although they have adopted ethics resolutions that summarize the obligations of governing body members but do not add any penalties. In contrast, Wichita has enabled an Ethics Commission to investigate and punish by fine certain ethical obligations.

Balance of Power

In the Charter Ordinance, the City of Topeka selected a Council-Manager form of government. The Charter Ordinance sets forth the authority and duties of the City Council and Mayor. C.O. 94 § 4, 7-20-04, codified as TMC Sec. A2-4. Division 2 of Article II (Home Rule Charter). Division 4 of Article II outlines the authority and duties of the City Manager. Division 2 vests the Council and Mayor with all corporate and legislative powers. Meanwhile, Division 4 assigns the City Manager with the City's executive powers to execute and enforce municipal laws, ordinances and policies and administer the affairs of the City, including hiring, firing, and directing City department heads and employees under the City Manager's authority; signing all contracts that do not require Council approval; control and administer the financial affairs of the city; preparing the annual budget; and prescribing general rules and regulations the City Manager deems necessary for the general conduct of the City's departments.

Maintaining the Balance of Power

In addition to assigning specific authority and duties, the Charter Ordinance also calls out certain limits on the Governing Body's authority. It specifically prohibits the Governing Body from directing, supervising, appointing, disciplining, or removing any employees over whom the City Manager has sole appointment power. The Governing Body shall only deal with staff who are subordinate to the City Manager through the City Manager, although they may request information from staff that is necessary for Council work. Governing Body members also may share their opinions and feedback to the City Manager on personnel matters. C.O. 94 § 14, 7-20-04, codified at TMC Sec A2-28.

The first and primary line of enforcement of the division of power is through the City Manager's relationship with the Governing Body. The City Manager may require that questions for staff be routed through the City Manager's office or that the City Manager be included in discussions between staff and the Governing Body. From time to time, the City Manager may remind individual Council Members directly or through the Mayor of the City Manager's role as the proper intermediary between staff and the Governing Body.

While the City Manager serves at the pleasure of the Governing Body and is responsible to the Governing Body for the proper and efficient administration of City affairs, the City Manager's serves subject to a contract, which provides insulation from influence through a term of appointment and separation terms. C.O. 109 § 1, 7-24-12, codified at TMC Sec A2-53. Termination of the City Manager requires a vote of 6 Governing Body members in support, also protecting the City Manager from the whims of individual Governing Body members.

The Code of Ethics that I referenced during the May 21 commission meeting provides more general obligations to uphold local, state, and federal law, but it lacks enforcement measures and is therefore aspirational. The above provisions from the Charter Ordinance create stronger boundaries for the branches of the City's municipal government to operate between.

In addition to balance of power outlined in the Charter Ordinance, state law creates certain ethical obligations that Governing Body members must follow. To avoid conflicts of interest, Governing Body members are required to file a statement of substantial interests. Each candidate for local office must file a statement of substantial interests within 10 days of the filing deadline. This must be updated by those who hold elective office any year during which there is a change in their substantial interests. K.S.A. 75-4302a. Substantial interests includes disclosure of any of the following that apply to the candidate or elected official and spouse: business holdings exceeding \$5,000 in value or 5% ownership of the business; taxable income of \$2,000 or more; \$500 or more of goods or services received from a business as a gift or otherwise without reasonable consideration; positions as an officer, director, associate, partner, or proprietor of a business; and any similar connections to a client or customer of a business that results in commissions of at least \$2,000 annually. K.S.A. 75-4301a. Kansas Governmental Interests Commission enforces these disclosure requirements. In addition, K.S.A. 21-6001 prohibits public officials from giving or intentionally receiving a benefit, reward, or consideration they are not legally entitled to in exchange for the performance or omission of the public official's powers or duties and K.S.A. 21-6002 prohibits official misconduct, covering a variety of abuses of office and public resources.

While the Charter Ordinance does not provide for penalties for failure to comply with the ordinance, state law provides for a mandamus action to compel compliance as well as processes for recalling or ousting local elected officials.

A mandamus action can be brought by the Shawnee County District Attorney or the Kansas Attorney General to compel a Governing Body to perform clearly defined duties imposed by law. Failure to comply with a judgment in a mandamus action may be punished as contempt. Additionally, the Shawnee County District Attorney or the Kansas Attorney General may also oust a Governing Body member on their own volition or upon a written complaint from citizens that the Governing Body member has willfully engaged in misconduct while in office, willfully

neglected duties, demonstrated that they lack the mental capacity to hold office, or committed a crime of moral turpitude. K.S.A. 60-1205. The District Attorney or Attorney General will investigate the grounds for ouster, with the ability to subpoena witnesses and require them to testify under oath. K.S.A. 60-1208. If the District Attorney or Attorney General finds sufficient grounds, the action may be heard and decided by the Kansas Supreme Court or the Shawnee County District Court. K.S.A. 60-1202.

Additionally, a Governing Body member could be recalled from office in situations involving a felony, misconduct in office, incompetence, or failure to perform duties prescribed by law through the process described in the Kansas Recall of Elected Officials Act. K.S.A. 25-4301 et-seq. The process starts with the filing of a petition for recall signed by at least 40% of citizens eligible to vote in the last general election for the specific office in question. The petition is filed with the county election officer who calls a special election and eligible voters then determine whether the Governing Body member shall be recalled. If the outcome is in favor of recall, the office is considered vacant and filled according to law.

Complaints by staff

The City of Topeka Personnel Manual complaint procedures are limited to providing a process for employees to report discrimination or harassment taking place in the workplace. If an employee experiences discrimination based on a protected characteristic or sexual harassment, complaints are typically made to the employee's direct supervisor or Human Resources.

If a member of staff is concerned that a Governing Body member has attempted to exert undue influence, the proper recourse is to express these concerns to a direct supervisor who will communicate up the chain of command to the City Manager. The City Manager will then determine the appropriate course of action, which may include the City Manager discussing the matter with an individual Governing Body member or the Mayor. If warranted, the Mayor may recommend that the matter be referred to outside legal counsel for investigation, refer the matter to the District Attorney for ouster considerations, or recommend censure to the Governing Body as a whole.

Staff members who report violations of the City's Charter Ordinance, or other local, state, or federal law have protection under the Kansas Municipal Whistleblower Act. Staff are made aware of their rights under this Act through notices that are posted with other employment related notices on bulletin boards in prominent locations.

Comparison to other Kansas cities.

During the May 21, 2025 committee meeting, you asked how the City of Topeka's Charter Ordinance and ethic requirements compare to other Kansas cities. I was specifically asked to research Salina, Manhattan, Lawrence, and Wichita.

Salina and Manhattan both have adopted codes of ethics by resolution. Their codes of ethics are primarily focused on avoiding conflicts of interest and ensuring fair dealing in public matters. Both are enforced through self-policing, expecting individual elected officials to disclose potential conflicts of interest, abstain from matters in which they have a conflict, and seek ethical counsel when needed. Neither policy allows for enforcement by a third party or provides penalties.

Like Salina and Manhattan, also Lawrence has a code of ethics that has been adopted by resolution, although it more broadly requires compliance with local, state, and federal law, avoiding conflicts of interest and arms-length dealing with the city, and fair treatment of all citizens. The code of ethics does not provide enhanced penalties, merely noting that violations could result in censure by Lawrence's governing body or state law remedies such as recall or ouster.

Wichita was unique amongst the 4 cities that I researched in that Wichita's code of ethics is part of city ordinances, provides for the creation of an ethics board to review violations, and enables the board to assess fines against elected officials up to \$1,000. The code broadly requires elected officials to exercise honor and integrity in their dealings, maintain public confidence, not use public resources or the office for personal gain, and avoid conflicts of interests. Any complaints of potential violations are investigated by an ethics officer who is engaged as an independent contract of the city, who provides a report and briefing to an ethics board made up of members appointed by each city council member and the mayor. The board makes written findings, which are public, and may assign remedial training or assess fines as a consequence of violations.

Attached please find Salina, Manhattan, and Lawrence's Code of Ethics Policies and the relevant portions of Wichita's city ordinances.

Changing the Charter

The process for the changing the City's charter ordinance depends on the specific provision. Certain provisions, such as any changes to the mayor's functions (A2-24), the Governing Body's powers (A2-25), the composition of the Governing Body and their office requirements (A2-21) require a vote by the electors. Other provisions may be amended or revised by a vote of the Governing Body, requiring the support of 6 members.

RESOLUTION NUMBER 17-7463

A RESOLUTION ADOPTING THE ETHICS POLICY OF THE CITY OF SALINA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SALINA, KANSAS:

Section 1. Policy. The governing body of the City of Salina acknowledges the importance of sustaining the public's confidence in the integrity of its local government through independent, fair, and impartial local governance and administration. Neither public office nor public employment can be used for personal gain. The policy of the City of Salina shall be to promote and assure ethical conduct by its elected and appointed officers and its employees.

Section 2. Application and Purpose.

- (a) This policy applies to members of the City's governing body; appointed members of the City's commissions, authorities, boards, and committees (collectively "board members"); and the City's employees. As used in this policy, the persons to which this policy applies are referred to as "city officers and employees."
- (b) As actively involved participants in the Salina community, city officers and employees must be watchful for ethical considerations, including conflicts of interest, that may arise in relation to the performance of their respective duties. This policy is intended to guide city officers and employees in the avoidance of unethical conduct and to preserve the ethical integrity of the decision-making processes inherent in local government. This policy is not intended to modify the statutory or common law standards under Kansas conflict of interest law. The analysis of (a) whether a city officer or employee has a conflict of interest and (b) whether the conflict of interest disqualifies a city officer or employee from performing a duty begins with application of the Kansas conflict of interest act (the "Act")¹ to determine whether the matter affects any "business"² in which the city officer or employee has a "substantial interest"³. Where those statutes are inapplicable, the determination of whether a matter presents a disqualifying conflict of interest must be based upon application of "common law" principles.⁴

Section 3. Definitions. For purposes of this policy, the following words and phrases shall mean:

- (a) "Business" means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.⁵
- (b) "Common law" means, in general, a body of law that develops and derives through judicial decisions, as distinguished from legislative enactments.⁶
- (c) "Compensation" means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the

reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.⁷

- (d) "Contracts" means agreements including but not limited to sales and conveyances of real and personal property and agreements for the performance of services.⁸
- (e) "Disqualify" or "disqualifying" means of a nature under the specific facts of the matter to render a city officer or employee ineligible or unfit by reason of interest or holding a fixed preconceived opinion⁹ from participating in the performance of what would otherwise be his or her duty in relation to the matter.
- (f) "*Ex parte*" means on one side only; by or for one party; done for, in behalf of, or on the application of, one party only.¹⁰
- (g) "Pecuniary" means consisting of money or that which can be measured in money.¹¹
- (h) "Preceding calendar year" has its usual meaning, except that in the case of candidates and individuals newly appointed to office or employment, it means the 12 months immediately preceding a required filing date (referring to a statement of substantial interest).¹²
- (i) "Substantial Interest"¹³ means any of the following:
 - (1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000 or 5% of any business, whichever is less, the individual has a substantial interest in that business.
 - (2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding calendar year compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000 from any business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
 - (3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$500 or more from a business or combination of businesses, the individual has a substantial interest in that business or combination of businesses.
 - (4) If an individual or an individual's spouse holds the position of officer, director, associate, partner or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10), (19) of chapter 26 of the United States code, the individual has a substantial interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.
 - (5) If an individual or individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has a substantial interest in any client or customer who pays

fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000 or more in the preceding calendar year.

