

TITLE 2

ADMINISTRATION AND PERSONNEL

CHAPTERS:

- 2.08 City Emergency Operation Act
- 2.12 City Manager
- 2.14 Employee Severance Agreements
- 2.16 Municipal Court
- 2.18 Alcohol and Drug Safety Action Program
- 2.20 Oaths and Bonds
- 2.24 Municipal Organization and Personnel Service
- 2.28 Law Enforcement Agreement
- 2.32 Planning Commission
- 2.36 Library Board
- 2.40 Parks and Recreation Leadership Advisory Board
- 2.44 Human Relations Commission
- 2.48 Public Building Commission
- 2.52 Housing Authority
- 2.56 Police Department
- 2.60 Emergency Medical Services
- 2.62 Energy Advisory Board
- 2.64 Mahaffie Farmstead Advisory Board
- 2.66 Open Public Records
- 2.68 Sister Cities Committee
- 2.70 Audit Committee
- 2.72 Community Image Committee
- 2.74 Board of Code Review
- 2.76 Cable Television Advisory Committee
- 2.78 Citizen's Police Advisory Council
- 2.80 Property Maintenance Appeal Board
- 2.82 Public Art and Culture Commission
- 2.84 Historic Preservation
- 2.86 Land Bank

CHAPTER 2.08. Formerly known as "Emergency Government." Repealed 4/16/96. (Prior Code § 1-1001 thru 1-1005)

CHAPTER 2.08

CITY EMERGENCY OPERATION ACT

Sections:

2.08.010	Title.
2.08.020	Definitions.
2.08.030	Emergency Operations Plan Established.
2.08.040	Emergency Management Director.
2.08.050	State of Local Emergency Disaster.
2.08.060	Assistance Request.
2.08.070	Public Responsibility.
2.08.080	Use of Property.
2.08.090	Powers and Immunities of Emergency Personnel.
2.08.100	Curfew.
2.08.110	Powers of Mayor and City Manager.
2.08.120	Dangerous Structures.
2.08.130	Minor Disasters.
2.08.140	Emergency Operations Plan.
2.08.150	Agreements with County.
2.08.160	Agreements with State.
2.08.165	Extraterritorial Assistance.
2.08.170	Acceptance of Support.
2.08.180	Liability.
2.08.190	Vacancies.
2.08.200	Judicial Vacancy.
2.08.210	Emergency Location of Government.
2.08.220	Violation and Penalties.

2.08.010 Title. This Act shall be known as the "City Emergency Operation Act". (Ord. 96-33 § 2, 1996.)

2.08.020 Definitions. As used in this Ordinance, unless the context otherwise requires:

(a) "City" means the City of Olathe, Kansas.

(b) "City Emergency Operation Plan" means all disaster emergency plans developed and promulgated by the City Manager and the Emergency Management Director pursuant to K.S.A. 48-929, and amendments thereto. "Emergency Operation Plan" shall be equivalent to the term of "Emergency Management" as set out under K.S.A. 48-904 et. seq.

(c) "County" means the Board of County Commissioners of Johnson County, Kansas.

(d) "Curfew" is hereby defined as prohibiting any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises during the hours in which a curfew has been imposed, excepting persons officially designated to duty with reference to said state of local disaster emergency.

(e) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, heat wave, wind, tornado, storm, epidemics, air pollution, utility line breakage, contamination, drought, infestation, explosion, train or truck accident, explosion, nuclear weapons attack, terrorist attack, riot, or major event resulting to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(f) "Emergency Operation" means the preparation for and the carrying out of all emergency functions, which are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters.

(g) "Riot" is characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute such force by five or more persons acting together without authority of law. (Ord. 96-33 § 2, 1996.)

2.08.030 Emergency Operation Plan Established. There is hereby established in the City of Olathe, Kansas, an Emergency Operations Plan for the purpose of coordinating the mitigation of, preparedness for, response to and recovery from disasters. When applicable, the plan would comply with the United States Department of Homeland Security National Incident Management System (NIMS). (Ord. 05-40 § 1, 2005; Ord. 96-33 § 2, 1996.)

2.08.040 Emergency Management Director. The City Manager shall appoint an Emergency Management Director to take charge of the Emergency Operations Plan and the Director is hereby delegated sufficient authority to effect coordination and accomplish all actions required incidental to the functions and duties as set out by state law and by any Emergency Operations Plan promulgated by the City Manager. (05-40 § 2, 2005; Ord. 96-33 § 2, 1996.)

2.08.050 State of Local Disaster. A state of local disaster emergency may be declared by the Mayor upon a finding by such officer that a disaster has occurred or the threat thereof is imminent within the City. No state of local disaster emergency shall be continued for a period in excess of seven (7) days, or renewed, except with the consent of the City Council of the City. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be filed promptly with the city clerk. In the event of the absence of the Mayor from the City or the incapacity of the Mayor, the order of succession is as follows, the Mayor Pro-Tem, any three members of the City Council, the City Manger, the Emergency Management Director shall have the authority to declare a state of local disaster emergency and act with the authority of the Mayor under this Ordinance. In the event of the absence of the City Manager, the order of succession shall be set out in the Emergency Operation Plan. (Ord. 96-33 § 2, 1996.)

2.08.060 Assistance Request. The Mayor and/or City Manager shall have the authority to contact and request the County and/or the Director of the Johnson County Emergency Management and Homeland Security to provide assistance to the City during the course of the disaster. (05-40 § 3, 2005; Ord. 96-33 § 2, 1996.)

2.08.070 Public Responsibility. Each person within the City shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the City and the Public successfully to meet disasters. This obligation includes appropriate personal service and use or restriction on the use of property during a declared state of local disaster emergency. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this section are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation. (Ord. 96-33 § 2, 1996.)

2.08.080 Use of Property. Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster and its use or destruction was ordered by an official of the City agency. Any person claiming compensation for the use, damage, loss or destruction of property under this Ordinance shall file a claim with the city clerk. Nothing in this section applies to or authorizes compensation for the destruction or damage of property caused by the local disaster, or removal of any buildings or structures rendered unsafe or dangerous by the disaster, or any actions by City employees necessary to protect the public safety, health and welfare. (Ord. 96-33 § 2, 1996.)

2.08.090 Powers and Immunities of Emergency Personnel. Pursuant to K.S.A. 48-934, and any amendment thereof, law enforcement officers, city employees, employees of other cities or county, or other persons authorized to assist them, while engaged in maintaining or restoring the public peace or safety or in the protection of life or property during a state of local disaster emergency shall have all powers, duties,

and immunities of peace officers of the state of Kansas in addition to all powers, duties, immunities now otherwise provided by law and shall be immune from civil and criminal liability for acts reasonably done by them in the performance of their duties so long as they act without malice and without the use of excessive or unreasonable force. All such personnel shall have the authority to enforce any and all ordinances of the City, and for such purpose, all such personnel shall be considered to be authorized officers of such City. (Ord. 96-33 § 2, 1996.)

2.08.100 Curfew. During the state of local disaster emergency, the Mayor may order a general curfew applicable to such geographical areas of the City or to the City as a whole, as deemed advisable and applicable during such hours of the day or night as deemed necessary in the interest of the public safety and welfare. (Ord. 96-33 § 2, 1996.)

2.08.110 Powers of Mayor and City Manager. During any state of disaster emergency declared under this Act, the City Manager shall be commander of all forces available for emergency duty and shall delegate or assign command authority pursuant to the Emergency Operations Plan.

(a) The Mayor may in the interest of public safety and welfare make any or all of the following orders or actions:

- (1) Order the discontinuance of the sale of beer or liquor by any establishment in the City.
- (2) Order the discontinuance of selling, distributing, transporting, or giving away gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (3) Order that no person shall possess, transport, or consume any alcoholic beverages in a public street or place which is publicly owned or in any motor vehicle driven or parked thereon which is within a duly designated restricted area.
- (4) Order that no person shall carry or possess any rock, bottle, club, brick, explosive, combustibles, or weapon, who uses or intends to use the same unlawfully against the person or property of another.
- (5) Order that no person shall make, carry, possess, or use any type of "Molotov Cocktail," gasoline or petroleum-base fire bomb or other incendiary missile.
- (6) Order law enforcement officer or City employee to confiscate any items, including alcoholic beverages, firearms, explosives, weapons, and combustibles, which other orders prohibits possession thereof.
- (7) Order suspension of the quorum requirement under K.S.A. 12-3002 and Charter Ordinance No. 28 needed to hold a City Council meeting due to the unavailability or death of any member(s) of the City Council after a good faith effort to find such member(s).
- (8) Issue such other orders as are imminently necessary for the protection of life and property.

(b) The City Manager may in the interest of public safety and welfare make any or all of the following orders or actions:

- (1) Direct and compel the evacuation of all or part of the population from any area of the City stricken or threatened by a disaster, if the City Manager deems this action necessary for the preservation of life or other disaster mitigation, response or recovery.
- (2) Prescribe routes, modes of transportation and destinations in connection with such evacuation.
- (3) Control ingress and egress to and from a disaster area, the movement of persons within the area and the occupancy of premise therein.
- (4) Order that no person shall enter any area designated by City Manager as a restricted area unless in the performance of official duties or with written permission from any City employee or such person shall prove residence therein.

(5) Order the suspension of the confinement time period for animals picked up by City employees in order for the animals to be destroyed immediately if the capacity of the City animal shelter is full and said animals shall be destroyed in a humane fashion and to order animals, if found to be roaming in pack of four or more in the City, to be destroyed immediately and in any manner based upon the law enforcement officer's discretion.

(6) Order suspension of any or all provisions of any rule, resolution, or ordinance necessary for the immediate and effective response of City and/or City employees to the local disaster emergency, including the right to acquire needed supplies and equipment by any means necessary provided that compensation shall be paid under Section Eight hereof.

(7) Transfer the supervision, personnel or functions of the City departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.

(8) Commandeer or utilize any private property if the City Manager finds such action necessary to cope with the disaster, subject to any applicable requirements for compensation.

(9) Issue such other orders as are imminently necessary for the protection of life and property.

The City Council, through the majority of the remaining members, may rescind or amend any order issued by the Mayor and/or City Manager at any time under this section.” (05-40 § 4, 2005; Ord. 96-33 § 2, 1996.)

2.08.120 Dangerous Structures. Where necessary to protect against escaping dangerous gases, explosion, unsafe buildings or structures, or other unsafe or dangerous physical conditions, designated City employees, including but not limited to law enforcement officers, fire fighters and code enforcement officers may order the evacuation of any part of the City or of any structures in the City. Any area or structure to be evacuated shall be a restricted area, which no person, other than authorized City employees, shall be permitted to enter. The Code Enforcement Officer shall have the authority to order any unsafe or dangerous structure or building to be taken down or repaired without delay and such action may be taken without prior notice to or hearing of the owners, agents, lien holders, and occupants pursuant to Section 15.36.050. (Ord. 96-33 § 2, 1996.)

2.08.130 Minor Disasters. In the event that a minor disaster of a local nature, including accidents or major disturbance, has occurred and a state of local disaster emergency is not declared, the City Manager, Emergency Management Director, Director of Code Enforcement, Police Chief or Fire Chief and city employees acting under the authority of the department heads shall have the authority to take reasonable steps whatsoever, including evacuation and/or restriction to the designated area, necessary to protect the public safety, health and welfare or to protect any individual located within the area of the disaster. (Ord. 96-33 § 2, 1996.)

2.08.140 Emergency Operations Plan. The City Manager is hereby authorized to adopt and promulgate the City Emergency Operations Plan establishing policies, guidelines, and procedures to provide City employees with information and equipment to function quickly and effectively in disaster situations. Said plan shall include operation of an Emergency Operations Center and any other function necessary to meet any potential disaster. Said plan shall be approved pursuant to K.S.A. 48-929 and be on file at the City Manager’s Office for public review. (05-40 § 5, 2005; Ord. 96-33 § 2, 1996.)

2.08.150 Agreements with County. The Mayor and/or City Manager is hereby authorized to enter into any agreement with the County and/or other Cities in the County to provide or receive assistance of city and/or county employees or equipment needed to meet any disaster in the City or in the County. Any other city or county providing assistance of its employees and/or equipment to the City during the state of local disaster emergency shall be entitled to the same authority and immunity as its own employees under city ordinance or state law. (Ord. 96-33 § 2, 1996.)