As used in this definition, "client or customer" means a business or combination of businesses.

- (j) "Quasi-judicial" means the action, discretion, etc., of public administrative officers or bodies, who are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature.¹⁴
- (k) "Quasi-judicial proceeding" means a proceeding that affects specific identified persons or properties and involves the application of established standards to individual facts to determine specific rights or to take specific actions under existing law.

Section 4. General Ethical Principles. City officers and employees shall abide by the following general ethical principles:

- (a) Place the public trust and interests of the City first and never intentionally act outside the scope of authority prescribed by one's official duties;
- (b) Exercise fair, honest, and unbiased judgment in one's role as a decision maker and advisor;
- (c) Do not knowingly misrepresent or withhold facts or information for the purpose of achieving a desired outcome;
- (d) Do not seek, accept, or offer any gifts or favors of significant value which are either intended by the source or have the effect upon the recipient of influencing the objectivity of an advisor or decision-maker;
- (e) Do not disclose or use information received in the course of performing one's duties that is to be maintained in confidence (1) by rule, regulation, or directive in the case of an employee, (2) by the intent of the governing body in the case of a governing body member, or (3) by the intent of the applicable board in the case of a member of a board; subject to any legal requirements of the Kansas open records act; and
- (f) Treat all persons with courtesy and respect at all times.

Section 5. Substantial Interest.

- (a) Background and applicable law.

- (1) Limitations upon participation. The Act prohibits a city officer or employee from (a) participating in the making of any contract on behalf of the City with any business in which the city officer or employee has a substantial interest¹⁵ (with limited exceptions

described below) or (b) taking any other action relating to the business without first disclosing his or her substantial interest.¹⁶

- (2) Disclosure of substantial interests. The Act requires governing body members to file and annually update a statement of substantial interests in the office of the county election officer.¹⁷ Any other city officer or employee who is not required to file a disclosure of substantial interests must, before acting upon any matter which will affect any business in which he or she has a substantial interest, file a written report of the nature of the interest with the county election officer.¹⁸
- (3) Contracts. As prohibited by K.S.A. 75-4304, no city officer or employee shall, in the capacity of a city officer or employee, make or participate in the making of a contract with any person or business by which he or she is employed or in whose business he or she has a substantial interest. A city officer or employee does not make or participate in the making of a contract if the member abstains from any action relating to the contract.¹⁹ The prohibition against a city officer or employee making or participating in the making of a contract shall not apply to (1) contracts let after competitive bidding has been advertised for by published notice; and (2) contracts for property or services for which the price or rate is fixed by law.²⁰
- (4) State law violations. Pursuant to K.S.A. 75-4306, violation of K.S.A. 75-4304 (contracts) or 75-4305 (matters other than contract) or failure to make any disclosure of substantial interests required by K.S.A. 75-4302a is a class B misdemeanor. The Kansas governmental ethics commission does not assume an enforcement role in relation to alleged violations of the Act by a city officer or employee. Violation of the Act by a city officer or employee is subject to prosecution by the Saline county attorney.

(b) Local Policy.

- (1) Compliance with the Act. All city officers and employees shall comply with the Act in all respects.
- (2) Matters other than contract. When a city officer's or employee's substantial interest in a business has been disclosed by written report filed with the county election office, the city officer or employee may either participate in a matter involving the business or abstain from any action relating to the matter.
- (3) Matters of contract. No city officer or employee shall, in the capacity of a city officer or employee, make or participate in the making of a contract with any person or business by which he or she is employed or in whose business he or she has a substantial interest, except in the limited circumstances when allowed under the Act for (1) contracts let after competitive bidding has been advertised for by published notice; and (2) contracts for property or services for which the price or rate is fixed by law.
- (4) Undisclosed substantial interest. A city officer or employee shall abstain from any action relating to a matter which will affect any business in which the member has a substantial interest that the member has not disclosed by written report filed with the county election officer.

Section 6. Common-Law Conflict of Interest.

- (a) Background and applicable law. If a conflict of interest question cannot be resolved by applying the "substantial interest" test, Kansas case law recognizes the application of common-law principles in determining if a city officer or employee has a conflict of interest and whether it disqualifies the city officer or employee from acting in relation to the matter.²¹ The Kansas Supreme Court has provided the general rule regarding common-law conflicts of interests:

We, of course recognize the common-law principle that a public officer owes an undivided duty to the public whom he serves and is not permitted to place himself in a position that will subject him to conflicting duties or cause him to act other than for the best interests of the public. If he acquires any interest adverse to those of the public, without a full disclosure it is a betrayal of his trust and a breach of confidence.-

The law, however, does not forbid the holding of an office and exercising powers thereunder because of a possibility of a future conflict of interest.²²

The Kansas Supreme Court further indicated in the *Anderson* decision:

The difficult problem which is often presented in conflict of interest cases is in determining whether or not the personal interest of the commissioner or board member is of a nature justifying disqualification to act. Usually this is a question to be determined under the peculiar facts and circumstances of the particular case presented to the court for determination.²³

When addressing the meaning of the phrase "personal interest" the Kansas Attorney General has referred to a New Jersey case in which the Court quoted a commentator who distilled varying conflict of interest circumstances into four types of situations that, depending upon the facts of the matter, could present a common-law conflict of interest.²⁴ Those included:

1. "Direct pecuniary interest" when an official votes on a matter benefitting the official's own property or affording a direct financial gain;
2. "Indirect pecuniary interest" when an official votes on a matter that financially benefits one closely tied to the official, such as an employer, or family member;
3. "Direct personal interest" when an official votes on a matter that benefits a blood relative or close friend in a non-financial way, but a matter of great importance;
4. "Indirect personal interest" when an official votes on a matter in which an individual's judgment may be affected because of membership in some organization and a desire to help that organization further its policies.²⁵

The common law recognizes that a common-law conflict of interest does not arise from a remote or speculative interest, or the mere possibility of a future conflict of interest.²⁶

Factors warranting consideration include whether the matter is legislative (therefore of more general application) or quasi-judicial (therefore affecting specific persons or property).

Attachment "A" to this policy summarizes all Kansas appellate court decision and attorney general opinions indicating what does or does not constitute a common-law conflict of interest.

- (b) Local policy. A city officer or employee shall disclose and abstain from any action relating to a matter which presents him or her with a common-law conflict of interest.

Section 7. Appearance of bias. If a governing body member or board member has neither a substantial interest nor a common-law conflict of interest in a matter, but believes he or she has an interest relating to the matter that could present to the general public the appearance of bias, the member may, in his or her sole discretion, abstain from taking action in relation to the matter.

Section 8. Available legal resources. The following legal resources are available to the City to assist in the administration and enforcement of this policy:

- (1) City's legal counsel. The client of the City's legal counsel is the City as an organization in the form of a Kansas municipal corporation as it acts primarily through the governing body and secondarily through the governing body's authorized representatives.
- (2) Special ethics counsel. Special ethics counsel refers to legal counsel engaged by the City to provide legal counsel specifically relating to administration and enforcement of this policy at the discretion of the governing body and the city manager and particularly when the ethical matter requiring legal counsel presents potential conflicts of interest in relation to the representation of the City as an organization by the City's legal counsel.
- (3) Kansas governmental ethics commission. The Kansas governmental ethics commission is required to issue an advisory opinion on the interpretation or application of the Act upon receipt of a written request by a city officer or employee or by any person who has filed as a candidate for local office.²⁷ Any person who requests and receives a written advisory opinion and who acts in accordance with its provisions shall be presumed to comply with the Act.²⁸ Individuals requesting an advisory opinion must write to the ethics commission listing all relevant facts and circumstances surrounding the request, and all advisory opinions are available to the public. The ethics commission may also answer questions on an informal basis regarding the interpretation or application of the Act. The ethics commission will not issue advisory opinions or provide guidance regarding common-law conflicts of interest.
- (4) Kansas attorney general. Upon request, the Kansas attorney general may furnish written opinions to the governing body of the City regarding whether the specific facts of a matter present a disqualifying common-law conflict of interest. By Kansas attorney general policy, requests must be submitted in writing by the governing body or the City's chief legal counsel. Requests may not be submitted by individual members of the governing body. The attorney general will not furnish opinions on issues threatened, pending or scheduled for determination by the courts, including appeals from orders issued by quasi-judicial bodies. Unlike the Kansas governmental ethics commission, which is required by law to furnish

opinions upon request, the attorney general is not required to furnish opinions, and each request will be evaluated based on, among other things, whether it presents a question of statewide interest.

Section 9. Identification of substantial interests or common-law conflicts of interest in anticipation of action.

- (a) Self-initiated disclosure and abstention. A city officer or employee shall be primarily responsible for disclosing what he or she believes to be the basis of a substantial interest or common-law conflict of interest and for abstaining when required from any action relating to the matter. If a governing body member or board member is unsure whether the specific facts of the matter present a substantial interest or common-law conflict of interest, he or she should consult with the applicable staff board liaison or the city manager. The staff board liaison shall inform the city manager. If necessary, the City's legal counsel or special ethics counsel will be consulted regarding the potential substantial interest or common law conflict of interest. The City's legal counsel or special ethics counsel will consult with the city officer or employee; any relevant city officers or employees; and, when applicable, the governing body, to determine the course of action to identify the relevant facts of the matter and to address the legal question of whether a substantial interest or common-law conflict of interest exists. That determination may include, but not be limited to, (1) whether the matter can be resolved based upon consultation with the City's legal counsel or special ethics counsel; (2) whether the city officer or employee will independently seek a Kansas governmental ethics commission advisory opinion regarding the potential substantial interest; (3) whether the governing body chooses to authorize a request for a Kansas governmental ethics commission advisory opinion regarding the potential substantial interest; or (4) whether the governing body chooses to request a written opinion of the Kansas attorney general regarding the potential common law conflict of interest.
- (b) Separate-party-initiated inquiry. If a city officer, city employee, or any other person believes that a city officer or employee has a substantial interest or common-law conflict of interest relating to a specific matter, and chooses to raise the question, he or she should do so by informing the applicable staff board liaison or the city manager. The staff board liaison shall inform the city manager. If necessary, the City's legal counsel or special ethics counsel will be consulted regarding the alleged substantial interest or common-law conflict of interest. The City's legal counsel or special ethics counsel will consult with the city officer or employee alleged to have the substantial interest or common-law conflict of interest; any relevant city officers or employees; and, when applicable, the governing body, to determine the course of action to identify the relevant facts of the matter and to address the legal question of whether a substantial interest or common-law conflict of interest exists, including but not limited to the same considerations and options outlined in subparagraph (a) above.
- (c) Governing-body member to governing-body member. If a governing-body member chooses to raise the question of whether another governing-body member has a substantial interest or a common-law conflict of interest, he or she should do so by first advising the governing body member thought to have the substantial interest or common-law conflict of interest. If that does not resolve the matter, the city manager should be informed for the purpose of arranging for consultation with special ethics counsel in executive session regarding the course of action to identify the relevant facts of the matter and to address the legal question of whether a

substantial interest or common-law conflict of interest exists, including but not limited to the same considerations and options outlined in subparagraph (a) above.

Section 10. Participation by disclosure of substantial interest or abstention due to substantial interest, common-law conflict of interest, or appearance of bias.

- (a) Participation by disclosure of substantial interest. Disclosure of a substantial interest as the basis for taking action in relation to a matter in which the city officer or employee has a substantial interest shall include making a statement immediately following the introduction of any public consideration of the matter identifying the substantial interest and confirming that written notice of the substantial interest is on file with the county election officer.
- (b) Abstention due to substantial interest, common-law conflict of interest, or appearance of bias. Abstaining from any action relating to a matter shall include:
 - (1) Disclosure of the basis for the abstention immediately following the introduction of any public consideration of the matter;
 - (2) Stepping down from the dais and leaving the meeting room during consideration of the matter;
 - (3) Refraining from any advocacy regarding the matter at any time; and
 - (4) Refraining from consultation with any of the interested parties, staff, or the media regarding the matter at any time.

Section 11. Due Process in Quasi-Judicial Proceedings.

When the focus of a City decision-making body shifts from the entire city to specifically identified persons or properties, the function of the body shifts from legislative to quasi-judicial. In quasi-judicial proceedings, the City must comply with procedural due process requirements.²⁹ Due process requires that the proceedings be fair, open, and impartial.³⁰ Denial of due process may occur based on a decision-maker's: (1) prejudgment of a matter; and (2) *ex parte* communications related to a matter.

The doctrine of prejudgment requires that decision-makers keep an open mind and continue to listen to all the evidence presented before making the final decision on a matter.³¹ If a decision-maker is shown to have an "irrevocably closed" mind, he or she will be deemed to have prejudged the matter.³² Prejudgment may be established by a decision-maker's written or oral statements to interested parties, or by a decision-maker's advocacy for or against the matter while it is under consideration by an advisory body.

However, a decision-maker will not be deemed to have prejudged a matter based solely on a pre-existing political view or general opinion on a particular issue. The Kansas Supreme Court has cited with approval a Missouri case where the Missouri court reasoned that:

Familiarity with the adjudicative facts of a particular case, even to the point of having reached a tentative conclusion prior to the hearing, does not necessarily disqualify an administrative decisionmaker, in the absence of a showing that the decisionmaker is not capable of judging a particular controversy fairly on the basis of its own circumstances.³³

With respect to *ex parte* communications, the Kansas Supreme Court has stated that due process requires that "the parties must be informed of the evidence submitted for consideration and must be provided an opportunity to respond and rebut the evidence."³⁴ If *ex parte* communications are present in the context of quasi-judicial proceedings, they may compromise the fairness and the openness of the proceedings by denying other interested parties the opportunity to hear, rebut, or respond to the evidence.

To provide guidance for consistent application of the due process requirements described above, the following policies shall be applied to identify and resolve potential issues resulting from prejudgment and *ex parte* communications.

Prejudgment.

City officers serving as quasi-judicial decision makers shall endeavor to keep an open mind and a willingness to listen to all the evidence presented before making a final decision on the matter. If a city officer determines that he or she is not able to keep an open mind or consider all the evidence before making a decision, the officer shall abstain from any action relating to the matter.

Ex parte communications.

During the pendency of any quasi-judicial proceeding, no city officer who is a member of an advisory or decision-making body shall participate with any person in *ex parte* oral or written communications relevant to the merits of the matter, unless:

- (1) The city officer places on the record the substance of any written or oral *ex parte* communications concerning matter; and
- (2) A public announcement of the content of the communication and of interested parties' rights to rebut or respond to the substance of the communication is made at each hearing where action is considered or taken on the subject to which the communication related.

This prohibition does not preclude a member of an advisory or decision-making body from seeking in a public hearing specific information or data from such parties relative to the decision if both the request and the results are a part of the record. Nor does such prohibition preclude correspondence between a citizen and a member of the advisory or decision-making body if any such correspondence is made a part of the record when it pertains to the subject matter of a quasi-judicial proceeding.

Oral or written communication between an assigned member of the city staff and a member of an advisory or decision-making body within the scope of the assigned staff member's advisory role does not constitute an *ex parte* communication.

If a city officer is unable or unwilling to comply with the above requirements, he or she shall abstain from any action relating to the matter.

Section 12. Preventative judicial remedies. At the discretion of the governing body, the City may pursue in the Saline County district court any injunctive, declaratory, or other judicial relief necessary to prevent the violation of this policy by a city officer or employee.

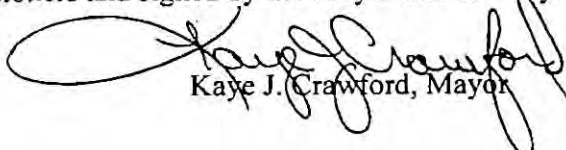
Section 13. City response to actions taken by conflicted employee or upon conflicted vote.

- (a) City employee. Upon discovery of an action taken by a city employee affected by an undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the city manager shall take the action he or she deems to best serve the public interest, with the approval of the governing body when applicable.
- (b) Appointed board member. Upon discovery of an action taken by any of the City's commissions, authorities, boards, or committees affected by a member's undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the acting body shall, after consulting with city staff and legal counsel, take the action it deems to best serve the public interest. The conflicted member who participated in the affected matter shall be disqualified from voting on the remedial action.
- (c) Governing body member. Upon discovery of an action taken by the governing body affected by a member's undisclosed substantial interest, a disqualifying substantial interest or a common-law conflict of interest, the governing body shall take the action it deems to best serve the public interest. The conflicted member who participated in the affected matter shall be disqualified from voting on the remedial action.

Section 14. Consequences of violation for city officer or employee. As described in Section 5.(a)(4) above, the Act imposes specific penalties upon the individual for its violation. Kansas common law does not impose specific penalties upon the individual for actions taken under a common-law conflict of interest. Aside from any consequences under state law, violation of this policy by a city employee may result in disciplinary action under the authority of the city manager. Violation by a board member may result in (a) private notice and warning, (b) private or public censure, or (c) removal from office; at the discretion of the governing body, based upon the nature of the violation. Violation by a member of the governing body will be addressed on a case-by-case basis at the discretion of the other members of the governing body, with the advice of special ethics counsel.


Section 15. This resolution shall be in full force and effect from and after its adoption.

Adopted by the Board of Commissioners and signed by the Mayor this 19th day of June, 2017.


Kaye J. Crawford, Mayor

(SEAL)

ATTEST:



Shandi Wicks, CMC, City Clerk

ATTACHMENT "A" TO RESOLUTION NO. 17-7463

SUMMARY OF KANSAS CASES AND ATTORNEY GENERAL OPINIONS
ADDRESSING WHAT CONSTITUTES A COMMON-LAW CONFLICT OF INTEREST

Kansas appellate court decisions and attorney general opinions indicating what does or does not constitute a common-law conflict of interest are as follows:

Anderson v. City of Parsons, 209 Kan. 337 (1972): A property owner challenged the validity of various proceedings in the development of an urban renewal program in Parsons, Kansas, on the basis of an alleged conflict of interest arising from city commissioners' ownership of property within the general urban renewal area at the time they voted on various resolutions during the progress of the urban renewal program. The court discussed statutory and common-law conflict of interest rules and held that the commissioners would be prohibited from acting on specific urban renewal projects involving property they own, but they would not be prohibited from acting solely on the basis of property ownership within the general urban renewal area designated in the city.

City of Topeka v. Huntoon, 46 Kan. 634 (1891): The Court recognized the common-law rule that public officials are disqualified to vote on propositions in which they have a "direct pecuniary interest adverse" to the public body they represent. However, the court found no such conflict of interest where a city council member voted on the establishment of a sewer district which would include and exclude some of his property.

City of Concordia v. Hagaman, 1 Kan.App. 35 (1895): A city council member was hired by the city to revise, compile, and publish ordinances. The city later refused to pay for the services, on the ground that the contract was void due to the council member's conflict of interest. The court held that the contract was voidable at the option of the city, and stated as follows:

In the absence of a penal prohibitive statute, on grounds of public policy alone, an express contract entered into between the mayor and council of a city of the second class and one who is at the time a councilman of such city, for the performance of services for the city, will not be enforced. Such contract, while not absolutely void, may be avoided by the city, at will, so long as it remains executory.

Kan. Atty. Gen. Op. No. 85-141 (1985): The attorney general opined that common-law conflict of interest principles disqualify a city council member from making or voting on a motion to have the city pay for attorney fees incurred by that council member in a civil action against the city and the councilmember in his or her individual capacity.

Kan. Atty. Gen. Op. No. 01-56 (2001): The attorney general was asked to decide whether certain situations presented a conflict of interest in the context of credentialing or noncredentialing of health care personnel whose application for credentialing would be reviewed by a state technical committee. The attorney general recognized and recited the common-law conflict of interest principles stated in *Anderson*, but stated that a blanket opinion could not be furnished on the issue of whether a conflict of interest was present in the particular situations posed, because additional facts were needed and each situation must be evaluated based on its own circumstances.

ATTACHMENT "B" TO RESOLUTION NO. 17-7463

TABLE OF AUTHORITIES

Consolidated Salina EPN111155

- ¹ K.S.A. 75-4301a, *et seq.*
- ² K.S.A. 75-4301a(b) (defining "business").
- ³ K.S.A. 75-4301a(a)(1-5) (defining "substantial interest").
- ⁴ *See Anderson v. City of Parsons*, 209 Kan. 337, 341, 496 P.2d 1333 (1972); *see also* Kan. Atty. Gen. Op. No. 85-141 (1985) (explaining that if a conflict of interest question does not fall under the scope of the Act, "[i]t is necessary to look to common law principles in resolving [the] question"); Kan. Atty. Gen. Op. No. 85-169 (1985) (same).
- ⁵ K.S.A. 75-4301a(b).
- ⁶ BLACK'S LAW DICTIONARY 276 (6th ed. 1990).
- ⁷ K.S.A. 75-4301a(i).
- ⁸ *Id.* at (g).
- ⁹ BLACK'S LAW DICTIONARY 472 (6th ed. 1990).
- ¹⁰ *Id.* at 576.
- ¹¹ *Id.* at 1131.
- ¹² K.S.A. 75-4301a(j).
- ¹³ *Id.* at (a).
- ¹⁴ BLACK'S LAW DICTIONARY 1245 (6th ed. 1990).
- ¹⁵ K.S.A. 75-4304.
- ¹⁶ K.S.A. 75-4305.
- ¹⁷ K.S.A. 75-4302.
- ¹⁸ K.S.A. 75-4305(a).
- ¹⁹ *Id.* at (b).
- ²⁰ K.S.A. 75-4304(d).
- ²¹ *Anderson*, 209 Kan. at 341.
- ²² *Id.* at 341-342 (citing *United States v. Carter*, 217 U.S. 286, 30 S.Ct. 515 (1910)).
- ²³ *Id.* at 342 (citing *Reilly v. Ozzard*, 33 N.J. 529, 166 A.2d 360 (1960)).
- ²⁴ Kan. Atty. Gen. Op. No. 2001-56 (citing *Wyzykowski v. Rizas*, 626 A.2d 406, 414 (N.J. 1993) quoting Michael A. Pane, *Conflict of Interest: Sometimes a Confusing Maze, Part II, New Jersey Municipalities* at 8, 9 (March 1980)).
- ²⁵ *Id.*
- ²⁶ *Anderson*, 209 Kan. at 341-342; *see also* 67 C.J.S. *Officers and Public Employees* § 347 ("According to some authority, in order to constitute a disqualification, the personal pecuniary interest of the official must be immediate, definite, and capable of demonstration and may not be remote, uncertain, contingent, and speculative.").
- ²⁷ K.S.A. 75-4303a(a).
- ²⁸ *Id.*
- ²⁹ *McPherson Landfill, Inc. v. Board of County Comm'rs*, 274 Kan. 303, 305, 49 P.3d 522 (2002).
- ³⁰ *Id.*
- ³¹ *Id.* at 318.
- ³² *Id.* (quoting *Madison River R.V. Ltd. v. Town of Ennis*, 298 Mont. 91, 94, 994 P.2d 1098 (2000)).
- ³³ *Id.* (quoting *Wagner v. Jackson Cty. Bd. of Zoning Adjustment*, 857 S.W.2d 285, 289 (Mo.App. 1993)).
- ³⁴ *Id.* at 533 (citing *Suburban Medical Center v. Olathe Community Hosp.*, 226 Kan. 320, 331, 597 P.2d 654 (1979)).