2.08.160 Agreements with State. Pursuant to K.S.A. 48-914, the Mayor and/or City Manager may enter into a contract on behalf of the City for the lease or loan with the State as he or she may deem necessary to promote the public welfare and protect the interests of the City of any real or personal property of the City or State or under the jurisdiction or control of the City or State, or the temporary transfer or employment of personnel of the state government. The Mayor and/or City Manager is authorized to enter in to such contract or lease with the State or accept any such loan or employ such personnel, and the City may equip, maintain, utilize and operate any such property and employ necessary personnel therefor in accordance with the purposes of which such contract is executed and do all things and perform any and all acts which he or she may deem necessary to effectuate the purpose for which such contract was entered into under the provisions of this Ordinance. (Ord. 96-33 § 2, 1996.)

2.08.165 Extraterritorial Assistance. In the event of a disaster when there is a request for assistance in territory outside the City limits of Olathe, including outside the State of Kansas, the City Manager, or his or her designee, may authorize the City to provide assistance as may be allowed under the authority granted the City by K.S.A. 12-16, 117, with all the privileges and immunities provided therein. Assistance may include any form of City service including, but not limited to, police, fire, emergency medical services, public works, administrative and clerical.

The City will only provide assistance if it can do so without unduly jeopardizing the protection of its own community.

Nothing in this section is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into those agreements in the future. (05-40 § 6, 2005; Ord. 96-33 § 2, 1996.)

2.08.170 Acceptance of Support. Whenever the Federal or State government or any agency or officer thereof or any person, firm or corporation offers to the City, services, equipment, supplies, materials or funds by way of gift, grant or loan, for the purposes of emergency management, the City acting through the Mayor and/or City Manager, may accept such offer and upon acceptance, the Mayor and/or City Manager may authorize any employee of the City to receive such services, equipment, supplies, materials, or funds on behalf of the City and subject to the terms of the offer and rules and regulations, if any of the agency making the offer (K.S.A. 48-916). (Ord. 96-33 § 2, 1996.)

2.08.180 Liability. Pursuant to K.S.A. 48-915, and any amendment thereof, neither the City, its employees, members of the City Council, employees from other cities or county, or volunteers, shall be liable for personal injury or property damage sustained by any person appointed or acting as a volunteer worker, or any City employees engaged in emergency operations activities. The foregoing shall not affect the right of any person to receive benefits or compensation to which he or she might otherwise be entitled under the workmen's compensation law or any pension law or any act of congress. Upon a declaration of a local disaster emergency, neither the City nor, except in cases of willful misconduct, gross negligence or bad faith, the employees, agents of the City nor any volunteer workers, or employees from other cities or counties, complying with or reasonably attempting to comply with this act, or any proclamation, order, rules, regulations or the Emergency Operations Plan adopted pursuant to the provisions of this Ordinance relating to blackout or other precautionary measures enacted by the City, shall be liable for the death of or injury to persons, or for damages to property, as a result of any such activity performed during the existence of such state of local disaster emergency. (Ord. 96-33 § 2, 1996.)

2.08.190 Vacancies. Pursuant to K.S.A. 48-1201, et seq., should any vacancy arise due to the death of or the unexplained absence of any member of the City Council or in the event that the member is unavailable to exercise the powers and discharge the duties of his/her office during the course of any local disaster emergency declared by the Mayor, said vacancy shall be filled through appointment by the Mayor with approval of a majority of the remaining members of the City Council from the following: ex-member of the City Council or any member of the City Planning Commission or Board of Zoning Appeals. Said appointment shall last until the member reappears or until the next scheduled election of the City Council. (Ord. 96-33 § 2, 1996.)

2.08.200 Judicial Vacancies. Pursuant to K.S.A. 48-1201, et seq., in the event that the Judge of the Olathe Municipal Court is unavailable to exercise the powers and discharge the duties of the Court, the Mayor and/or City Manager may appoint any attorney with at least ten years of legal experience, preferable in the Olathe Municipal Court, as Judge of the Municipal Court with the approval of the majority of the remaining City Council. (Ord. 96-33 § 2, 1996.)

2.08.210 Emergency Location of Government. Whenever due to an emergency resulting from the effects of enemy attack or the local disaster emergency, the City Council may meet within or without the City of Olathe on the call of the Mayor and/or City Manager or any three members of the City Council, and shall proceed to establish and designate by ordinance, resolution or the manner, alternate places as the emergency temporary location of the local government where all or any part of the public business may be transacted and conducted during the emergency situation. Such place may be within or without the City of Olathe and within the state of Kansas. (K.S.A. 48-1401). During the period when the public business is being conducted at the emergency temporary location, the governing body shall have and possess and shall exercise all of the executive, legislative and judicial powers and functions conferred upon the governing body. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to or compliance with the time consuming procedures and formalities prescribed by law and pertaining thereto, and all acts of such governing body shall be as valid and binding as if performed within the City of Olathe (K.S.A. 48-1402). (Ord. 96-33 § 2, 1996.)

2.08.220 Violation and Penalties. The violation of any provision of this act or any rule, regulations, or plan adopted under this act or any lawful order or proclamation issued under authority of this Ordinance whether pursuant to a proclamation declaring a state of local disaster emergency, shall constitute an Unclassified Public Offense. The sentence shall be a definite term of confinement in jail which shall not exceed one hundred eighty days (180) days, or a fine to be at least Two Hundred Fifty Dollars and not to exceed One Thousand Dollars, or both. (Ord. 96-33 § 2, 1996.)

CHAPTER 2.12

CITY MANAGER

Sections:

- 2.12.010 Administration of City Business.
- 2.12.020 Appointment--Term--Qualifications.
- 2.12.030 Salary--Bond.
- 2.12.040 Duties.
- 2.12.050 Countersigning Warrants.

2.12.010 Administration of City Business. The administration of the city's business shall be in the hands of a manager. (Prior code § 1-201.)

2.12.020 Appointment--Term--Qualifications. The commission shall, whenever by virtue of a vacancy in the office it becomes necessary, appoint a manager, who shall be responsible for the administration of all of the affairs of the city and hold office at the pleasure of the board. The manager shall be chosen solely on the basis of administrative ability and the choice shall not be limited by any residence qualifications. (Prior code § 1-202.)

2.12.030 Salary--Bond. The manager shall receive a salary to be fixed by the commission, and shall give bond for the faithful performance of his duties in such amount as may be provided by ordinance. (Prior code § 1-203.)

2.12.040 Duties. The manager shall be responsible for the administration of all of the affairs of the city. He shall see that the laws and ordinances are enforced. He shall appoint and remove all heads of departments, the city treasurer, and all subordinate officers and employees of the city. All such appointments shall be made upon merit and fitness alone. He shall be responsible for the discipline of all appointive officers, and may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. He shall prepare and submit the annual budget to the Governing Body and shall also keep the city fully advised as to the financial condition and needs of the city. He may make recommendations to the commissioners on all matters concerning the welfare of the city, and shall have a seat, but no vote, in all of the public meetings of the Governing Body. He shall perform such other and further duties as may be required by law or ordinance. (Prior code § 1-204.)

2.12.050 Countersigning Warrants. The city manager shall countersign all warrants and combined warrant-checks issued by the director of finances. (Prior code § 1-205.)

CHAPTER 2.14

EMPLOYEE SEVERANCE AGREEMENTS

Sections:

- 2.14.010 Purpose.
- 2.14.020 Definition.
- 2.14.030 Delegation of Authority.

2.14.010 Purpose. It is the purpose of this chapter to clarify and ambiguity in Charter Ordinance No. 28 concerning the city manager's authority to enter into severance agreements with city employees. The Charter Ordinance authorizes the city manager to appoint, promote, transfer, assign and demote, discipline, layoff, suspend, discharge or remove all city employees. The Charter Ordinance also authorizes the City Council to pass all such contracts needful for the welfare of the city and the mayor to sign all such contracts. This chapter delegates to the city manger limited authority to enter into and sign severance agreements with city employees. (Ord. 91-58 § 1, 1991)

2.14.020 Definition. For the purposes of this chapter, severance agreement shall mean an agreement between the city and a city employee who is to be terminated covering the details of the severance pay and benefits, the return of city property under the control or possession of the city employee, and releases of liability for termination in favor of the city, its officials, officers, employees and agents. (Ord. 91-58 § 1, 1991)

2.14.030 Delegation of Authority. The city manager is hereby delegated the authority to enter into and sign severance agreements with city employees who are to be terminated from city employment. No such severance agreement shall exceed the dollar value of three (3) months salary at the salary rate in effect on the date notice of termination was given, plus any accrued salary and benefits due and owing the terminated employee without the severance agreement being approved by the City Council. (Ord. 91-58 § 1, 1991)

CHAPTER 2.16

MUNICIPAL COURT

Sections:

- 2.16.010 Establishment of the Olathe Municipal Court.
- 2.16.020 Jurisdiction of the Olathe Municipal Court.
- 2.16.030 Organization of the Olathe Municipal Court.
- 2.16.040 Municipal Court Procedure.
- 2.16.050 Additional Court Rules.

2.16.010 Establishment of the Olathe Municipal Court. There is hereby established a municipal court for the City of Olathe, Kansas, to be presided over by a municipal court judge or judges appointed by the Governing Body. (Ord. 87-30 § 3, 1987; Ord. 84-73 § 2, 1984.)

2.16.020 Jurisdiction of the Olathe Municipal Court. The jurisdiction of the municipal court for the City of Olathe, Kansas, shall be as prescribed in the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg. and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.030 Organization of the Olathe Municipal Court. The municipal court of the City of Olathe, Kansas, shall be organized as prescribed in the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg. and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.040 Municipal Court Procedure. The procedure used in the municipal court of the City of Olathe, Kansas, shall be governed by the Kansas Code of Procedure for Municipal Courts found at K.S.A. 12-4101, et. seg., and all amendments thereto. (Ord. 84-73 § 2, 1984.)

2.16.050 Additional Court Rules. The appointed municipal court judges may from time to time by unanimous agreement promulgate such further and additional rules not inconsistent with the Kansas Code of Procedure for Municipal Courts or other applicable state statutes or city ordinances as may be appropriate to govern the procedure in the municipal court of the City of Olathe, Kansas. (Ord. 84-73 § 2, 1984.)

CHAPTER 2.18

OLATHE MUNICIPAL COURT ALCOHOL AND DRUG SAFETY ACTION PROGRAM

Sections:

- 2.18.010 Purpose.
- 2.18.020 Alcohol and Drug Safety Action Program.
- 2.18.030 Alcohol and Drug Safety Action Fund.
- 2.18.040 Reporting Requirements.

2.18.010 Purpose. It is the intent of this Chapter to officially create an Olathe Municipal Court alcohol and drug safety action program to evaluate and monitor persons convicted of driving under the influence of alcohol and/or drug charges and persons placed on diversion in lieu of further criminal proceedings on such charges. It is the further intent of this Chapter to create an alcohol and drug safety action fund within the City accounts to fund the Olathe Municipal Court alcohol and drug safety action program with fees collected pursuant to this Chapter and K.S.A. 8-1008(e) and to provide for the legal disbursement of such funds. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.020 Alcohol and Drug Safety Action Program. An Olathe Municipal Court Alcohol and Drug Safety Action Program is hereby created pursuant to K.S.A. 8-1008 and amendments thereto. This program has been established and certified by the District Court as required by K.S.A. 8-1008(b) to provide:

(1) Presentence alcohol and drug evaluations of any person who is convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by the statute;

(2) Supervision and monitoring of all persons who are convicted of a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, and whose sentences or terms of probation require completion of an alcohol and drug safety action program, as provided in this section, or an alcohol and drug abuse treatment program, as provided in this section;

(3) alcohol and drug evaluations of persons whom the prosecutor considers for eligibility or finds eligible to enter a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute;

(4) supervision and monitoring of persons required, under a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of K.S.A. 8-1567 and amendments thereto, or the ordinance of a city in this state which prohibits the acts prohibited by that statute, to complete an alcohol and drug safety action program, as provided in this Section, or an alcohol and drug abuse treatment program, as provided in this Section; or

(5) any combination of (1), (2), (3) and (4). (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.030 Alcohol and Drug Safety Action Fund.

(a) There is hereby created within the City accounts a fund to be known as the Olathe Municipal Court Alcohol and Drug Safety Action Fund. All monies collected from the assessment of fees pursuant to K.S.A. 8-1008(e) and amendments thereto upon persons utilizing the Olathe Municipal Court Alcohol and Drug Safety Action Program shall be deposited into this fund.

(b) The Olathe Municipal Court Alcohol and Drug Safety Action Fund shall be subject to the administration of the Olathe Municipal Court Senior Judge. Monies credited to the Alcohol and Drug Safety Action Fund shall be expended by the Olathe Municipal Court, pursuant to vouchers signed by the Senior Judge.

(c) Monies from this Fund can only be expended for costs of the services specified by Section 2.18.020, or otherwise required or authorized by law and provided by the Olathe Municipal Court Alcohol and Drug Safety Action Program, except that not more than ten percent (10%) of the money credited to the Fund may be expended to cover the expenses of the Court involved in administering the provisions of this Section. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

2.18.040 Reporting Requirements. The Olathe Municipal Court Senior Judge shall compile a report and send such report to the office of the State Judicial Administrator on or before January 20 of each year. Such report shall include, but not be limited to:

(1) The balance of the Alcohol and Drug Safety Action Fund of the Court on December 31 of each year;

(2) the assessments deposited into the Fund during the 12-month period ending the preceding December 31; and

(3) the dollar amounts expended from the fund during the 12-month period ending the preceding December 31. (Ord. 02-28 § 1, 2002; Ord. 95-17 § 1, 1995)

CHAPTER 2.20

OATHS AND BONDS

Sections:

2.20.010	Bonds Required.
2.20.020	Bonds--Filing.
2.20.030	Bonds--Premiums.
2.20.040	Bonds--Approval.
2.20.050	Oaths Required.
2.20.060	Oaths--Forms--Filing.
2.20.070	Blanket Bond.

2.20.010 Bonds Required. The following city officers, employees, and persons with positions of trust within the city shall, before entering upon the duties of their respective offices, give a good and sufficient corporate surety bond to the city, duly approved, conditioned upon the faithful performance and discharge of their respective duties, in the following amounts:

- (1) Mayor - \$5,000
- (2) Other Members of the Governing Body - \$5,000
- (3) City Manager - \$5,000
- (4) City Clerk - \$10,000
- (5) Treasurer of Olathe Public Library - \$10,000
- (6) Treasurer of Firemen's Relief Assoc - \$4,000

All bonds required or authorized by this chapter shall be conditioned for the faithful performance of duty and of all acts required by the laws of the State of Kansas and the ordinances of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer and employee by virtue of his office. (Ord. 87-30 § 4, 1987; Prior code § 1-401.)

2.20.020 Bonds--Filing. All bonds shall be filed with the city clerk. (Prior code § 1-402.)

2.20.030 Bonds--Premiums. All premiums on such surety bonds shall be paid by the city from the general fund. (Prior code § 1-403.)

2.20.040 Bonds--Approval. All bonds given to the city shall be approved as to their form by the city attorney and as to their sufficiency by the Governing Body, unless otherwise provided by statute. (Prior code § 1-404.)

2.20.050 Oaths Required. All elected or appointed officials and officers shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation, as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of Kansas, and faithfully discharge the duties of So help me God." (Prior code § 1-405.)

2.20.060 Oaths--Forms--Filing. All officers and employees required by law to take and subscribe or file any oath or affirmation shall be supplied the necessary forms by the city and upon taking and subscribing or signing of any such oath or affirmation, the same shall be filed with the city clerk. (Prior code § 1-407.)

2.20.070 Blanket Bond. The Governing Body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the Governing Body may, by resolution, designate. (Prior code § 1-408.)

CHAPTER 2.24

MUNICIPAL ORGANIZATION AND PERSONNEL SERVICE

Sections:

- 2.24.010 Administration.
- 2.24.020 Personnel System Created.
- 2.24.030 Rules and Regulations.

2.24.010 Administration. The city manager shall provide for all necessary offices and departments, and the Governing Body shall review and approve annually such offices and departments as are required in order to carry out and administer the affairs of the city pursuant K.S.A., Chapter 12, Article 10, relating to the commission-manager form of government, and all other laws applicable to cities of the appropriate class under such form of government. (Ord. 81-21 § 2, (part) 1981.)

2.24.020 Personnel System Created. There is hereby created a personnel system of the City of Olathe, and all persons employed by the city except elected officials, members of boards and commissions, independent contractors and consultants, are under the jurisdiction of the personnel system. The personnel system shall include a classification plan and a pay plan which shall be established and administered in accordance with standard personnel and pay administration. (Ord. 81-21 § 2 (part), 1981.)

2.24.030 Rules and Regulations. Rules and regulations governing the personnel system shall be issued by the city manager and shall be on file in the office of the city manager and open to inspection during regular business hours by any interested person. (Ord. 81-21 § 2 (part), 1981.)

CHAPTER 2.28

LAW ENFORCEMENT AGREEMENT

Sections:

- 2.28.010 Johnson and Wyandotte Mutual Aid Compact Approved.
- 2.28.020 City Participation Authorized.
- 2.28.030 Authority of Mayor and Clerk.

2.28.010 Johnson and Wyandotte Mutual Aid Compact Approved. The agreement entitled "Johnson and Wyandotte Mutual Aid Compact," between the City of Olathe, Kansas, and certain city and county governments of Johnson and Wyandotte Counties empowering uniformed law enforcement officers to exercise their power outside of their normal jurisdictions when a request for assistance is made by another law enforcement agency, is hereby approved. (Ord. 777 § 1, 1978.)

2.28.020 City Participation Authorized. The City of Olathe is hereby authorized to participate in the act approved in Section 2.28.010. (Ord. 777 § 2, 1978.)

2.28.030 Authority of Mayor and Clerk. The mayor of the City of Olathe is authorized to execute the mutual aid compact, and the city clerk is authorized to attest the signature of the mayor on such compact. (Ord. 777 § 3, 1978.)

CHAPTER 2.32*

PLANNING COMMISSION

Sections:

- 2.32.010 Established.
- 2.32.020 Qualifications.
- 2.32.030 Terms--Vacancies.
- 2.32.040 Meetings--Quorum.
- 2.32.050 Powers and Duties.

2.32.010 Established. There shall be a city planning commission for the city. (Prior code § 1-801.)

2.32.020 Qualifications. The City Planning Commission shall consist of not more than eleven electors, of which two members shall reside outside of the city but within three miles of the city limits and the rest shall be residents of the city. (Ord. 82-72 § 1, 1982; prior code § 1-802.)

2.32.030 Terms--Vacancies. Members of the City Planning Commission shall be appointed by the mayor with the consent of the remainder of the Governing Body. The members of the Planning Commission shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term only. Members of the Planning Commission shall serve without compensation. (Ord. 87-30 § 5, 1987; Prior code § 1-803.)

2.32.040 Meetings--Quorum. The members of the Planning Commission shall meet at least once a month at such time and place as they may fix by resolution. They shall select one of their number as chairman and one as vice-chairman, who shall serve one year and until their successor has been selected. They shall annually appoint a secretary who may be an officer or employee of the city. Special meetings may be called at any time by the chairman or in his absence by the vice-chairman. A majority of the Planning Commission shall cause a proper record to be kept of its proceedings. (Prior code § 1-804.)

2.32.050 Powers and Duties. The Planning Commission and City Governing Body shall have all powers and duties set forth in K.S.A. Supp. 12-704 through 12-706a, inclusive, and such other powers and duties as are now or may hereafter be prescribed by law. (Prior Code § 1-805.)

*For statutory provisions pertaining to planning commissions, see K.S.A. 12-701 - 12-706a. For statutory provisions pertaining to zoning boards of appeals, see K.S.A. 12-714 and 12-715.

CHAPTER 2.36

LIBRARY BOARD**

Sections:

- 2.36.010 Established.

2.36.010 Established. There shall be a library board for the City of Olathe. (Prior Code § 1-810.)

**For statutory provisions pertaining to library boards, see K.S.A. 12-1222.

CHAPTER 2.40

OLATHE PARKS AND RECREATION LEADERSHIP ADVISORY BOARD

Sections:

2.40.010	Purpose
2.40.020	Established
2.40.030	Membership, Appointment, Terms, Vacancies
2.40.040	Removal
2.40.050	Organization
2.40.060	Duties and Powers

2.40.010 Purpose. It is hereby declared to be the purpose of this chapter to establish the Olathe Parks and Recreation Leadership Board having power to act on all matters referred to it for the construction, reconstruction and improvement of public parks and recreational facilities including the acquisition of land for park purposes, the acquisition of major recreational equipment and facilities and the institution of new programs in the recreation system. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.020 Established. There is hereby established an Olathe Parks and Recreation Leadership Board for the city. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.030 Membership, Appointment, Terms, Vacancies. The Olathe Parks and Recreation Leadership Advisory Board shall consist of nine members. They shall be appointed by the Mayor and with the consent of the Governing Body. The nine members who are first appointed pursuant to this section shall be selected for and designated to serve terms as follows:

- A. The existing members whose terms have not expired shall serve out their appointed term.
- B. The member whose term has expired and the two new members shall be appointed to three year terms.

Thereafter, the members of the Board shall be selected in the same manner as the member he or she is succeeding and the term of office of each shall be three years. Vacancies shall be filled by appointment for the unexpired term. All members shall serve without compensation. Ex-officio members may be added to the Board with Governing Body approval. (Ord. 03-05 § 1, 2003; Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.040 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member of the Board at any time for good and sufficient cause. Cause shall include, but be not limited to, violations of the conflict of interest laws, any violation of any applicable law, regulation or policy, neglect of duty, and failure to comply with the city's attendance policy. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.050 Organization. The Board shall select from its members a chairperson, a vice-chairperson and a secretary. The term of office for the chairperson, vice-chairperson and secretary shall be for one (1) year and no member may serve more than two consecutive terms as chairperson, vice-chairperson or secretary. A majority of the members of the Board shall constitute a quorum for the transaction of business. The Board may meet as often as necessary, but not less than once a month. (Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

2.40.060 Duties and Powers. The Board shall have the following powers and duties:

A. To assist and advise the Governing Body in the establishment of essential policies, programs and facilities relating to the parks and recreation programs in Olathe that may include, but is not limited to park naming policy, swimming pool fee structure, programming fee structure, and review and development of special events; and

B. To review and recommend projects for inclusion in the five (5) year Capital Improvement Plan, as well as, monitor and oversee the progress of the parks sales tax initiative; and

C. To complete and present to the Governing Body an annual report setting forth its accomplishments and goals; and

D. To serve as the Board of Trustees for the Olathe Parks and Recreation Foundation.

(Ord. 03-05 § 2, 2003; Ord. 01-18 § 2, 2001; Ord. 206-C § 2 thru 4, 1968.)

CHAPTER 2.44

HUMAN RELATIONS COMMISSION

Sections:

2.44.010	Declaration of Policy.
2.44.011	Purpose.
2.44.020	Definitions.
2.44.030	Created.
2.44.040	Powers and Duties.
2.44.041	Persons with Disabilities Advisory Board.
2.44.042	Senior Citizens Advisory Board. (Repealed 12/17/91)
2.44.050	Complaint--Filing, Service and Investigation.
2.44.051	Investigation--Procedure Following Probable Cause Findings.
2.44.052	Hearings.
2.44.060	Rehearing Procedure.
2.44.061	Enforcement of Order.
2.44.062	Judicial Review.
2.44.070	Unlawful Employment Practices.
2.44.080	Unlawful Discriminatory Practices.
2.44.090	Unlawful Housing Practices.
2.44.091	Discriminatory Housing Practices Complaint Procedure.
2.44.092	Subpoenas.
2.44.093	Civil Actions for Alleged Discriminatory Housing Practices.
2.44.094	Interference, Coercion or Intimidation.
2.44.100	Affirmative Action Program for City Personnel.
2.44.110	Affirmative Action Program for Public Contracts.
2.44.120	Penalties.
2.44.130	Construction.