CERTIFICATION OF CLERK

I, Gary S. Fees, the duly appointed and qualified City Clerk of Manhattan, Kansas, do hereby certify that the foregoing Resolution was duly adopted at a meeting of the City of Manhattan, Kansas, held on the 21st day of October, 2008, and that said Resolution has been compared by me with the original thereof on file and of record in my office and is a true copy of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City of Manhattan, Kansas, this 22nd day of October, 2008.



A handwritten signature in blue ink, appearing to read "Gary S. Fees", is written over a horizontal line.

Gary S. Fees, MMC, City Clerk

POLICY MANUAL
RESOLUTION NO. 102108-B
CITY OF MANHATTAN, KANSAS

SUBJECT	EFFECTIVE DATE
Code of Ethics	10-21-2008

A. BACKGROUND:

Numerous national and state municipal associations, as well as state and national associations representing elected and appointed officials such as the League of Kansas Municipalities, the National League of Cities, and the International City/County Management Association have advocated for the adoption of a formal ethics policy. It is becoming increasingly typical for cities to have a comprehensive policy that establishes organizational values and guidelines for conduct in addition to those enumerated by state law.

B. PURPOSE:

The purpose of this policy is to establish a Code of Ethics for the City of Manhattan's elected and appointed officials, as well as to grant specific authority, and direction, to the City Manager to establish and maintain a comparable administrative Code of Ethics and relevant administrative policies for the City's employees.

C. POLICY:

1. The City Commission for the City of Manhattan, Kansas, hereby establishes as the basis for its Code of Ethics for Elected and Appointed Officials the following statement of values and guidelines for ethical behavior:

-
- a. The City of Manhattan is a diverse community whose Commission/Manager form of government serves its residents and visitors by providing that which they cannot provide by themselves alone.

As City Commissioners and members of the City's Boards and Committees (collectively hereinafter "City Officials" or "Officials"), we represent the City through daily actions and interactions with the public we serve. In doing so, we are bound by laws, statutes, and regulations. This Code of Ethics is meant not to replace but to supplement those existing guidelines.

This Code of Ethics reflects the values of our community and establishes a foundation of behavior for all elected and appointed officials. These principles provide guidance for reaching decisions which are governed, ultimately, by the dictates of each individual's conscience and his or her commitment to the public good. Each official is responsible for upholding these standards, and, by doing so, for setting an example for others to follow. The responsibility for knowing whether or not a given set of circumstances creates an ethical conflict and for acting appropriately rests solely with the individual.

These five ethical principles are statements designed to reinforce our organizational mission and beliefs about how we should serve our community. The City's elected and appointed officials should aspire to embody these principles in their daily conduct.

- i. **TRANSPARENCY:** *free from pretense or deceit; characterized by visibility or accessibility of appropriately disclosable information, especially concerning business practices; forthcoming*
 - a) Be honest, accurate, and forthright in communication with each other and the public we serve, while still respecting the need to maintain the privacy and confidentiality of information and materials pursuant to the Kansas Open Records Act and other applicable laws.
 - b) Be accessible and dependable in providing clear, concise, and complete information that is appropriate at the time of the request
- ii. **INTEGRITY:** *firm adherence to a strict moral or ethical code; doing the right thing when no one is looking*
 - a) Hold ourselves and each other accountable in carrying out our responsibility to protect the public interest
 - b) Consistently act in ways that merit trust in our abilities and decisions
 - c) Do not allow our personal or private interests to influence our roles as public servants
- iii. **QUALITY:** *producing or providing products or services of high caliber or merit; marked by a concentrated expenditure of involvement, concern, and commitment to excellence*
 - a) Be committed to improving ourselves and our organization through personal growth and professional innovation
 - b) Take pride in our ability to consistently deliver services to our community efficiently and effectively
 - c) Be competent and responsive to the changing needs of our community
- iv. **STEWARDSHIP:** *the careful and responsible management or supervision of something entrusted to one's care*
 - a) Earn and maintain trust by respecting the City's built environment, natural and economic resources
 - b) Focus on a long-term vision in order to protect and promote the greatest public good
 - c) Be compassionate, loyal, and selfless in carrying out our responsibilities as public servants

- v. **FAIRNESS/EQUITY:** *marked by impartiality and honesty; free from self-interest, prejudice or favoritism; justice according to natural law or right*
 - a) Respect those who may not share our background or beliefs and value the benefits that result from considering everyone's opinion
 - b) Treat each other fairly, considering how we would want to be treated

b. These guidelines for ethical behavior are intended to reinforce the preceding ethical principles, to wit:

i. **CONFLICT OF INTEREST:**

- a) Legal Standards pertaining to Conflicts of Interests: Individual City Commissioners and members of City Boards or Committees (collectively hereinafter "City Officials" or "Officials") should not discuss, advocate, or vote on any matter:
 - 1) In violation of either K.S.A. 75-4304 or K.S.A. 75-4305, which are the Kansas Statutes dealing with Conflicts of Interest. All City Officials shall make themselves aware of the provisions of said statutes.
 - 2) Which is of a quasi-judicial nature, such as, but not necessarily limited to, site specific zoning matters, matters before the Board of Zoning Appeals, and matters before the Code Appeals Board, if the City Official determines that factors exist, related to the Official, which would prevent any party to the quasi-judicial matter from receiving a fair and impartial decision.
 - 3) When the City Official determines factors exist, related to the Official, which would prevent the Official from acting in the best interests of the community, as a whole, and, instead would tend to cause the Official to act in their own self interest or the special interests of others to the detriment of the community as a whole.
- b) Promoting Fairness and Transparency/Higher Standards of Conduct Above Legal Conflicts: Even if a City Official's action is in compliance with the provisions of Section a), the Official shall disclose to the public any factors related to the Official, which the Official deems relevant to the concept of fairness in dealing with public business, before discussing, advocating, or voting on any matter.
- c) It shall be the City Official's responsibility and authority, alone, to determine the relevant factors necessary to make the decisions set forth in Sections a) and b). The City Official may request assistance from the City's legal staff, City Manager or his/her designee, other members of the Official's body, or any other person the Official deems appropriate, in reaching his/her decision. In determining such relevant factors, the City Official shall consider all factors they believe a reasonable person in the community would consider.

ii. **ACCEPTANCE OF GIFTS, GRATUITIES OR BENEFITS:**

- a) City Officials should not accept any gift, gratuity or benefit (“gifts”), which a reasonable person would believe is provided to the City Official primarily because of his/her official position, if:
 - 1) The value of the gift exceeds \$25, or the accumulation of the value of gifts from a single donor to the City Official exceeds \$50 in a 12-month period; or
 - 2) a reasonable person would believe it is intended, or is likely, to cause the City Official to act in a preferential manner towards the donor; or
 - 3) a reasonable person would believe the City Official is under an obligation to, or influence of, the donor; or
 - 4) the item consists of cash, or anything easily convertible to cash, such as, but not limited to, entertainment tickets, regardless of the amount or value.
- b) For the purposes of this section, the terms “gift”, “benefit” and “gratuity” shall mean the transfer of cash, goods, or services without reasonable and valuable consideration. The terms shall not include campaign contributions made in compliance with all applicable laws.
- c) It shall be the City Official’s responsibility and authority, alone, to evaluate what a reasonable person in the community would believe in connection with this section.

2. All City Officials shall be responsible for familiarizing themselves with the Code of Ethics during their initial orientation sessions and ensuring they are familiar with any updates to the Code of Ethics, as applicable.

- a.** Commissioners who have questions about the applicability of the Code of Ethics should seek the advice of their fellow Commissioners. Alternately, Commissioners may seek counsel or advice from the City’s legal staff, City Manager, or his/her designee. If, after any such discussion, a Commissioner determines that his or her actions may violate the Code of Ethics, he or she should act accordingly by recusing him or herself from consideration of the matter at hand.

- b. Board or Committee members who have questions about the applicability of the Code of Ethics should seek the advice of their fellow Board or Committee members. Alternately, members may seek counsel or advice from the City's legal staff, City Manager, or his/her designee, through the Board or Committee liaison. If, after any such discussion, a Board or Committee member determines that his or her actions may violate the Code of Ethics, he or she should act accordingly by recusing him or herself from consideration of the matter at hand
3. The City Commission for the City of Manhattan, Kansas, hereby authorizes, and directs, the City Manager to create and maintain a comparable administrative policy governing the ethical conduct of the City's employees (the "Employee Code of Ethics") based on the applicable community values, ethical principles, and guidelines for ethical behavior stated in this policy.

**PASSED BY THE GOVERNING BODY OF THE CITY OF MANHATTAN, KANSAS,
ON THIS 21ST DAY OF OCTOBER, 2008.**



ATTEST:


GARY S. FEES, MMC, CITY CLERK


MARK J. HATESOHL, MAYOR

RESOLUTION NO. 7269

A RESOLUTION OF THE CITY OF LAWRENCE, KANSAS, ADOPTING AN ETHICS POLICY FOR MEMBERS OF THE GOVERNING BODY, APPOINTED OFFICIALS, AND EMPLOYEES OF THE CITY OF LAWRENCE, KANSAS, AND REPEALING RESOLUTION NO. 5403.

WHEREAS, the Governing Body of the City of Lawrence, Kansas, recognizes that the proper working of a representative and democratic government requires that elected officials, appointed officials, and employees of the City be independent, impartial, and responsible to the citizens of Lawrence, that government decision and policy be made appropriately and in accordance with the law, that public office or employment not be used for personal gain, and that the public have confidence in the integrity of its government; and

WHEREAS, in order to accomplish those goals and to promote and to further ethical and professional conduct on the part of elected officials, appointed officials, and employees of the City, the Governing Body hereby adopts the following Ethics and Professional Conduct Policy.