2.44.010 Declaration of Policy. This Chapter shall be known as the act against discrimination. It shall be deemed an exercise of the police power of the City for the protection of the public welfare, safety, health and peace of the people of this City. The practice or policy of discrimination against individuals in employment relations, in relation to free and public accommodations, in housing by reason of race, religion, color, sex, disability, national origin or ancestry or in housing by reason of familial status in a matter of concern to the City, since such discrimination threatens not only the rights and privileges of the inhabitants of the City of Olathe but menaces the institutions and foundations of a free democratic state.

It is hereby declared to be the policy of the City of Olathe to eliminate and prevent discrimination in all employment relations, to eliminate and prevent discrimination, segregation, or separation in all places of public accommodations covered by this Chapter, and to eliminate and prevent discrimination, segregation or separation in housing.

It is also declared to be the policy of this City to assure equal opportunities and encouragement to every citizen regardless of age, religion, color, sex, disability, national origin or ancestry, in securing and holding, without discrimination, employment in any field of work or labor for which a person is properly qualified, to assure equal opportunities to all persons within this state to full and equal public accommodation, and to assure equal opportunities in housing without distinction on account of race, religion, color, sex, disability, familial status, national origin or ancestry. It is further declared that the opportunity to secure and to hold employment, the opportunity for full and equal public accommodations as covered by this act and the opportunity for full and equal housing are civil rights of every citizen. (Ord. 92-37 § 1, 1992; Ord. 941 § 1, 1979.)

Section 2.44.011 Purpose. It is hereby declared to be the purpose of this Chapter to provide a Human Relations Commission having power to eliminate and prevent segregation and discrimination, or separation in employment, in all places of public accommodations covered by this Chapter, in housing because of race, religion, color, sex, disability, national origin or ancestry and in housing because of familial status, either by employers, labor organizations, employment agencies, realtors, financial institutions or other persons as hereinafter provided. (Ord. 92-37 § 2, 1992.)

2.44.020 Definitions. For the purposes of this Chapter, the following definitions apply:

(a) "Affirmative Action Program" means a positive program designed to insure that a good faith, diligent effort will be made to employ applicants and to treat employees during employment equally without regard to their race, color, creed or religion, disability, national origin or sex. Such program shall include, where applicable, but not be limited to, the following:

Recruitment and recruitment advertising, employment, upgrading promotion, demotion or transfer, layoff or termination, rates of pay or other forms of compensation, other terms or conditions of employment and selection for training, including apprenticeship; and shall include goals, methodology and timetable for implementation of the program. The affirmative action program shall require a showing of demonstrable evidence of progress toward the goal of said program. The words "applicants" and "employees" as used in this Chapter include subcontractors as well as individuals.

(b) "Age" means an age of eighteen (18) or more years.

(c) "Aggregate Annual Business" means the amount of business done by the supplier or other contractor with the City during the current calendar year and, if this amount does not exceed Ten Thousand Dollars (\$10,000.00), then by the amount of business done by such supplier or contractor with the City during the next preceding calendar year.

(d) "Class I Contract" means any contract which the City enters into or renews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount equal to or more than Ten Thousand Dollars (\$10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City equal to or in excess of Ten Thousand Dollars (\$10,000.00).

(e) "Class II Contract" means any contract which the City enters into or reviews with a supplier or contractor after the effective date of the ordinance codified in this Chapter in an amount less than Ten Thousand Dollars (\$10,000.00), or to any contract with a supplier or contractor who does an aggregate annual business with the City of less than Ten Thousand Dollars (\$10,000.00).

(f) "Commission" means the Human Relations Commission as established by this Chapter.

(g) "Disability" means, with respect to an individual:

(1) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) A record of such an impairment; or

(3) Being regarded as having such an impairment.

Disability does not include current, illegal use of a controlled substance as defined in Section 102 of the Federal Controlled Substance Act (21 U.S.C. 802).

(h) "Discrimination" means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial or any other differentiation or preference in the treatment of a person or persons on account of age, race, religion, color, sex, familial status, national origin, ancestry or disability and/or any denial of any right, privilege or immunity secured by or protected by the Constitution or laws of Kansas or the United States. Discrimination shall include, but not be limited to, any practice which produces the demonstrable racial or ethnic effect without a valid business motive.

(i) "Employee" does not include any individual employee employed by such individual's parent, spouse or child or in the domestic service of any person.

(j) "Employer" includes any person doing business in this City employing four or more persons and any person acting directly or indirectly for an employer, labor organizations, non-secretarial corporations, organizations engaged in social service work and all political subdivisions of the city, state and federal governments, but does not include a nonprofit fraternal or social association or corporation.

(k) "Employment Agency" includes any person or government agency undertaking with or without compensation to procure opportunities to work, or to procure, recruit, refer or place employees.

(l) "Family" includes a single individual.

(m) "Familial status" means one or more individuals less than eighteen (18) years of age, domiciled with:

(1) A parent or another person having legal custody of such individual or individuals; or

(2) The designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(n) "Firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(o) "Labor Organization" includes any organization which exists for the purpose, in whole or part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in relation to employment.

(p) "Law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses against the criminal laws of Kansas or of offenses against any ordinance or resolution which imposes criminal sanctions and is adopted by a city, county or other political subdivision of Kansas, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purposes of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(q) "Person" includes one or more individuals, partnerships, associations, organization, corporations, municipal corporations, quasi-municipal corporations, governmental agencies, public bodies, legal representatives, trustees, trustees in bankruptcy, receivers, fiduciaries, mutual companies or unincorporated organizations.

(r) "Person Aggrieved" means any person who claims to have been injured by an unlawful act or who believes that such person will be injured in any such unlawful act or practice that is about to occur.

(s) "Probable Cause" means the presence of a reasonable ground for belief in the existence of the allegation of a violation of any statute, ordinance or other authority, orders, rules or regulations.

(t) "Public Accommodations" means any person who caters or offers goods, services, facilities and accommodations to the public. Public accommodations include, but are not limited to, any lodging establishment or food service establishment, as defined by K.S.A. 36-501 and amendments thereto, any bar, tavern, barbershop, beauty parlor, theater, skating rink, bowling alley, billiard parlor, amusement park, recreation park, swimming pool, lake, gymnasium, mortuary or cemetery which is open to the public; or any public transportation facility. Public accommodations do not include a nonprofit fraternal or social association or corporation. Public accommodations shall also include all City agencies which serve the public.

(u) "Real Property" means and includes:

- (1) Any vacant or unimproved land;
- (2) Any building or structure for occupancy, or any building designed or intended for occupancy, or any building or structure having a portion thereof which is occupied or designed or intended for occupancy.

(v) "Reasonable Accommodation" means:

- (1) In the context of employment under this chapter, making existing facilities used by employees readily accessible to and useable by individuals with disabilities; and

(2) Job restructuring, part-time or modified work schedules; reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; provision of qualified readers or interpreters; and other similar accommodations for individuals with disabilities.

(3) In the context of housing under this chapter, those reasonable measures which may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

(w) "To rent" means to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(x) "Unlawful act or practice" means any unlawful employment practice, any unlawful discriminatory practice or any unlawful housing practice as defined in this Section.

(y) "Unlawful employment practices" includes only those unlawful practices and acts specified in Section 2.44.060.

(z) "Unlawful housing practice" means any act that is unlawful under Section 2.44.130.

(aa) "Unlawful discriminatory practice" means any discrimination against persons by reason of their race, religion, sex, color, disability, national origin or ancestry:

(1) In any place of public accommodations; or

(2) in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (Ord. 93-07 § 1, 1993; Ord. 92-37 § 3, 1992; Ord. 941 § 2, 1979.)

2.44.030 Created.

(a) There is created a commission to be known as the Human Relations Commission. Said commission shall consist of eleven (11) members to be drawn from diverse segments of the community, who shall be citizens of the city, and who shall be appointed by the mayor, with the consent of the Governing Body. The terms of office of each member of the commission shall be for three (3) years or until a successor is appointed. No member shall serve more than two (2) successive full terms.

(b) The commission shall elect one of its members as chairperson who shall preside at all meetings of the commission and shall perform all duties and functions of the chairperson thereof. The commission shall elect, in the same manner, one of its members as vice chairperson who shall act as chairperson during the absence or incapacity the chairperson and, when so acting, the vice-chairperson shall have and perform all the duties and functions of the chairperson. In the event neither the chairperson nor vice chairperson can attend a regular or special meeting, the chairperson shall designate a member of the commission as acting chairperson for that meeting only. The term of office of the chairperson and vice chairperson shall be for one year and no person shall serve for more than two consecutive terms in the same office, unless such election to the immediately subsequent term is made by the members of the commission by a unanimous vote. The chairperson or vice chairperson may resign from his or her office at any during his or her term and may do so without resigning from the commission. In such event, the commission shall elect another member to replace that person and such person shall serve the unexpired term of the person he or she replaces. A majority of the presently serving members of the commission shall constitute a quorum for the purpose of conducting business thereof. The members of the commission shall serve without compensation.

(c) There is created the position of human relations director of the city to be appointed by and directly responsible to the city manager. Among the duties to which the director shall be assigned is that of administrative staff member to the commission.

(d) Prior to the holding of any hearing as required by this chapter, the Governing Body shall appoint a hearing examiner who shall be an attorney duly admitted to practice in the courts of the state. Compensation of the hearing examiner shall fixed by the Governing Body.

(e) The Governing Body may authorize the employment of such other personnel as may be reasonably necessary to carry out the provisions of this chapter. (Ord. 91-42 § 1, 1991; Ord. 941 § 3, 1979.)

2.44.040 Powers and Duties. The commission shall have the following functions, powers, duties and responsibilities:

(1) To endeavor to eliminate prejudice among the various groups in the City and to further goodwill among all people of Olathe, and specifically, to encourage equality of treatment for and prevent discrimination against any persons with disabilities or any racial, religious, minority or ethnic group, or its members.

(2) To adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this Chapter, and the policies and practices of the commission in connection therewith.

(3) To receive, initiate, investigate and pass upon complaints alleging discrimination in employment, public accommodations and housing because of race, religion, color, sex, disability, national origin or ancestry and complaints alleging discrimination in housing because of familial status.

(4) To subpoena witnesses, compel their appearance and require the production for examination of records, documents and other evidence or possible sources of evidence and to examine, record and copy such materials and take and record the testimony or statements of such persons. The commission may issue subpoenas to compel access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoena or interrogatories were issued or served in aid of a civil action in district court. The commission shall have access at all reasonable times to premises and may compel such access by application to a court of competent jurisdiction provided that the commission first complies with the provisions of Article 15 of the Kansas Bill of Rights and the Fourth Amendment to the United States Constitution relating to unreasonable searches and seizures. The commission may administer oaths and take depositions to the same extent and subject to the same limitations as would apply if the deposition was taken in aid of a civil action in the district court. In case of the refusal of any person to comply with any subpoena, interrogatory or search warrant issued hereunder, or to testify to any matter regarding which such person may be lawfully questioned, the district court of any county may, upon application of the commission, order such person to comply with such subpoena or interrogatory and to testify. Failure to obey the court's order may be punished by the court as contempt. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person testifies or produces evidence, except such person so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The immunity herein provided shall extend only to natural persons.

(5) To act in concert with other parties in interest in order to eliminate and prevent discrimination and segregation, prohibited by this Chapter, by including any term in a conciliation agreement as could be included in a final order under this Chapter.

(6) To apply to the district court of the county where the respondent resides or transacts business for enforcement of any conciliation agreement by seeking specific performance of such agreement.

(7) To issue such final orders after a public hearing as may remedy any existing situation found to violate this Chapter and prevent its recurrence.

(8) To create such advisory agencies and a conciliation committee as in the commission's judgment will aid in effectuating the purposes of this Chapter. Said agencies or committees shall be created:

(a) To study the problem of discrimination in all or specific fields or instances of discrimination because of age, race, sex, religion, disability, color, national origin or ancestry;

(b) To foster, through community effort or otherwise, goodwill, cooperation, conciliation, and segments of the population of the City;

(c) To recommend to the Human Relations Commission policies, procedures and programs of formal and informal education which the commission may recommend to the Governing Body of the City. Such advisory agencies or conciliation committees shall be composed of representative citizens of this City and shall serve without compensation. Nothing in this section shall be construed to prevent the Human Relations Commission itself from making the studies and performing the acts authorized by this section. It shall, by conference with the parties in interest, endeavor by conciliation and persuasion to eliminate discrimination in all the stated fields and to foster goodwill and cooperation among all segments of the population of this City.

(9) To accept contributions from any person or governmental unit to assist in the effectuation of this section and to seek and enlist the cooperation, including financial assistance, of private, charitable, religious, labor, civic and benevolent organizations. For the purposes of this section, all funds contributed shall be audited annually by the City Auditor.

(10) To issue such publications and such results of investigation and research as, in the judgment of the commission and Director, will tend to promote goodwill and minimize or eliminate, discrimination because of age, race, sex, religion, disability, color, national origin or ancestry.

(11) To render each year to the Governing Body of the City a full written report of all of its activities and recommendations.

(12) To solicit, receive and accept, through the Governing Body, city, county, state and federal funds to effectuate the purposes of this Chapter. Such funds shall be subjected to annual audit by the City Auditor.

(13) To cooperate with the governmental and nongovernmental agencies and organizations having like or kindred functions, and specifically to enter into contracts or agreements or memoranda of agreement with the Kansas Human Rights Commission and with the Federal Equal Employment Opportunity Commission, in order to carry out any and all assignments made through these agencies to the commission with the consent of the Governing Body.

(14) To meet regularly, once each month, at a place and time decided by the commission and at such other special meetings as may be called by the chairperson or by a majority of the members of the commission then presently serving.

(15) To regularly advise the members of the Governing Body, through distribution of its minutes, memoranda, reports and other pertinent documents of the items of business before the commission, of the ongoing state of each item, and the disposition of such items. (Ord. 92-37 § 4, 1992; Ord. 941 § 4, 1979.)

2.44.041 Persons with Disabilities Advisory Board.

(a) There is created a Persons with Disabilities Advisory Board as a permanent committee of the Human Relations Commission. Said Board shall consist of no less than twelve (12) and no more than fourteen (14) members as follows:

- (1) No less than one (1) and no more than three (3) individuals who by a professional or personal association with disabled persons is knowledgeable of their concerns;
- (2) One (1) individual who by a professional or personal association with consumers of mental health services is knowledgeable of their concerns;
- (3) One (1) appointed member from the Human Relations Commission as an ex-officio member, and

- (4) Nine (9) Olathe residents who live with a physical disability that substantially limits one or more of the major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. This includes mobility and sensory impairments, mental illness, developmental disabilities, and learning disabilities. Also included are diabetes, cancer, HIV/AIDS, respiratory and cardiac conditions, arthritis and the needs of parents of children with disabilities.

The members of the Board shall be appointed by the Mayor with consent of and approval by the remainder of the Governing Body. The members who are appointed shall be selected for a designated term to serve as follows:

- (A) The existing members whose terms have not expired shall serve out their term.
- (B) The members whose terms have expired and two (2) new members shall serve for three years.

The term of office shall be for three (3) years. Members may be reappointed. The ex-officio member is appointed by the Human Relations Commission.

(b) The Board shall elect a chairperson, a vice-chairperson and a secretary who shall serve for one (1) year. The chairperson shall preside at all meetings, the vice-chairperson shall preside at meetings in the absence of the chairperson, and the secretary shall be responsible for record keeping and shall prepare the minutes of each meeting. The Board shall make such rules and procedures as necessary for its own governance. The Board shall meet at least six (6) times per year.

(c) The Board shall have as its primary purpose advising the Human Relations Commission, which shall in turn advise the Governing Body and City staff on special concerns of the disabled pertaining to community services, programs, facilities, access, employment opportunities and practices, community education programs and such other matters. All actions taken by this Board shall be of an advisory nature only. (Ord. 13-03 § 1, 2013; Ord. 06-42 § 1, 2006; Ord. 03-64 § 1, 2003; Ord. 87-30 § 6, 1987; Ord. 85-30 § 4, 1985.)

2.44.042 Senior Citizens Advisory Board. Repealed 12/17/91. (Ord. 91-79 § 1, 1991; Ord. 91-44 § 1, 1991; Ord. 91-28 § 1, 1991.)

2.44.050 Complaint--Filing, Service and Investigation.

(a) Any person claiming to be aggrieved by an alleged unlawful employment practice or by an alleged unlawful discriminatory practice may, personally or by an attorney at law, make, sign and file with the commission a verified complaint in writing which shall state the name and address of the person, employer, labor organization or employment agency alleged to have committed the unlawful employment practice complained of or the name and address of the person alleged to have committed the unlawful discriminatory practice complained of, and which shall set forth the particulars thereof and contain such other information as may be required by the commission.

(b) The commission upon its own initiative may, in like manner, make, sign and file such complaint. Any employer whose employees or some of whom refuse or threaten to refuse to cooperate with the provisions of this Chapter, may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Whenever any problem of discrimination because of age, race, religion, color, sex, disability, national origin or ancestry arises, or whenever the commission has, in its own judgment, reason to believe that any person has engaged in an unlawful employment practice or an unlawful discriminatory practice in violation of this Chapter, or has engaged in a pattern or practice of discrimination, the commission may conduct an investigation without filing a complaint and shall have the same powers during such investigation as provided for the investigation of complaints. The person to be investigated shall be advised of the nature and scope of such investigation prior to its commencement. The purpose of the investigation shall be to resolve any such problems promptly. In the event such problems cannot be resolved within a reasonable time, the commission may issue a complaint whenever the investigation has revealed a violation of this Chapter has occurred. The information gathered in the course of the first investigation may be used in processing the complaint.

(d) After the filing of any complaint by an aggrieved individual or by the commission, the commission shall, within seven days after the filing of the complaint, serve a copy on each of the parties alleged to have violated this Chapter, and shall designate one of the commissioners to make, with the assistance of the commission's staff, prompt investigation of the alleged act of discrimination. (Ord. 92-37 § 5, 1992; Ord. 941 § 5, 1979.)

2.44.051 Investigation - Procedure following Probable Cause Findings.

(a) If the commissioner shall determine after such investigation that no probable cause exists for crediting the allegations of the complaint, such commissioner, within ten (10) business days from such determination, shall cause to be issued and served upon the complainant and respondent written notice of such determination.

(b) If such commissioner after such investigation shall determine that probable cause exists for crediting the allegations for the complaint, the commissioner or such other commissioner as the commission may designate, shall immediately endeavor to eliminate the unlawful employment practice or the unlawful discriminatory practice complained of by conference and conciliation. The complainant, respondent and commission may have forty-five (45) days from the date respondent is notified in writing of a finding of probable cause to enter into a conciliation agreement signed by all parties in interest. The parties may amend a conciliation agreement at any time prior to the date of entering into such agreement. Upon agreement by the parties, the time for entering into such agreement may be extended. The members of the commission and its staff shall not disclose what has transpired in the course of such endeavors. (Ord. 92-37 § 6, 1992.)

2.44.052 Hearings.

(a) In case of failure to eliminate such practices by conference and conciliation or in advance thereof, the commission shall then cause to be issued and served, in the name of the commission, a written notice together with a copy of such complaint as the same may have been amended requiring the person, employer, labor organization, employment agency, realtor or financial institution named in such complaint, hereinafter referred to as respondent, to answer the charges of such complaint before a hearing examiner to be appointed by the Governing Body at a time not less than ten (10) business days after the service of said notice, unless the respondent requests in writing and is granted a continuance by the Human Relations Commission.

(b) The complainant or respondent may apply to the Human Relations Commission for the issuance of a subpoena for the attendance of any person or the production or examination of any books, records or documents pertinent to the proceedings at the hearing. Upon such application, the Human Relations Commission shall cause such subpoena to be issued under the provisions of Section 2.44.040 of this Chapter.

(c) A City Attorney or an attorney selected by the Human Relations Commission shall present the cases brought before the hearing examiner.

(d) Any complaint filed pursuant to this Section must be so filed within six (6) months of the alleged act of discrimination unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it will be from the last act of discrimination.

(e) The respondent may file a written, verified answer to the complaint and appear at such hearing in person or otherwise, with or without counsel, and submit testimony. The complainant shall appear at such hearing in person, with or without counsel, and submit testimony. The hearing examiner or a complainant shall have the power, reasonably and fairly, to amend any complaint and the respondent shall have like power to amend his or her answer. The hearing examiner shall be bound by the rules of evidence of the prevailing courts of law or equity and only relevant evidence of reasonable probative value shall be received. Reasonable examination and cross examination shall be permitted. All parties shall be afforded opportunity to submit briefs prior to adjudication. The testimony taken at the hearing shall be under oath and be recorded and transcribed at the request of either the respondent or complainant.

(f) The hearing examiner shall listen to all pertinent evidence presented by both the Human Relations Commission and the respondent and shall upon the conclusion of the hearing make findings of fact and conclusions of law and issue orders based thereon. The rulings made by the hearing examiner shall be binding upon all parties.

(g) If upon all the evidence in the hearing, the hearing examiner shall find the respondent has engaged in or is engaged in any unlawful employment practice or other unlawful discriminatory practice as defined in this Chapter, then the hearing examiner shall state the findings of fact and shall issue and cause to be served upon such respondent an order requiring such respondent to cease and desist from such unlawful employment practice or such unlawful discriminatory practice and to take such affirmative action, including, but not limited to, the hiring, reinstatement or upgrading of employees, with or without back pay, and the admission or restoration of membership in any respondent labor organizations; the admission to and full and equal enjoyment of the goods, services, facilities and accommodations offered by any respondent place of public accommodation denied in violation of this Section as in the judgment of the hearing examiner will effectuate the purposes of this Chapter and including a requirement for a report of the manner of compliance. Such order may also include an award of damages for pain, suffering and humiliation which are incidental to the act of discrimination, except that an award for such pain, suffering and humiliation shall in no event exceed the sum of Two Thousand Dollars (\$2,000.00).

(h) If the hearing examiner finds that a respondent has not engaged in any such unlawful employment practice, or any such unlawful discriminatory practice, the hearing examiner shall render an order dismissing the complaint as to such respondent.

(i) The copy of the order shall be delivered by certified mail, return receipt requested, in all cases, by the Human Relations Commission to the complainant, to the respondent, to the City Attorney's office and such other public officers as the Human Relations Commission may deem proper. (Ord. 92-37 § 7, 1992.)

2.44.060 Rehearing Procedure. Any party being dissatisfied with any order or decision of the hearing examiner may within ten (10) days from the date of the service of such order or decision apply for a rehearing in respect to any matter determined therein; the application shall be granted or denied by the hearing examiner within ten (10) days from the date same shall be filed and if the rehearing be not granted within ten (10) days, it shall be taken as denied. If a rehearing be granted, the matter shall be determined by the hearing examiner within thirty (30) days after the same shall be submitted. No cause of action arising out of any order or decision of the hearing examiner shall accrue in any court to any party unless such party shall make application for a rehearing as herein provided. Such application shall set forth specifically the ground or grounds on which the applicant considers such order or decision to be unlawful or unreasonable. No party shall in any court urge or rely upon any ground not set forth in said application. An order made after a rehearing abrogating, changing or modifying the original order or decision shall have the same force and effect as an original order or decision. (Ord. 92-37 § 8, 1992.)

2.44.061 Enforcement of Order. The commission, the City Attorney, the complainant or the respondent may secure enforcement of any final order of the hearing examiner by the district court of the county where the unlawful employment practice or unlawful discriminatory practice shall have occurred or where any person required in the order to cease and desist from an unlawful employment practice or unlawful discriminatory practice or to take any affirmative action resides or transacts business, through mandamus or injunction in appropriate cases, or by action to compel the specific performance of the order. Such proceedings shall be initiated by the filing of a petition in such court, together with a transcript of the record upon the hearing before the hearing examiner, and issuance of service of a copy of said petition as in civil actions. The court shall have power to grant such temporary relief or restraining order as it deems just and proper and to make and enter upon the pleadings, testimony and proceedings an order or decree enforcing, modifying and enforcing as so modified or setting aside in whole or in part, the order of the hearing examiner. (Ord. 92-37 § 9, 1992.)

2.44.062 Judicial Review. The Human Relations Commission, City Attorney, or any person aggrieved by an order made by the hearing examiner may obtain judicial review thereof in the said court by filing with the clerk of said court, within thirty (30) days from the date of service of the order, a written appeal praying that such order be modified or set aside. The appeal shall certify that notice in writing of the appeal with a copy of the appeal has been given to all parties who appeared before the hearing examiner, at their last known address, and to the Human Relations Commission and the hearing examiner who presided at the hearing.