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

SECTION 1. The Governing Body hereby adopts the following as its Ethics and Professional Conduct Policy:

City government exists to provide services to the public. Public acceptance of those services is based on public trust in elected officials, appointed officials, and City employees. Public trust is established through the effective operation of government and appropriate conduct by elected officials, appointed officials, and City employees. To that end, the City strives to foster an organizational culture based on honesty, integrity, professionalism, fairness, and accountability.

The City, through this policy, expects elected officials, appointed officials, and City employees to conduct the City's business fairly, impartially, ethically, and in full compliance with all applicable laws, ordinances, regulations, and policies. The City further expects that all elected officials, appointed officials, and City employees will comport themselves in such a fashion that their conduct will not create or foster questions regarding the City's honesty, integrity, impartiality, and reputation, or that will otherwise cause embarrassment to the City.

Accordingly, no elected official, appointed official, or City employee shall do any of the following:

- (1) Take any action in violation of the United States Constitution, the Kansas Constitution, federal law, federal regulations, state law, state regulations, local ordinance, local regulations, or City policy.
- (2) Give special consideration, treatment, or advantage to any person beyond that which is available to every other person.
- (3) Solicit, accept, or collect any fee, gift, or valuable thing from any person, organization, corporation, or other entity, which is involved directly or indirectly in doing business or seeking to do business with the City. Examples include, but are not limited to gifts of money, gift cards, meals, tickets (or payments for tickets) for banquets, sporting events, or entertainment events, other tangible items, sales discounts, or special sales.

- (a) The foregoing shall not include promotional items of *de minimis* value. Examples include, but are not limited to mugs, hats, t-shirts, pins, books, or other items that might be given to elected officials, appointed officials, or City employees by persons or other entities appearing before or being recognized by the City.
- (4) Use information obtained as an elected official, appointed official, or City employee to advance personal, financial, or other private interests.
- (5) Represent a third party or any entity appearing before any City board, commission, or body upon which the appointed official or City employee currently serves. Elected officials are prohibited from representing a third party or any entity appearing before **any** City board, commission, or body.
- (6) Selling, bartering, or trading with the City, acting as a contractor for the City, making any contract with the City, or acting on any matter for which the elected official, appointed official, or employee would have a conflict of interest in violation of the State's Conflict of Interest laws, codified as amended at K.S.A. 75-4301a, *et seq.*
 - (a) For City employees, the prohibition of acting as a contractor or entering into any contract with the City shall extend for a period of one year, commencing on the date of said employee's separation from the City.
- (7) Appropriating City-owned property for personal use.
- (8) Holding one's self out as acting in behalf of the City, without having such authority or when one is not actually acting within the scope of his or her office or employment.
- (9) Harassing or treating any person differently on the basis of race, sex, religion, color, national origin, age, ancestry, familial status, sexual orientation, disability, or gender identity.
- (10) Retaliating against any person reporting any alleged violation of this policy.

Any City employee determined to be in violation or to have acted in violation of this policy shall be subject to discipline, including the possible termination of employment.

Any appointed official found to be in violation or to have acted in violation of this policy shall be subject to removal from office.

Any elected official found to be in violation or to have acted in violation of this policy shall be subject to censure by the Governing Body and may be subject to those remedies that may be available under State law, including but not limited to recall or ouster.

SECTION 2. Effective January 1, 2019, existing Resolution No. 5403 is hereby repealed in its entirety.

SECTION 3. After adoption by the Governing Body, this Resolution shall be in full force and effect commencing January 1, 2019.

ADOPTED by the Governing Body of the City of Lawrence, Kansas, this ____ day of November, 2018.

APPROVED:

Stuart Boley
Mayor

ATTEST:

Sherri Riedemann
City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler
City Attorney

CHAPTER 2.07. CODE OF ETHICS

Sec. 2.07.010. Purpose.

This Chapter hereby establishes the Code of Ethics for City Officials. The purpose of this Code of Ethics is to establish minimum ethical standards of conduct for elected and appointed officials of the City and to provide procedures for investigating alleged violations of the Code of Ethics. It is intended to prevent unethical behavior, avoid the appearance of impropriety, provide meaningful redress, and encourage transparency.

Government service is a public trust, and those who serve the public as part of its government must perform and discharge their duties consistent with the highest moral principles, serving always the best interests of the City and its citizens. Representative government is based on the consent of the governed, under a system whereby every citizen has a right to expect those who govern or serve in the government to act not for themselves but for the governed as a whole. Because government can act only through its officials and employees, it is ever incumbent upon them to honor the public trust and instill confidence in government by their own integrity and conduct in all official actions.

The provisions of this Code of Ethics will be considered in addition to other legal requirements addressing ethical behavior of elected and appointed officials of the City. If this Code of Ethics and another legal requirement apply to the same behavior in question, the two will be interpreted in harmony if possible, but if not, the more specific legal requirement will govern.

(Ord. No. 52-549, § 1, 9-17-24)

Sec. 2.07.020. Definitions.

- (a) *'Active Member of a Political Party'* means an individual who is being paid to work for a political party or campaign, currently serving as a precinct committee member, or currently serving in county, state or national party leadership.
- (b) *'Advisory Board'* means any board or commission created by the authority of the City and whose members are appointed by the Mayor, City Council, or the City Manager.
- (c) *'Advisory Board Member'* means any member appointed by the Mayor, Council Member, or City Manager to serve on a board or commission created by the authority of the City.
- (d) *'Business Entity'* means any corporation, partnership, proprietorship, trust or joint venture in which either the official or their spouse has a legal or equitable interest exceeding \$5,000 or 5%, whichever is less.
- (e) *'Conflict of Interest'* means a situation in which an official has a substantial interest in an activity which would preclude them from acting in an ethical manner in the execution of their official City duties.
- (f) *'Donor'* means an individual, business, or organization that gives or presents an official with something of value.
- (g) *'Gift'* means anything accepted by a person, whether tangible or intangible, including but not limited to money, goods, services, discounts, gratuities, hospitality, or favors. This does not include campaign contributions which are properly reported.
- (h) *'Official'* means the Mayor, City Council Members, and Advisory Board Members of the City.

-
- (i) *'Patronage'* means an official's act of breaching their official authority to unduly influence the appointment of a person to a City office.
 - (j) *'Relatives'* means spouse, domestic partner, child, mother, father, mother-in-law, father-in-law, sibling, sister-in-law, brother-in-law, grandparent, grandchild, and any other family member living in the same household.

(Ord. No. 52-549, § 2, 9-17-24)

Sec. 2.07.030. Code of ethics.

City officials shall:

- (a) Be dedicated to the ideals of honor and integrity in all public and personal relationships.
- (b) Conduct themselves so as to maintain public confidence in the City and its officials.
- (c) Make it their duty to improve operations and productivity and use time wisely so all citizens know that full value is being received for each tax dollar spent.
- (d) Seek no favors, nor use the prestige of office for private gain, nor use (1) confidential information, (2) information available to you before the City makes it available to the general public, or (3) government equipment or supplies to secure a profit or enhance wealth.
- (e) Ensure that expenditures made by the City are in the interest of the City, for the betterment of the City, and only for appropriate City business, and refrain from actions unreasonably benefitting specific individuals or groups at the expense of the city as a whole.
- (f) Avoid conflicts of interest by refraining from participating in decisions or being involved in transactions in which officials, their relatives, or business entity have an interest. If, for any reason, involvement cannot be avoided, the official must make a full disclosure of association.
- (g) Address constituents' concerns and needs, striving to provide the highest level of service with equity, neither granting special favor nor discriminating against any citizen.
- (h) Work in full cooperation with other officials and employees as they carry out the lawful discharge of their duties, unless prohibited by law or recognized confidentiality of material, to perform the operations of government, and refrain from requesting correction of any municipal code violation beyond the proper process, including but not limited to the fixing of traffic tickets.
- (i) Refrain from assisting or representing the private interests of another before any commission or board, and refrain from unduly influencing City staff on projects benefiting private parties.
- (j) File a yearly report with the City Clerk that includes any gift valued at fifty dollars or more that is intended or has the appearance or effect of influencing the performance of the duties of an official given by a person or group of persons to an official or their relatives, when those who are conferring the gift have an interest in the City or an interest that may be affected by the performance or non-performance of that official.
- (k) Take reasonable steps to inform their relatives about this ordinance and the implications of accepting a gift or gifts from someone with an interest in the City or an interest that may be affected by the performance or non-performance of that official.
- (l) Avoid the appearance of improper influence and refrain from ever receiving, soliciting, or accepting a gift or gifts valued over one hundred fifty dollars from a specific donor over a one-year period ending on December 31, which is intended or has the appearance or effect of influencing the performance of the duties of an official given by a person or group of persons to an official or their relatives, when

those who are conferring the gift have an interest in the City or an interest that may be affected by the performance or non-performance of that official. Any gift not authorized by this subsection may be authorized by the City Council by majority vote in a meeting of the City Council, otherwise such unauthorized gift or gifts must be returned to the donor or transmitted to the City Clerk to be used by the City or to be sold, with the proceeds of such sale deposited into the general fund of the City. The City Clerk shall be notified within seven business days of the receipt of any gift not authorized by this subsection. The following exceptions apply to this subsection:

- (1) An official or their relatives accepting an honor or award presented by an appropriate governmental, professional, or fraternal organization, for the performance of duties. The value of each honor or award shall not exceed one hundred fifty dollars individually.
- (2) The Mayor, City Council Members, or their relatives attending an event or meeting hosted by a nonprofit organization, educational institution or service, government, political or policy-based organization, community development organization, or faith-based organization in which the presence of the official is requested. The official may accept complimentary food and admission to the event or meeting from the organization hosting the event or meeting.
- (m) Refrain from making any promise, private in nature, the performance of which would require an official to act beyond the proper scope of the duties of the office or act in a manner which would or could compromise the integrity of public office.
- (n) Never use any information coming to an official confidentially in the performance of governmental duties as a means for making a private profit or gaining benefit for the official or their relatives.
- (o) Never use City equipment or resources for activities outside of official duties.
- (p) Prohibit the hiring of officials' relatives for full-time or part-time employment in any department in which the official has a direct policy-making or advisory role.
- (q) Refrain from patronage and do not interfere with or express improper interest in the City hiring process.
- (r) Remain impartial in their consideration of the City's business, including the approval of public policies and awarding of contracts. Do not be unduly influenced by family relationships, business interests or religious affiliation in the formulation or adoption of rules, regulations, ordinances, resolutions, or other policy matters.

(Ord. No. 52-549, § 3, 9-17-24)

Sec. 2.07.040. Ethics Board; ethics officer; procedures.