The evidence presented to the hearing examiner, together with his or her findings and the order issued thereon, shall be certified by the hearing examiner to said district court as its return. No order of the hearing examiner shall be superseded or stayed during the proceeding on the appeal unless the district court shall so direct.

The court shall hear the appeal by trial de novo, with or without a jury, in accordance with the provisions of K.S.A. 60-238 and amendments thereto, and the court may, in its discretion, permit any party to submit additional evidence on any issue. Said appeal shall be heard and determined by the court as expeditiously as possible. After hearing, the court may affirm the adjudication. If the adjudication is not affirmed, the court may set aside or modify it in whole or in part, or may remand the proceedings to the hearing examiner for further disposition in accordance with the order of the court.

The copy of the testimony given at the hearing shall be available at all reasonable times to all parties for examination without cost and for the purpose of judicial review of the order. The review shall be heard on the record without requirement of printing.

The jurisdiction of the district court of the proper county as aforesaid, shall be exclusive and its final order or decree shall be subject to review by the Supreme Court, as in other cases, upon appeal within thirty (30) days of the filing of such decision.

The Human Relations Commission shall, except as otherwise herein provided, establish rules of practice to govern, expedite and effectuate the foregoing procedure and its own actions thereunder. (Ord. 92-37 § 10, 1992.)

2.44.070 Unlawful Employment Practices.

(a) It shall be unlawful employment practice:

(1) For an employer, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person, to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions, or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business motive.

(2) For a labor organization, because of the age, race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this Chapter or because such person has filed a complaint, testified or assisted in any proceeding under this Chapter.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's age, race, religion, color, sex, disability, national origin or ancestry, or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to age, race, religion, color, sex, disability, national origin or ancestry.

(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of age, race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Chapter, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committee to:

(a) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(b) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this Chapter;

(c) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative controls;

(d) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(e) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;

(f) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(g) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or

(h) fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(9) For an employer to reduce the wage rate of any employee in order to comply with the age discrimination provisions of this Chapter.

(10) For an employer, employment agency, labor organization or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits:

(a) in the case of a contribution plan, the cessation of an employee's benefit accrual or the reduction of the rate of an employee's benefit accrual, because of age; or

(b) in the case of a contribution plan, the cessation of allocations to an employee's account or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

Nothing in this subsection (a.10.) shall be construed to prohibit an employer, employment agency or labor organization or any combination thereof from observing any provision of an employee pension benefit plan to the extent that such provision imposes, without regard to age, a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(b) It shall not be an unlawful employment practice to:

(1) Fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, color, sex, disability, national origin or ancestry;

(2) Take any action on the basis of age, which is otherwise prohibited under subsection (a), if age is a bona fide occupational qualification necessary to the normal operation of the particular business or if the differentiation is based on necessary factors other than age;

(3) Observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as a retirement, pension or insurance plan, which is not a subterfuge to evade the purposes of this Chapter, except that no such employee benefit plan shall excuse the failure to hire any individual and no such seniority system or employee benefit plan shall require or permit the involuntary retirement of any individual;

(4) Observe the provisions of a retirement, pension or other benefit plan permitted by state or federal law or by ordinance or resolution; or

(5) Before January 1, 1994, for this state or any political subdivision of this state, or any agency or instrumentality thereof, or any interstate agency, to fail or refuse to hire or to discharge any individual because of such individual's age if such action is taken:

(a) With respect to the employment of an individual as a firefighter or as a law enforcement officer and the individual has attained the age of hiring or retirement in effect under applicable state or local law on March 3, 1983, and

(b) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purpose of this Chapter. (Ord. 92-37 § 11, 1992; Ord. 507 § 7, 1976.)

2.44.080 Unlawful Discriminatory Practices.

(a) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as covered by this Chapter because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from discrimination under any provisions of this Chapter, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this Chapter, or to attempt to do so.

(3) For any person to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and employment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof. (Ord. 92-37 § 12, 1992; Ord. 507 § 8, 1976.)

2.44.090 Unlawful Housing Practices

(a) It is unlawful housing practice to:

(1) To refuse to sell or rent after the making of a bona fide offer to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(2) To discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(3) To make, print, publish, disseminate or use, or cause to be made, printed, published, disseminated or used, any notice, statement, advertisement or application, with respect to the sale or rental of real property that indicates any preference, limitation, specification or discrimination based on race, religion, color, sex, disability, familial status, national origin or ancestry, or an intention to make any such preference, limitation, specification or discrimination.

(4) To represent to any person because of race, religion, color, sex, disability, familial status, national origin or ancestry that any real property is not available for inspection, sale or rental when such real property is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any real property by representation regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, religion, color, sex, disability, familial status, national origin or ancestry.

(6) To deny any person access or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting real property, or to discriminate against such person in the terms or conditions of such access, membership or participation, because of race, religion, color, sex, disability, familial status, national origin or ancestry.

(7) To discriminate against any person in such person's use or occupancy of real property because of the race, religion, color, sex, disability, familial status, national origin or ancestry of the people with whom such person associates.

(8) (a) To discriminate in the sale or rental, or to otherwise make unavailable or deny, residential real property to any buyer or renter because of a disability of:

- (1) That buyer or renter;
- (2) a person residing in or intending to reside in such real property after it is sold, rented or made available; or
- (3) any person associated with that buyer or renter.

(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of residential real property or in the provision of services or facilities in connection with such real property because of a disability of:

- (1) That person;
- (2) a person residing in or intending to reside in that real property after it is so sold, rented or made available; or
- (3) any person associated with that person;

(c) For the purposes of this subsection 8, discrimination includes:

(1) A refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

(2) a refusal to make reasonable accommodations in rules, policies, practices or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy residential real property; or

(3) in connection with the design and construction of covered multifamily residential real property for first occupancy on and after March 13, 1991, a failure to design and construct such residential real property in such a manner that:

- A. The public use and common use portions of such residential real property are readily accessible to and usable by persons with disabilities;
- B. The dwellings have at least one building entrance on an accessible route, unless it is impractical to do so because of the terrain or unusual characteristics of the site;
- C. With respect to dwellings with building entrance on an accessible route--

- 1. The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities;

- 2. All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by persons with disabilities who are in wheelchairs; and

- 3. All premises within covered multifamily dwelling units contain an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; there are reinforcements in the bathroom walls to allow later installation of grab bars; and there are usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as "ANSI A 117.1," suffices to satisfy the requirements of subsection 8 a, c, C.

(d) As used in this subsection 8, "covered multifamily residential real property" means:

- (1) Buildings consisting of four or more units if such buildings have one or more elevators; and
- (2) ground floor units in other buildings consisting of four or more units.

(e) Nothing in this subsection 8 requires that residential real property be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of other.

(9) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of the race, religion, color, sex, disability, familial status, national origin or ancestry of such person or of any person associated with such person in connection with any real estate related transaction.

(a) As used in this Section, "real estate related transaction" means any of the following:

(1) The making or purchasing of loans or providing other financial assistance:

- A. For purchasing, constructing, improving, repairing or maintaining a dwelling; or
- B. secured by real property.

(2) The selling, brokering or appraising of real property.

(b) Nothing in this Section prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, religion, color, sex, disability, familial status, national origin or ancestry.

(b) Nothing in this Chapter shall be construed to invalidate or limit any state law or ordinance that requires residential real property to be designed and constructed in a manner that affords persons with disabilities greater access that is required by this Chapter.

(c) Nothing in this Chapter shall prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the rental or occupancy of real property which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin or ancestry. Nor shall anything in this Chapter prohibit a nonprofit private club in fact not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(d) Nothing in this chapter shall apply to rooms or units in buildings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one of such living quarters as the owner's residence.

(e) Nothing in this chapter limits the applicability of any reasonable local, state or federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this chapter regarding familial status apply with respect to housing for older persons.

(1) As used in this subsection (e), "housing for older persons" means housing:

(a) Provided under any state or federal program that the U.S. Department of Housing and Urban Development determines is specifically designed and operated to assist elderly persons as defined in the state or federal program; or

(b) intended for and occupied solely by persons sixty-two (62) years of age or older.

(c) intended and operated for occupancy by at least one person fifty-five (55) years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the following factors must also be present:

1. the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provisions of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

2. that at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

3. the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(2) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(a) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections b or c: Provided, that the new occupants or such housing meet the age requirements or subsection 1 b or c; or

(b) unoccupied units: Provided, that such units are reserved for occupancy by persons who meet the age requirements of subsection 1 b or c.

(f) Nothing in this Chapter prohibits conduct against a person because such person has been convicted two or more times by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Section 102 of the Federal Controlled Substances Chapter (21 U.S.C. 802). (Ord. 93-07 § 2, 1993; Ord. 92-37 § 13, 1992; Ord. 507 § 9, 1976.)

2.44.091 Discriminatory Housing Practices Complaint Procedure.

(a) The authority and responsibility for administering sections of this Chapter shall be in the commission. Any person aggrieved may file a verified complaint with the commission. Such complaints shall be in writing, shall state the facts upon which the allegations of a discriminatory housing practice are based and shall contain such other information and be in such form as the commission may require. Complaints must be filed within one year after the alleged discriminatory housing practice occurred, but may be reasonably and fairly amended at any time. The commission upon its own initiative may make, sign and file such complaint. A respondent may file a verified answer to the complaint against the respondent and with the leave of the commission, which shall be granted whenever it would be reasonable and fair to do so may amend the answer filed by the respondent at any time.

(b) Upon receipt of any such complaint, the commission shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums, and the commission shall within ten (10) days thereof serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this Chapter, together with a copy of the original complaint. Service of the notice shall be made in the manner prescribed by the Code of Civil Procedure.

(c) A respondent may file an answer to the complaint with the commission no later than ten (10) days after service of the notice of the complaint.

(d) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsections a and b, to such person, from the commission.

(e) (1) The commission shall commence an investigation within thirty (30) days of the receipt of a complaint, in the manner provided in this chapter for investigating complaints of violation of the act against discrimination and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

(2) If the commission is unable to complete the investigation within one hundred (100) days, the commission shall inform the parties in writing of the reasons for not doing so.

(3) The commission shall commence an investigation within thirty (30) days of the receipt of a complaint, in the manner provided in this chapter for investigating complaints of violations of the act against discrimination and complete such investigation, including conciliation, within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

(4) The commission shall make final administrative disposition within one year after the filing of the complaint, unless it is impracticable to do so.

(5) If the commission is unable to make final administrative disposition of the complaint within one year of the date of filing, the commission shall inform the parties in writing of the reasons for not doing so.

(f) (1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the commission, the commission shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion. The commission is hereby authorized to enter into formal conciliation agreement which shall also include the person aggrieved and the respondent as signatories. Such agreements may include in the provision thereof any term or condition which may be included in a final order of the commission. Each conciliation agreement shall be made public unless the person aggrieved and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

(2) Any of the parties to a conciliation agreement may apply to the district court of the county where the alleged discriminatory housing practice occurred, or was about to occur, for specific performance of any such agreement.

(g) If it is determined that probable cause exists for crediting the allegations of the complaint, the commission shall serve written notice of such determination on the person aggrieved and shall hold a hearing on behalf of the aggrieved person before the commission. such hearing shall use the hearing procedures as set out in Section 2.44.052 of this chapter unless an election pursuant to subsection h is made.

(h) In lieu of a hearing under subsection g, a complainant, a respondent or an aggrieved person on whose behalf the complaint was filed may elect to have the claims asserted in the complaint decided in a civil action as provided in Section 2.44.093. The election must be made not later than twenty (20) days after the receipt by the electing person of service in the manner provided in this Chapter, in the case of an election by the commission, not later than twenty (20) days after such service. The person making the election shall give notice to the commission and to all other complainants and respondents to whom the complaint relates. If an election is made under this subsection, no later than sixty (60) days after the election is made the commission shall commence a civil action in the federal district court in its own name on behalf of the complainant. In such an action, the commission shall be represented by an attorney employed by the commission.

In a civil action brought under this section, the rights and remedies of the parties shall be determined by applicable federal law. The relief that may be granted in such a civil action shall include at least actual and punitive damages, injunctive and equitable relief as provided by applicable federal law.

(i) If an election is not made under subsection g and the commission finds that a respondent has engaged in or is engaging in any discriminatory housing practice, the commission shall render an order requiring the respondent to cease and desist from such discriminatory housing practice, and such order may direct a respondent to take such affirmative action as the commission deems necessary to effectuate the intent and purposes of this Chapter, including, but not limited to, the selling or renting of specified real property and the lending of money for the acquisition, construction, rehabilitation, repair or maintenance of real property. Such order may also include an award of actual damages, including pain, suffering and humiliation. Such order may also, to vindicate the public interest, assess a civil penalty against the respondent:

(1) In an amount not exceeding Ten Thousand Dollars (\$10,000.00), if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(2) subject to the provisions of subsection h (4), in an amount not exceeding Twenty-five Thousand Dollars (\$25,000.00), if the respondent has been adjudged to have committed one other discriminatory housing practice during the five-year period ending on the date of the filing of the complaint;

(3) subject to the provisions of subsection h (4), in an amount not exceeding Fifty Thousand Dollars (\$50,000.00), if the respondent has been adjudged to have committed two or more discriminatory housing practices during the seven-year period ending on the date of the filing of the complaint; and

(4) if the acts constituting the discriminatory housing practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice in the amounts provided by subsections h. 2. and h. 3. without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(j) Within fifteen (15) days after an order is served by the commission requiring or prohibiting action by a respondent, the respondent shall notify the commission in writing of the manner in which the respondent has complied with the order.

(k) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by the City, the commission shall, not later than thirty (30) days after the respondent has complied with the order, or, if such order is judicially reviewed under this Chapter, thirty (30) days after such order is in substance affirmed upon such review:

(1) Send copies of the findings of fact, conclusions of law and the order to the City Governing Body; and

(2) Recommend to the City Governing Body appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent. (Ord. 93-07 § 3, 1993; Ord. 92-37 § 14, 1992.)

2.44.092 Subpoenas.

(a) Upon written application to the commission, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the commission to the same extent and subject to the same limitations as subpoenas issued by the commission. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at respondent's request.

(b) Witnesses summoned by subpoena of the commission shall be entitled to the same witness and mileage fees as are allowed witnesses in proceedings in district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by the respondent.

(c) If the commission concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this Chapter, the commission may bring a civil action in the district court for appropriate temporary or preliminary relief pending final disposition of the complaint under this Section. The commission shall promptly notify the City Attorney of the filing of any action pursuant to this subsection. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this Chapter.

(d) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents or other evidence, if in such person's power to do so in obedience to the subpoena or lawful order of the commission, shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one year, or both such fine and imprisonment. Any person who, with intent thereby to mislead the commission, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document, submitted to the commission pursuant to subpoena or other order of the commission, or who shall willfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records or other documents, or who shall willfully mutilate, alter or by any other means falsify any documentary evidence, shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than one year, or both such fine and imprisonment. (Ord. 92-37 § 15, 1992.)

2.44.093 Civil Actions for Alleged Discriminatory Housing Practices.

(a) Within forty-five (45) days after the entry of an order by the commission pursuant to Section 2.44.091 of this Chapter, or within thirty (30) days after the commission has received written notification of the manner in which a respondent has complied with the commission's order, the commission or a person aggrieved may bring a civil action in the district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business, but upon application by the person aggrieved and the commission, the City Attorney may provide the attorney necessary to bring the action authorized herein. Such action may be brought to enforce the order of the commission, or to enforce any of the rights granted or protected by Section 2.44.090, insofar as such rights relate to the subject of the complaint with respect to which the order was issued. All such actions shall be heard by the court in a *trial de novo*. Upon application of any party to such action, the commission shall make available to all parties the records and information gathered during any investigation or hearing conducted pursuant to the authority granted by this Chapter, except that any records or information concerning the commission's efforts to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation and persuasion shall not be admissible as evidence in such action. If the respondent shall request a copy of the transcript of the hearing, the respondent shall pay for the cost of its preparation.

(b) If the court finds that a discriminatory housing practice has occurred, or is about to occur, the court may, in its discretion, grant as relief any permanent, temporary or mandatory injunction, temporary restraining order or other proper order. Provided, but any sale, encumbrance or rental consummated prior to the issuance of any court order issued under the authority of this Chapter, and involving a bona fide purchaser, encumbrancer or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Chapter, shall not be affected.

(c) Whenever a complaint is filed, or a civil action commenced, under the provisions of this Chapter, the commission may post notice thereof on any real property which is the subject of such complaint or action.

(d) (1) An aggrieved person may commence a civil action in a district court of the county in which the alleged discriminatory housing practice is alleged to have occurred or in which the respondent resides or transacts business not later than two (2) years after the occurrence or the termination of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice, except in the case of an action arising from a breach of a conciliation agreement, the computation of the two-year period shall not include any time during which an administrative proceeding under this act was pending with respect to a complaint under this act based on such discriminatory housing practice.

(2) If the United States Department of Housing and Urban Development, the Kansas Human Rights Commission or the commission has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a hearing under Section 2.44.090 of this Chapter.

(4) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages and, subject to state law, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order or other order, including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate. The court, in its discretion, may allow the prevailing party, other than the City of Olathe, reasonable attorney's fees and costs. The City of Olathe shall be liable for fees and costs to the same extent as a private person.

(5) Relief granted under this subsection shall not affect any contract, sale, encumbrance or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer or tenant, without actual notice of the filing of a complaint with the commission or civil action under this Chapter. (Ord. 92-37 § 16, 1992.)

2.44.094 Interference, Coercion or Intimidation. It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this chapter. (Ord. 93-07 § 4, 1993)

2.44.100 Affirmative Action Program for City Personnel. The affirmative action program for personnel in the city shall be as follows:

(1) It is the policy of the City to take affirmative action to achieve equal employment for all minorities and women in all personnel actions and procedures, including, but not limited to, recruitment, hiring, training, transfer, promotion, compensation and other benefits.

(2) General Objectives. General objectives shall be as follows:

A. To establish procedures to recruit minority and women applicants to every level of responsibility;

B. the City will maintain liaison and cooperate with programs providing training for minorities and women and seek out opportunities to participate in and/or operate such training programs;

C. to establish and maintain liaison between the City and minority communities.

(3) The City Manager, or his designated representative, shall be the Equal Employment Opportunity Officer to coordinate the City's efforts in the implementation of its affirmative action program and to advise and assist key staff in said implementation.

(4) All administrative personnel and department heads will be responsible for carrying out all aspects of the affirmative action program within their divisions or departments. The Human Resources Division shall be responsible for the development of recruitment and training programs to include hiring goals for each city department.

(5) Duties of the Equal Employment Opportunity Officer. The duties of the Equal Employment Opportunity Officer shall be to:

A. Conduct departmental reviews as necessary or indicated by reports, to determine compliance with the City's affirmative action program;

B. report to the Human Relations Commission and the City Manager results obtained with the affirmative action program, problems encountered and resistance or failure to implement the policy of the City; and recommend remedies;

C. serve as a consultant and resources person to the Human Resources Department and/or department heads in the development of recruitment programs, selection procedures, training programs or other personnel functions to implement the City's affirmative action program;

D. establish and maintain liaison between the City and minority communities.

(6) Dissemination of Policy.

A. The City policy of affirmative action shall be communicated by the City Manager to all personnel in City government.

B. The affirmative action policy shall be posted on all bulletin boards in areas where employed personnel will be aware of such policy.

C. The policy shall be sent to all appropriate recruitment sources. The intent of the policy shall be communicated with all letters or invitations for persons to submit resumes for consideration for employment.

D. During orientation of new personnel, the City's affirmative action program shall be emphasized. A printed brochure explaining all aspects of the policy will be provided to all new employees.

E. The policy of the City shall be forwarded to minority and women group leaders and organizations and churches; and particularly those composed of minority populations, schools, contractors, subcontractors, suppliers and other agencies.

(7) Recruitment and Selection. The City Human Resources Division shall:

A. Recruit personnel in such a manner that clearly demonstrates the City's interest in the employment of minorities and women.

B. Establish communications with educational institutions, organizations, leaders or spokesmen which encourage referral of qualified minorities and women applicants for positions which may become available in the City government.

C. Identify minority referral sources in Olathe and/or within the scope of the recruitment area.

D. Consider applicants on the basis of those able to be qualified to perform the job. If minority and women applicants have qualifications to perform the job, they shall be given equal consideration for employment with any other applicant.

(8) Audit Procedures.

A. The Human Resources Manager shall prepare an annual affirmative action report including all personnel within each department. This report will indicate numbers of persons employed, position of employment, race, sex, and shall be filed with the City Manager and Human Relations Commission.

B. The Human Resources Division shall prepare a quarterly report of new employees, transfers, promotions and terminations indicating the personnel who have resigned, retired, were fired or released by reduction of work force, noting in each case the race, sex and position of employment. The report shall include all personnel of the City and should include a statistical summary of new employees, transfers, promotions and terminations, by race and sex. Copies of the report shall be filed with the City Manager and the Human Relations Commission. (Ord. 92-37 § 17, 1992; Ord. 507 § 10, 1976).

2.44.110 Affirmative Action Program for Public Contracts. An affirmative action program for public contracts shall be submitted as follows:

(1) Class I Contracts

(A) Submission of Program. Prior to entering any contract, as defined in Section 2.44.020, with the city, all persons seeking such contract shall submit in writing to the Director of Human Relations an affirmative action program as defined in Section 2.44.020. Such affirmative action program shall be submitted concurrently with or prior to any contract bid or proposal. Said affirmative action program shall be submitted in the form of answers to a specific written questionnaire; provided that if any person fails or refuses to submit an affirmative action program as required by this section, such person shall be ineligible to enter into any Class I contract or to receive any said contract from the city until he has so complied.

(B) Review by Director of Human Relations.

(i) Affirmative Action Programs. The director shall receive and review affirmative action programs submitted to him or her and shall specify in writing any modification of the program needed to make it conform to the requirements of this section; provided that, prior to rejection of any program, the director shall advise and consult with the person submitting such program for the purpose of assisting him or her to develop an acceptable affirmative action program. In any event, the director shall notify the city manager in writing of his or her determination within five working days of the director's receipt of the program.

(ii) Option Annual Submission. Any person who so desires may file annually an affirmative action program which shall apply to all bids or proposals which such person makes during the calendar year next succeeding the day of such filing. Such annual submission shall be subject to review by the director of Human Relations and shall be amended at such time and in such manner as the director of Human Relations may require.

(C) Acceptance of Program. The final determination of acceptance or rejection of the affirmative action program shall be made by the Governing Body.

(D) Class I Contract Conditions

(i) Any person who has been awarded a Class I contract shall not discriminate against any person in the performance of work under the contract because of race, sex, religion, physical handicap, color, national origin, or ancestry, except by reason of demonstrably valid occupational disqualification.

(ii) In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer," or a similar phrase to be approved by the director of Human Relations.

(iii) If the contractor fails to comply with the provisions of this chapter, the contractor shall be deemed to have breached the contract and it may be rescinded, terminated, or suspended in whole, or in part, by the Governing Body.

(iv) The contractor shall include the provisions of this section in every subcontract so that such provisions will be binding upon such subcontractor.

(E) Duties and Authority of the Director of Human Relations. The director of Human Relations is charged with administration and enforcement of this section and is authorized and empowered.

(i) Affirmative Action Program, Review, Eligibility Certification. To receive, review and recommend approval or rejection of affirmative action programs submitted by persons seeking any city contract and to certify eligible persons to the city.

(ii) Compliance Investigation. To initiate investigations into, to survey and review any and all affirmative action programs and contracts subject to this section, and to take such action with respect thereto as shall insure compliance with the terms of this section, subject to approval of the city manager.

(iii) Initiate Complaints. To initiate and file with the Human Relations Commission complaints alleging violation of this section.

(iv) Complaint Investigation. To receive, investigate and rule upon, or pass on to the Human Relations Commission complaints of violations of this section.

(2) Class II Contracts. Prior to entering any contract, as defined in Section 2.44.020, with the city, all persons seeking such contract shall execute and agree to comply with the terms and conditions in every purchase order, which shall require compliance with Executive Order 11375, Section 202, pertaining to equal employment opportunity requirements; provided that, if any person fails or refuses to execute the purchase order containing the terms and conditions as required by this section, such person shall be ineligible to enter any Class II contract or to receive any said contract from the city until he has so complied (Ord. 941 § 6, 1979.)