- (a) There is hereby created an Ethics Board.
- (b) The purpose of the Ethics Board shall be to enforce the Code of Ethics.
- (c) The Ethics Board shall have seven members. Each Council Member and the Mayor shall have one appointment, which requires approval by a majority of the Council. The term of membership shall be two years.
- (d) The members of the Ethics Board shall be subject to the requirements of Sections 2.12.010, 2.12.020, and 2.12.030 of the Code of the City of Wichita, except that Section 2.12.010(9) and Sections 2.12.020(4) and (10) of the Code of the City of Wichita shall not apply to the Ethics Board.
- (e) The members of the Ethics Board shall also be subject to the following additional requirements:

-
- (1) May not be a member of the City Council, or the spouse or domestic partner of a member of the City Council.
 - (2) May not be an employee of the City of Wichita or the spouse or domestic partner of an employee of the City of Wichita.
 - (3) May not hold elected public office or be a candidate for any elected public office.
 - (4) May not be an elected or appointed member of any local, state, or national committee of any political party, nor be an active member of a political party or active member of any partisan political club or organization, nor substantially involved (paid or unpaid) with a current or the most recent campaign for City Council or Mayor in the City of Wichita.
 - (5) May not have been convicted of a felony or crime of moral turpitude.
 - (6) Have good moral standing and reputation.
 - (7) Have no conflict of interest including but not limited to owning business entities under or negotiating a contract with, selling goods or services to, or receiving economic development incentives from the City.
 - (8) Be representative of the demographics of the City.
 - (9) Complete a criminal background check prior to City Council approval of appointment.
- (f) There is hereby created the office of Ethics Officer, who shall be engaged and compensated as an independent contractor of the City. The Ethics Officer shall:
- (1) Provide proactive and remedial education to officials as appropriate, provide responses to ethical inquiries made by officials and the public on matters that are not the subject of a pending complaint, conduct investigations into ethics complaints under this Code of Ethics, and facilitate meetings of the Ethics Board.
 - (2) Be qualified with a background in academia, law, or other profession that is focused on public service or ethics.
 - (3) Serve for a term appointment of two years, with the option for reappointment for additional two-year terms.
 - (4) Be selected by City Council after the Ethics Board interviews and selects no less than one, but no more than three names for the City Council to consider. The City Council will then interview or otherwise vet the candidates and select the Ethics Officer by a cumulative rank voting process at the next regularly scheduled meeting following completion of the vetting process. If the City Council determines that none of the candidates are appropriately qualified, the Ethics Board will be asked to select new candidates for consideration.
 - (5) Ensure City staff provide a complete copy of the Code of Ethics prior to a newly elected Council Member taking office or, in the case of Advisory Board members, within thirty days of the member's appointment. Ethics training for these City officials will be included in their orientation process provided by City staff.
 - (6) Ensure periodic training on the Code of Ethics is administered to City officials.
 - (7) Serve as the resource for ethical inquiries made by officials and the public, along with coordination with outside legal counsel as necessary. Opinions issued by the Ethics Officer or outside legal counsel may be appealed to the Ethics Board, which shall be convened for such purpose. The ruling of the Ethics Board in such an appeal shall be final.
- (g) The Ethics Board shall determine alleged violations of the Code of Ethics pursuant to the following procedures:

-
- (1) For consideration by the Ethics Board, an alleged violation of the Code of Ethics must be made in writing using the prescribed form, signed by the complainant(s) under oath and notarized, and filed with the City Clerk. For purposes of this subsection, an electronic submission is considered "in writing." The City Clerk shall date stamp the face of the complaint when received by their office. The Ethics Officer, who may consult with outside legal counsel to the Ethics Board, shall review the complaint and take no further action on any complaint that they determine to be incomplete, frivolous or groundless on its face, or which fails to state a violation of the Code of Ethics. If the Ethics Officer determines the complaint is sufficient, the Ethics Officer shall begin the investigation.
 - (2) When an investigation begins pursuant to this section, the Ethics Officer shall deliver a copy of the complaint to the respondent(s) against whom the complaint is made, and at the same time provide copies of the complaint to the City Manager and all members of the City Council. In the absence of an Ethics Officer, a member of the Ethics Board shall serve in the place of the Ethics Officer for purposes of determining if a complaint is incomplete, frivolous, or groundless on its face, or fails to state a violation. Selection of a member to serve this purpose generally shall occur on a rotating basis beginning with the District 1 appointee and ending with the Mayor's appointee, although exceptions shall be made based on availability and to avoid selecting a member appointed by the City Council Member who is the subject of a complaint.
 - (3) The respondent(s) shall have seven business days from receipt of the complaint in which to file a written response to the complaint with the Ethics Officer. If requested within seven business days, the Ethics Officer may extend to 14 business days if satisfied that good cause was shown. The Ethics Officer and/or outside counsel shall perform an investigation and, when completed, present their findings and legal advice to the Ethics Board in executive session after which the Board shall make decisions and vote in the public meeting.
 - (4) At the conclusion of the investigation, the Ethics Board's written report shall consist of the following items:
 - (i) Summary of complaint.
 - (ii) Scope of investigation.
 - (iii) Summary of facts.
 - (iv) Applicable section(s) of the Code of Ethics involved.
 - (v) The findings of the Ethics Board.
 - (5) This report shall be provided to the complainant(s), the respondent(s), the outside counsel to the Ethics Board, the City Attorney, and the City Council. Within seven business days of the distribution of this report, the complainant(s) or respondent(s) may request additional review by the Ethics Board if there is a dispute on the facts of the complaint or interpretation of the Code of Ethics. At the conclusion of that period of seven business days, if no further review is requested, the findings become final. Any evidence collected during the investigation will be retained for the length of the official's term.
 - (6) Violation of the Code of Ethics by an elected official may result in any of the following, as determined by the Ethics Board:
 - (a) Written report of the board summarizing findings and made available to the public.
 - (b) Required education/training intended to prevent future violation.
 - (c) Fine of no less than \$100 and no more than \$1,000 for each violation to be paid by the elected official from personal funds and not from the City budget.
 - (i) Any fine revenue received shall be designated for ethics education.

-
- (7) Violation of the Code of Ethics by an appointed official may result in any of the following as determined by the Ethics Board:
 - (a) Written report of the board summarizing findings and made available to the public.
 - (b) Required education/training intended to prevent future violation.
 - (c) Recommendation to the City Council to remove the official from their position.
 - (8) Failure to pay the levied fine within 60 days or get required education/training within reasonable timeframe as determined by the Ethics Officer shall result in the Ethics Board (1) reviewing any extenuating circumstances and (2) considering issuance of a public censure. The Ethics Officer shall present any public censure at the next available meeting of the City Council.

(Ord. No. 52-549, § 4, 9-17-24)

Sec. 2.07.050. Whistleblower protection.

The City will not tolerate intimidation, coercion, or discrimination of any kind against officials, employees, or other individuals who voice opposition to unlawful action.

- (a) For purposes of this subsection, 'whistleblower' means a current or former official or employee who discloses information to appropriate City officials or employees that they reasonably believe is evidence of:
 - (1) A violation of any law, ordinance, rule, or regulation; or
 - (2) Mismanagement, a gross waste of funds, or an abuse of authority; or
 - (3) A substantial or specific danger to public health or safety.
- (b) No official or employee who in good faith reports a violation shall suffer harassment, retaliation, or adverse consequences. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. An official who retaliates against someone who has reported a violation in good faith is subject to investigation by the Ethics Board.
- (c) Anyone filing a complaint concerning a violation or suspected violation should act in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations made by an employee or official that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious offense and will be handled accordingly.
- (d) No action will be taken or not taken with respect to any employee or official as a reprisal for being a whistleblower.

(Ord. No. 52-549, § 5, 9-17-24)

Sec. 2.07.060. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

(Ord. No. 52-549, § 6, 9-17-24)

MEMORANDUM

TO: Members of the Citizens Government Review Committee

FROM: Jim Kaup

RE: Identification of code provisions prohibiting governing body interference with the duties of a city manager

DATE: June 3, 2025

At the May 21 meeting the Committee heard testimony of instances where city councilmembers had allegedly involved themselves in administrative matters which are solely within the domain of the city manager. The Committee agreed to review whether, and how, other cities prohibited such involvement.

I reviewed code provisions in Olathe, Lenexa, Emporia and Kansas City. I also looked at the Topeka City Code and the Topeka Governing Body Rules and Procedures.

The following is a summary of what I found, followed by a possible Committee recommendation. I regret I am unable to attend the June 4 meeting where this subject will be discussed.

A. TOPEKA

The Topeka city code has an explicit prohibition against councilmembers “dealing” with officers and employees who are subject to the supervision of the city manager. Sec. A2-28(c) Council Inquiries. While this section does not have a penalty provision there is a “General Penalty” provision in the city code, at 1.10.070 that possibly applies. However, that penalty provision makes any code violation a misdemeanor, with a fine

and/or imprisonment. It is doubtful that anyone wants to treat interference with the duties of the city manager as a misdemeanor, so we turn to the Rules and Procedures document. Unfortunately, that document does not come close to matching the prohibition set out in Sec. A2-28(c), although it could be amended, as noted below, to be the vehicle for enforcement of the prohibition in Sec. A2-28(c).

B. OLATHE

- 1. The materials provided with this memo include the Olathe Code of Ethics. It is unclear whether councilmember interference with the duties of the city manager is an ethics violation.**
- 2. The Code of Ethics, however, does have potentially helpful language for the making of ethics complaints, their investigation and resolution.**

C. LENEXA

- 1. Removal of a governing body member appears to be possible under Section 1-4-A-4.B.**
- 2. Arguably interference with the duties of the city manager could be styled as either “Misconduct” (B.1) or as “Negligence in Performing any Duty...” (B.2).**

D. KANSAS CITY

The closest fit is Sec. 2-61, which I do not think is useful for our consideration so it is not provided here.

E. EMPORIA

I could not identify anything in the Emporia code that addressed a duty to not interfere with the duties of the city manager.

RECOMMENDATION TO THE COMMITTEE

If it is the consensus of the Committee to make a recommendation to the Governing Body to have an enforcement mechanism for Sec. A2-28(c) there are at least two approaches that I would favor.

First is to amend Sec. A2-28(c) to provide that a finding by the city council that it had been violated constitutes misconduct that can result in a "Censure" of that councilmember, with repeated offenses being "Misconduct" that can lead to a "Request for Resignation", or in an extreme case an "Ouster" request to the District Attorney. This would follow the approach of the Olathe Code of Ethics.

An alternative approach would be to amend the Governing Body Rules and Procedures document to address interference with the duties of the city manager, along with steps for complaint initiation, investigation, etc. similar again to the Olathe Code of Ethics.

Finally, I will observe that establishing clear lines of authority and duties between the governing body and the city manager is critical to the success of the city manager form. At present it appears to me that while the City Code clearly sets out those lines, the lack of any enforcement provisions does a disservice to the citizens of Topeka.

Sec. A2-28. Prohibitions.

(a) *Holding other office.* Except as authorized by law, no Councilmember nor Mayor shall hold any other elected public office while serving the term for which the member was elected to the Council. No Councilmember nor Mayor shall hold any other city office or employment during the term for which the member was elected to the Council. No former Councilmember nor Mayor shall hold any compensated appointive city office or employment with the city until one (1) year after the expiration of the term for which the member was elected to the Council. For purposes of this section, the phrase "compensated appointive city office or employment" does not include the offices of district Councilmember or Mayor.

Nothing in this section shall be construed to prohibit the Council from selecting any current or former Councilmembers or the Mayor to represent the city on the governing board of any regional or other intergovernmental agency.

(b) *Appointments and removals.* Neither the Mayor nor individual Councilmembers shall in any manner direct, supervise, or require the appointment, promotion, transfer, assignment, demotion, discipline, layoff, suspension, discharge, or removal of any officers or employees whom the City Manager or any of his or her subordinates are empowered to appoint. The Mayor and Councilmembers may, of course, express their views and fully and freely discuss with the City Manager anything pertaining to appointment, demotion, transfer, assignment, suspension, discharge, and removal of such appointive officers and employees.

(c) *Council inquiries.* Except for the purpose of inquiries and investigations authorized by the Council, the Mayor and individual district Councilmembers shall deal with appointive officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager. Neither the Mayor nor individual district Councilmembers shall give orders to any such appointive officer or employee, either publicly or privately, but may request basic information necessary for Council work. (C.O. 94 § 14, 7-20-04.)

The Topeka Municipal Code is current through Ordinance 20557, passed April 8, 2025.

Disclaimer: The City Clerk's Office has the official version of the Topeka Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.topeka.org

Hosted by General Code.

1.10.070 General penalty – Continuing violations.

- (a) The doing of any of the acts or things prohibited, made unlawful or a misdemeanor, or the failing to do any of the things commanded to be done, as specified and set forth in this code or in any rules and regulations adopted pursuant to this code, within the jurisdictional limits of the City, shall be deemed an offense against the good order, public peace, morals, health, proper government and welfare of the City.
- (b) Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section:
- (1) *Fine*. A fine of not less than \$1.00 or more than \$499.00; or
 - (2) *Imprisonment*. Imprisonment in the City jail for not more than 179 days; or
 - (3) *Both Fine and Imprisonment*. Both fine and imprisonment not to exceed subsections (b)(1) and (b)(2) of this section.
- (c) Each day any violation of this code continues shall constitute a separate offense.
- (d) Any person convicted of violating any of the duties set forth in subsection (a) of this section shall be deemed guilty of a misdemeanor and punished in accordance with subsection (b) of this section. (Code 1981 § 1-5. Code 1995 § 1-7.)

Cross References: Court costs and fees, TMC 2.40.010.

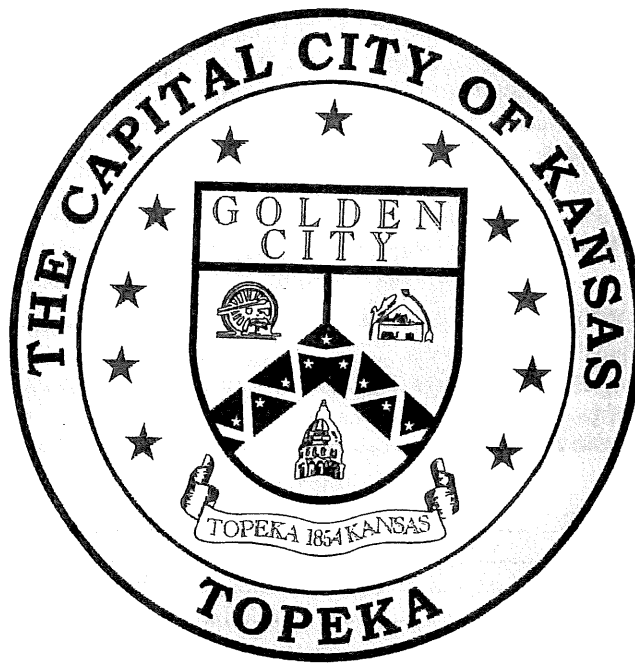
The Topeka Municipal Code is current through Ordinance 20557, passed April 8, 2025.

Disclaimer: The City Clerk's Office has the official version of the Topeka Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.topeka.org

Hosted by General Code.

CITY OF TOPEKA



Governing Body Rules and Procedures

Effective: December 21, 2021

TABLE OF CONTENTS

1. AUTHORITY	1
1.1 Charter.....	1
2. GENERAL RULES	1
2.1 Meetings to be Public	1
2.2 Quorum; Voting.....	1
2.3 Electronic Participation	1
2.4 Record of Proceedings.....	2
2.5 Right of Floor.....	2
2.6 Duties of City Manager Relative to Governing Body.....	2
2.7 Duties of City Attorney Relative to Governing Body.....	3
2.8 Duties of City Clerk Relative to Governing Body	3
2.9 Officers and Employees	3
2.10 Rules of Order	4
2.11 Television Coverage	4
2.12 Seating During Meetings	4
3. TYPES OF MEETINGS; LOCATION	4
3.1 Regular Governing Body Meetings	4
3.2 Special Governing Body Meetings.....	4
3.3 Committee Meetings	5
3.4 Attendance of Media at Meetings	5
4. CHAIR AND DUTIES.....	5
4.1 Chair	5
4.2 Call to Order	5
4.3 Preservation of Order	5
4.4 Point of Order	6
4.5 Questions to be Stated.....	6
5. GOVERNING BODY MEETING AGENDAS.....	6
5.1 Preparation and Circulation.....	6
5.2 Addition and Removal of Items from the Agenda	6
5.3 Agenda Contents	6
5.4 Planning Department Agenda Items	7
5.5 Presentations and Public Comment	7
5.6 Procedure for Addressing the Governing Body	8
5.7 Rules of Decorum	8
5.8 Communication with the Governing Body	9
5.9 Adjournment.....	9
6. RULES OF ORDER.....	9
6.1 Questions Related to Agenda Items	9
6.2 Governing Procedure	9
6.3 Motions.....	9
7. ORDINANCES AND RESOLUTIONS	11
7.1 Preparation	11

7.2	Input from the Governing Body	12
7.3	Consideration	12
7.4	Numbering	12
8.	COMMITTEES	12
8.1	Purpose	12
8.2	Standing Committees	12
8.3	Special Committees	13
8.4	Duties and Powers of Committees	13
8.5	Procedure for Committee Items	14
8.6	Meeting Participation; Attendance	15
8.7	Meeting Times	15
8.8	Agenda Preparation	15
8.9	Minutes	15
8.10	Public Comment	16
8.11	Expenses	16
8.12	Rules Applicable	16
8.13	Television Coverage	16
9.	SUSPENSION AND AMENDMENT OF RULES.....	16
9.1	Suspension of These Rules	16
9.2	Amendment of These Rules	16

1.18.010 Code of Ethics.

(A) The purpose of the Code of Ethics is to ensure that the governing body, appointed officials, employees, and volunteers are aware that they must behave in a way that instills confidence in the integrity of the government. The proper operation of government requires that the governing body, appointed officials, employees, and volunteers are impartial and do not use their positions for personal gain.

(B) The governing body, appointed officials, employees, and volunteers of the City of Olathe will:

- (1) Conduct themselves with honor and integrity.
- (2) Maintain public confidence in the performance of their duties.
- (3) Use time wisely to maximize the value so that the public receive full value for each tax dollar spent.
- (4) Seek no favors, nor use the position for private gain, nor use confidential information or government equipment or supplies to secure a profit or enhance wealth.
- (5) Ensure that all City expenditures are in the interest of the City and only for appropriate City business.
- (6) Refrain from participating in decisions or being involved in transactions in which they or their family members have an interest and make full disclosures of potential conflict of interests when involvement cannot be avoided.
- (7) Address public concerns and needs, striving to provide the highest level of service with equity, without favoritism or discrimination.
- (8) Cooperate with the governing body, appointed officials, employees, and volunteers to perform the operations of government without violating any ordinances or laws by encroaching upon the powers, functions, and duties of any member of the governing body, appointed official, employee, or volunteer as provided by law.
- (9) Refrain from representing or advocating for any private interests before any commission, board, council, or agency of the City when they have any official City decision-making duties related to the private interest.
- (10) Not solicit or accept gifts, favors or anything of value for themselves, family members, or others, which is intended or may have the appearance or effect of influencing the performance of official duties; and not lobby or attempt to influence the governing body, appointed officials, employees, and volunteers in the performance of their duties by any means which are not a part of the official's, employee's, or volunteer's authorized duties. This provision does not apply to (1) an award publicly presented in recognition of public service, (2) gifts conferred on account of kinship or other personal, professional, or business relationships independent of the official status of the receiver, (3) gifts of trivial monetary value involving no substantial risk of undermining official impartiality. A gift which is a meal, any food or beverage items intended to be

consumed by the recipient, or which has a monetary value of less than one hundred dollars (\$100.00) is presumed to be of trivial monetary value.

(C) The governing body, appointed officials, and employees may be offered honorariums because of speaking engagements or conducting seminars. A reasonable fee for time spent in preparation or participation may be accepted if the City is not also compensating the official or employee for such time. If the City is paying the official or employee for the time, then the honorarium must be rejected.

(D) Any gift not authorized by this section must be returned to the donor or transmitted to the City Treasurer or turned over to the City to be used by the City or to be sold, with the proceeds of such sale deposited into the general fund of the City. The City Treasurer for the City shall be notified within seven (7) days of the receipt of any gift not authorized by this subsection. (Ord. 21-34 § 1, 2021.)

The Olathe Municipal Code is current through Ordinance 25-06, passed February 4, 2025.

Disclaimer: The City Clerk's Office has the official version of the Olathe Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.olatheks.org

Hosted by General Code.

1.18.020 Code of Ethics – Definitions and Applicability.

(A) For the purposes of this chapter, unless the context requires otherwise:

- (1) "Governing body" means the City Council and Mayor, as described in Charter Ordinance 76, and any amendments thereto.
- (2) "Appointed official" means a member of an "appointive body" as described in City Council Policy CC-5, and any amendments thereto.
- (3) "Employee" means any person who works for the City for compensation.
- (4) "Volunteer" means a person who works for the City without compensation and is not an appointed official as defined in this section.

(B) Allegations of a violation of Section 1.18.010, and any amendments thereto, against a member of the governing body, any appointed officials, the City Manager, the City Auditor, or a municipal judge will be investigated in the manner described in Section 1.18.030, and any amendments thereto.

(C) Allegations of a violation of Section 1.18.010, and any amendments thereto against any City employee or volunteer will be investigated by the City Manager or designee in accordance with the City of Olathe Employee Handbook. (Ord. 21-34 § 2, 2021.)

The Olathe Municipal Code is current through Ordinance 25-06, passed February 4, 2025.

Disclaimer: The City Clerk's Office has the official version of the Olathe Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.olatheks.org

Hosted by General Code.

1.18.030 Governing Body Procedure.

The governing body must dispose of any allegation of an ethics violation against a member of the governing body, appointed official, the City Manager, the City Auditor, or a municipal judge. In all cases, due process rights of any complainant and anyone accused of an ethics violation will be respected.

(A) Any allegation of an ethics violation against the governing body, appointed official, the City Manager, the City Auditor, or a municipal judge must be submitted in writing as a formal complaint to the attention of the City Attorney. Such complaint must be accompanied by a signed and notarized affidavit that the complainant is making their complaint under penalty of perjury as provided in K.S.A. 53-601, and any amendments thereto.

(B) The City Attorney must stamp the complaint with the date on which it is received. The City Attorney must provide a copy of the complaint to the person against whom the complaint is made, and at the same time provide a copy of the complaint to the City Manager and each member of the governing body. If the complaint is made against a member of the governing body, such governing body member must recuse themselves from voting on any actions of the governing body pertaining to such complaint.

(C) The members of the governing body (who are not recused) must individually review the complaint prior to the next Council meeting. If the complaint is frivolous or groundless on its face, or if it fails to state a complaint of an ethics violation under this chapter, the governing body may dismiss the complaint and direct the City Attorney to notify the complainant of such dismissal in writing.

(D) If the governing body does not dismiss the complaint, the person against whom the complaint is made will have seven (7) days to provide to the City Attorney a written response to the complaint.

(E) At the next regularly scheduled governing body meeting after the response is received, the City Attorney must provide the complaint and response, if any, to the governing body. The governing body, by majority vote, must: (1) dismiss the complaint; (2) determine that further investigation of the complaint is necessary; or (3) take such action as governing body determines appropriate.

(F) If the governing body determines that further investigation is necessary, the governing body will direct the City Attorney to solicit proposals from attorneys or law firms with relevant investigatory experience to be considered by the governing body to be appointed as an investigator into the complaint. All such proposals must include (1) a summary of relevant investigatory experience, (2) the requested compensation per hour for all persons involved in the investigation, and (3) the approximate time to conduct the investigation. At the next regularly scheduled governing body meeting, the City Attorney must provide a list of all proposals received so that they may be considered by the governing body for appointment as the investigator. The governing body will review the proposals, then appoint an investigator based on the proposal deemed at the sole discretion of the governing body to be the most qualified proposer. More than one (1) investigator may be hired by the governing body to conduct the investigation. The governing body may also direct the City Attorney to provide additional parameters than described herein for the investigator to conduct the investigation and report the findings of the investigation back to the governing body as the governing body deems appropriate, including, but not limited to,

engaging a third-party reviewer to review the investigator's report and make recommendations to the governing body based upon such report.

(G) The investigator will conduct a personal interview with the complainant to determine the facts and issues involved. After the complainant interview, the investigator will conduct a personal interview with the person who is the subject of the complaint. The investigator may interview other individuals if the investigator determines it is necessary. The City Attorney must provide the investigator access to all City records which are relevant to the investigation except for any confidential records. Both the complainant and the subject of the complaint will be allowed to review all written documents submitted by the other party, including all City records requested and provided by the City to the investigator which are relevant to the investigation. The subject of the complaint will be given the opportunity to respond, in writing, to all allegations made by the complainant. The investigator must complete the investigation within four (4) weeks of the date the governing body hired the investigator.

(H) The investigator must provide a written report to the governing body at the conclusion of the investigation. The report must include, but not be limited to:

- (1) A summary of the complaint;
- (2) An explanation of the scope of the investigation;
- (3) A description of information which was relevant to the investigation;
- (4) A description of any information requested during the investigation which was not obtained (if any), and the reasons for the inability to obtain such information;
- (5) A statement of findings of fact;
- (6) A list of all applicable section(s) of the Code of Ethics and all applicable law involved, if any; and
- (7) Recommendations on whether a violation of the Code of Ethics occurred.

(I) After the governing body reviews the written report of the investigator, the governing body may take any one (1) or a combination of the following actions regarding the investigation:

- (1) In the case of the City Manager, the City Auditor, or a municipal judge, the governing body may:
 - (a) Take no action;
 - (b) Declare that there was no violation of the Code of Ethics;
 - (c) Publicly reprimand or censure;
 - (d) Request resignation; or
 - (e) Remove the official from office.
- (2) In the case of a member of the governing body, the governing body may:

- (a) Take no action;
- (b) Declare that there was no violation of the Code of Ethics;
- (c) Publicly reprimand or censure;
- (d) Request resignation; or
- (e) Refer the matter to the Attorney General or Johnson County District Attorney for ouster proceedings in accordance with K.S.A. 60-1206, and any amendments thereto.

Actions in subsections (l)(1)(b) through (l)(1)(e) and (l)(2)(b) through (l)(2)(e) must be taken by passing an ordinance in accordance with K.S.A. 12-3002, and any amendments thereto. (Ord. 21-34 § 3, 2021.)

The Olathe Municipal Code is current through Ordinance 25-06, passed February 4, 2025.

Disclaimer: The City Clerk's Office has the official version of the Olathe Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: www.olatheks.org

Hosted by General Code.

TITLE 1 ADMINISTRATIVE

CHAPTER 1-4 CITY COUNCIL

Article 1-4-A AUTHORITY

Section 1-4-A-4 REMOVAL OF ANY BOARD OR COMMISSION MEMBER.

- A. Members of any board or commission shall be removed by the Mayor without City Council consent for any of the following reasons:
 - 1. Absence from three (3) consecutive regularly scheduled meetings at which votes can be taken of the full board, committee, subcommittee or commission which the member is assigned.
 - 2. Absence during any twelve (12) month period of more than one-third 1/3 of all regularly scheduled meetings at which a vote can be taken of the board or commission.
 - 3. Noncompletion of the orientation provided for the specific board, committee, subcommittee or commission.
- B. Any alleged violation of the following provisions by a member shall cause the matter to be set upon the agenda of the City Council meeting for discussion and debate with an opportunity for the member to be present and to be heard. Removal of the member shall require the vote of the majority of the City Council members elect:
 - 1. Misconduct in office.
 - 2. Negligence in performing any duty assigned to them by law.
 - 3. Committing an act constituting a violation of any penal statute involving moral turpitude.
 - 4. Violation of any of the provisions of the Lenexa Code of Ethics Ordinance.*

See Article 1-6-H of this Title.

TITLE 1 ADMINISTRATIVE

CHAPTER 1-6 CITY OFFICIALS AND EMPLOYEES

Article 1-6-H CONFLICT OF INTEREST

Section 1-6-H-1 CONFLICT OF INTEREST.

K.S.A. 75-4301a through 75-4306 (Supp. 2017, as amended) sets forth the governmental ethics requirements of the Kansas Conflict of Interest Act (the "Act") applicable to local government. All Governing Body members, appointed officials and City employees are responsible for complying with the Act as may be amended from time to time.

Section 1-6-H-2 DISCLOSURE OF SUBSTANTIAL INTEREST.

A. Elected Officials and Candidates for Elected Office.

1. All members of the Governing Body and all candidates for Mayor or City Council shall comply with State law and file a statement of substantial interest as defined by K.S.A. 75-4301a(a) on or before the dates established by K.S.A. 75-4302a(b).
2. The statement of substantial interest shall be filed on the form maintained by the Johnson County Election Commissioner and also available on the Johnson County Election Office website and shall be filed in the office where the declaration of candidacy was made or if appointed, where the predecessor filed for office, or as otherwise provided by State law.

B. Appointed Officials.

1. Any appointed official to a City Board or Commission who is not required to file a statement of substantial interest shall, before acting upon any matter which will affect any business in which the appointed official has a substantial interest, file a written report of the nature of the interest with the Johnson County Election Office.
2. An appointed official does not pass or act upon any matter if the appointed official abstains from any action in regard to the matter.

C. City Employees.

1. Any City employee who is in a position to exercise power or authority to act on a matter who is not required to file a statement of substantial interest shall, before acting upon any matter which will affect any business in which the City employee has a substantial interest, file a written report of the nature of the interest with the Johnson County Election Office.
2. A City employee does not pass or act upon any matter if the City employee abstains from any action in regard to the matter.

Section 1-6-H-3 SUBSTANTIAL INTEREST IN CONTRACTS OR OTHER MATTERS.

- A. Substantial Interest in Contracts. For purposes of this Code Section, a "contract" means an agreement including, but not limited to, sales and conveyances of real and personal property and agreements for the performance of services.
1. No Governing Body member, appointed official or City employee having the power or duty to perform an official act or action related to a contract which is or may be the subject of an official act or action of the City shall:
 - a. make or participate in the making of a contract with any person or business in which the Governing Body member, appointed official or City employee is employed or in whose business the Governing Body member, appointed official or City employee has a substantial interest.
 - b. enter into any contract where any Governing Body member, appointed official or City employee is a signatory to or a participant in the making of a contract with a business the Governing Body member, appointed official or City employee is employed by or has a substantial interest in.
 2. The Governing Body member, appointed official or City employee does not make or participate in the making of a contract if the Governing Body member, appointed official or City employee abstains from any action in regards to the contract. Any Governing Body member or appointed official abstaining shall, upon realization of such conflict, as soon as reasonably possible, state that he or she has a conflict, leave the room until all discussion and action on the transaction has concluded and direct any recording secretary to reflect such abstention and departure from the proceedings. If the item is on the consent agenda and there is no discussion, the Governing Body member or appointed official may remain in the room but abstain from voting.
 3. Violation of this Code Section shall:
 - a. Constitute cause to cancel any contract, cease negotiations on any contract, or allow the City to rescind or otherwise modify any previous action taken on a contract based upon any such violation;
 - b. Constitute a Class B misdemeanor as provided in K.S.A. 75-4306; and
 - c. Subject to the Governing Body member, appointed official or City employee to forfeit their office as provided in K.S.A. 75-4304.
 4. This Code Section 1-6-H-3 shall not apply to the following:
 - a. Contracts let after competitive bidding has been advertised for by published notice; and
 - b. Contracts for property or services for which the price or rate is fixed by law.
- B. Substantial Interest in Other Matters.
1. In addition to action regarding contracts, any Governing Body member, appointed official or City employee who has not filed a disclosure of substantial interest before acting upon any other matter which will affect any business in which the Governing Body member, appointed official or City employee has a substantial interest, must file a written report of the nature of the interest with the Johnson County Election Officer.
 2. A Governing Body member, appointed official or City employee does not pass or act upon any matter if the Governing Body member, appointed official or City employee abstains from any action in regard to that matter.
 3. Violations of this Code Section shall constitute a Class B misdemeanor as provided in K.S.A. 75-4306. Violations of this Code Section by an appointed official shall be grounds for removal from their position by a majority vote of the Governing Body. Violations of this Code Section by an employee may result in disciplinary action, up to and including termination.

- C. Advisory Opinions and Interpretation. Governing Body members, appointed officials or City employees subect to these provisions, or any person who has filed as a candidate for City office may submit a written request for an advisory opinion from the Kansas Governmental Ethics Commission regarding interpretation or application of the Act as provided in K.S.A. 75-4303a. Such requests are filed with the Kansas Secretary of State who shall notify the Kansas Governmental Ethics Commission. Any person who requests and receives an advisory opinion and who acts in accordance with its provisions shall be presumed to have complied with the provisions of the law.
- D. Enforcement.
1. Governing Body members, appointed officials and City employees are solely responsible for knowing whether or not they have a conflict of interest and taking action to disclose or abstain from acting upon any contract or matter in which they have a substantial interest as defined in K.S.A. 75-4301a.
 2. Any alleged violation should be brought to the attention of the Governing Body by a written complaint signed by the complainant. The Governing Body shall (a) consider the complaint; (b) direct the City Attorney to consider or investigate the complaint and present his findings to the Governing Body; or (c) refer the complaint to the Kansas Governmental Ethics Commission.
 3. The Kansas Governmental Ethics Commission is responsible for enforcement of the Act and may adopt administrative rules and regulations therefore. Complaints regarding alleged violations of the Act may also be filed directly with the Kansas Governmental Ethics Commission as provided by law.