2.44.120 Penalties. Any person, as defined in Section 2.44.020, who or which shall be found in violation of this chapter or any order of the Human Relations Commission or a hearing examiner by a competent court of law, shall be adjudged guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than six months, or by a fine or not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment. (Ord. 941 § 7, 1979).

2.44.130 Construction. The provisions of this Chapter shall be construed liberally for the accomplishment of purposes thereof. Nothing contained in this Chapter shall be deemed to repeal any of the provisions of any other law of this City relating to discrimination because of race, religion, color, sex, disability, familial status, national origin or ancestry unless the same is specifically repealed by this Chapter. Nothing in this Chapter shall be construed to mean that an employer shall be forced to hire unqualified or incompetent personnel or discharge qualified or competent personnel. (Ord. 92-37 § 18, 1992; Ord. 507 § 13, 1976).

CHAPTER 2.48

PUBLIC BUILDING COMMISSION*

Sections:

2.48.010	Creation--Powers and Functions.
2.48.020	Composition, Qualifications and Terms.
2.48.030	Municipal Corporation.
2.48.040	Duties.

2.48.010 Creation--Powers and Functions. The Public Building Commission is created for the following purposes and is authorized to exercise the following powers and functions:

(1) To acquire a site or sites, construct, equip and furnish a building or buildings, or to purchase or otherwise acquire a building or buildings or other facilities for federal, state and county governmental agencies or for any municipal corporation, quasi-municipal corporation, political subdivision or body politic or agency thereof;

(2) To rent all or any part of the building or buildings to any federal, state or county governmental agency or to any municipal corporation, quasi-municipal corporation, political subdivision or body politic or agency thereof, and further to rent any space as may not be needed by such governmental agencies as provided by law;

(3) To acquire fee simple title to real estate including easements and reversionary interests in streets, alleys and other public places and personal property required for its purposes, by purchase, gift, devise, or by the exercise of the power of eminent domain, and to take title in the corporate name of the commission;

(4) To borrow money and issue revenue bonds in the manner provided by law for the purpose of paying the cost or a portion of the cost of acquiring real estate and construction, equipping and furnishing buildings thereon and to pledge the net revenues of the facilities to secure such revenue bonds and to make covenants with respect to the maintenance, operation, repair and insuring of improvements thereon;

(5) To repair, maintain and operate the buildings;

(6) To sue and be sued;

(7) To adopt a seal;

(8) To convey title to real estate;

(9) To do all things and acts necessary or convenient to carry out the powers granted to it under this section and under K.S.A. 1968 Supp. 12-1757 and any subsequent amendments thereto; provided, however, that under no circumstances shall any income of the Public Building Commission inure to the benefit of any private person. (Ord. 278-C § 1 (part), 1969; prior code § 1-1103.)

2.48.020 Composition, Qualifications and Terms. The Public Building Commission shall be composed of not less than three or more than nine members. Three of the members of the Public Building Commission shall, at the time of their appointment to the commission, be duly elected, qualified and acting members of the Governing Body of Olathe, Kansas, and may serve as long as they continue to be Governing Body members of Olathe, Kansas. All other members of the Public Building Commission shall be appointed by the mayor with the approval of the remainder of the Governing Body and for terms of two years each. (Ord. 87-30 § 7, 1987; Ord. 85-126 § 1, 1985; Ord. 278-C § 1 (part), 1969; prior code § 1-1101.)

2.48.030 Municipal Corporation. The Public Building Commission created in Section 2.48.020 shall be a municipal corporation and shall have all powers and authorities set forth in K.S.A. 1968 Supp. 12-1757, and all subsequent amendments thereto. (Ord. 278-C § 1 (part), 1969; prior code § 1-1102.)

2.48.040 Duties. Subject to the provisions of all other sections of this chapter, the Public Building Commission shall provide for the construction as required of a new building or buildings, shall prepare all leases required in connection therewith and shall arrange for all financing of said building or buildings, including the site or sites, construction, equipping and furnishing and all other rentals, payments and revenue bond debt service requirements. (Ord. 278-C § 1 (part), 1969; prior code § 1-1104.)

*For statutory provisions authorizing the creation of a public building commission, see K.S.A. 12-1757 and the sections that follow.

CHAPTER 2.52

HOUSING AUTHORITY*

Sections:

2.52.010	Created.
2.52.020	Membership--Terms--Vacancies.
2.52.030	Compensation--Certificate of Appointment.
2.52.040	Powers--Quorum--Meetings--Qualifications.
2.52.050	Removal of Commissioner from Office.
2.52.060	Employees.
2.52.070	Delegated Powers.

2.52.010 Created. There is created a housing authority for the City of Olathe, pursuant to the Municipal Housing Law, as amended, to be known as the housing authority of the City of Olathe, Kansas. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 1, 1967.)

2.52.020 Membership--Terms--Vacancies. The housing authority of the City of Olathe, Kansas, shall consist of five persons as commissioners to be appointed by the mayor with the consent of the Governing Body. The commissioners who are first appointed pursuant to this chapter shall be designated to serve one for one year, one for two years, one for three years and two for four years each, from the date of their appointment, but thereafter such commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term, all such appointment to be made by the mayor with the consent of the Governing Body. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 2, 1967.)

2.52.030 Compensation--Certificate of Appointment. A commissioner shall receive no compensation for his services, but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the housing authority of the City of Olathe, Kansas, and this certificate shall be conclusive evidence of the due and proper appointment of the commissioner. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 3, 1967.)

2.52.040 Powers--Quorum--Meetings--Qualifications. The powers delegated by the Governing Body of the City of Olathe to the housing authority of the City of Olathe, Kansas, from time to time, shall be by ordinance, and such powers shall vest in the commissioners thereof in office from time to time. Three commissioners shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the by-laws of the authority shall require a larger number. Meetings of the commissioners of an authority may be held anywhere within the perimeter boundaries of the area of operation of the authority or within any additional area where the authority is authorized to undertake a project. Appointments may be made of any persons as commissioners of the authority who reside within its boundaries or area, and who are otherwise eligible for such appointment. The commissioners of the authority shall elect a chairman and vice chairman from among the commissioners. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 4, 1967.)

2.52.050 Removal of Commissioner from Office. For inefficiency or neglect of duty or misconduct in office, a commissioner of the housing authority of the City of Olathe, Kansas, may be removed by the mayor, but a commissioner shall be removed only after a hearing and after he shall have been given a copy of the charges at least ten days prior to the hearing and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the city clerk. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 5, 1967.)

2.52.060 Employees. The housing authority of the City of Olathe, Kansas, is authorized to employ an executive director, technical experts, and such other officers, agents and employees, permanent and temporary, as it may require, and to delegate to one or more of its agents or employees such powers or duties as the authority may deem proper. (Ord. 102-C § 1, (part), 1968; Ord. 43-C § 6, 1967.)

2.52.070 Delegated Powers. The authority is delegated:

(1) The power to plan, construct, maintain, operate and manage any low-rent housing project or projects of the city;

(2) All other powers conferred on the city by the Municipal Housing Law, as amended, except the powers to execute contracts with an agency of the government, borrow money, issue bonds (as defined in the Municipal Housing Law), and acquire or dispose of real property. (Ord. 102-C § 1 (part), 1968; Ord. 43-C § 7, 1967.)

*For statutory provisions pertaining to housing authorities, see K.S.A. 17-2340.

CHAPTER 2.56

POLICE DEPARTMENT

Sections:

- 2.56.010 Arrest Authority of Police.
2.56.020 Special Police Services Fees.

2.56.010 Arrest Authority of Police.

(A) A city law enforcement officer has the authority to arrest a person for any violation of city ordinances, except as provided in subsection (B), when:

- (1) The officer has a warrant commanding that the person be arrested;
- (2) A warrant for the person's arrest has been issued by a municipal court in this state;
- (3) The officer has probable cause to believe that the person is committing or has committed a violation of an ordinance and that the person has intentionally inflicted bodily harm to another person;
- (4) The law enforcement officer detained the person when:

(a) The law enforcement officer has probable cause to believe that the person is committing or has committed a violation of the city ordinance, and the law enforcement officer has probable cause to believe that:

- (1) Such person will not be apprehended or evidence of the violation of the ordinance will be irretrievably lost unless such person is immediately detained; or
- (2) Such person may cause injury to himself, herself or others or damage to property unless immediately detained; or

(b) Any violation of the city ordinance has been or is being committed by such person in the view of the law enforcement officer; and

(c) When one of the following occurs:

(1) The person refused to give a written promise to appear in court when served with a notice to appear;

(2) The person is unable to provide identification of self by presenting a valid driver's license or other identification giving equivalent information to the law enforcement officer;

(3) The person is not a resident of the state of Kansas; or

(4) The law enforcement officer has probable cause to believe that the person may cause injury to self or others or may damage property unless immediately arrested.

(B) A law enforcement officer may not arrest a person who is charged only with committing an ordinance traffic infraction or an ordinance cigarette or tobacco infraction unless the person charged has received service of a notice to appear and has failed to appear for the infraction. (Ord. 96-82 § 3, 1996; Ord. 207 § 1, 1973.)

2.56.020 Special Police Services Fees.

(1) A fee shall be paid whenever special police services are provided by the City of Olathe Police Department. The fee shall not exceed the cost of providing the service. Fees shall be established by resolution of the Governing Body.

(2) For the purposes of this ordinance, "special police services" includes, but is not limited to, fingerprinting, criminal records checks, and private security checks. (Ord. 05-128 § 1, 2005; Ord. 207 § 1, 1973.)

CHAPTER 2.60

EMERGENCY MEDICAL SERVICES

Sections:

- 2.60.010 Definitions.
- 2.60.020 Emergency Medical Services Program.
- 2.60.030 Contracts and Coordination with other Governmental Entities.
- 2.60.040 Rates and Emergency Medical Services. (Repealed 8/19/03)

2.60.010 Definitions. The following words and phrases shall be defined as follows for the purpose of this chapter:

(1) "Emergency medical service" means a service to provide for the effective and coordinated delivery of such emergency care as may be required by an emergency, including transportation of individuals by ground or air ambulances and the performance of any authorized emergency care.

(2) "Governmental entity" means the state, or any department, agency or authority of the state, any city, county, district or other political subdivision or public corporation and any instrumentality thereof. (Ord. 418 § 2 (part), 1976.)

2.60.020 Emergency Medical Services Program. Pursuant to K.S.A. 65-4301 et seq., as amended, it shall be the duty of the chief of the Fire Department to provide a program for emergency medical service, which shall be known and designated as the "Emergency Medical Service Program" of the city. (Ord. 418 § 2 (part), 1976.)

2.60.030 Contracts and Coordination with Other Governmental Entities. The Governing Body, pursuant to K.S.A. 65-4304 as amended, reserves the right to contract or otherwise agree to combine or coordinate its activities, facilities and personnel with those of any person or governmental entity for the purpose of furnishing emergency medical service within or without the city. (Ord. 418 § 2 (part), 1976.)

2.60.040 Rates and Emergency Medical Services. Repealed. (Ord. 03-71 § 1, 2003; Ord. 02-117 § 1, 2002; Ord. 83-87 § 1, 1983; Ord. 418 § 2 (part), 1976.)

CHAPTER 2.62
ENERGY ADVISORY BOARD

Sections:

2.62.010	Creation.
2.62.020	Size of Board.
2.62.030	Qualification of Members.
2.62.040	Appointment to Board.
2.62.050	Term of Office.
2.62.060	Filling of Vacancies.
2.62.070	Removal.
2.62.080	Compensation.
2.62.090	Organization.
2.62.100	Duties.
2.62.110	Advisory Actions.
2.62.120	Expenditure of Funds.

2.62.010 Creation. There is hereby established an Energy Advisory Board for the City of Olathe, Kansas. (Ord. 81-04 § 1 (part), 1981.)

2.62.020 Size of Board. The Energy Advisory Board shall consist of seven members. One member shall be a member of the Olathe Governing Body and one member shall be a member of the Olathe Planning Commission. (Ord. 87-30 § 8, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.030 Qualification of Members. All members to the Energy Advisory Board shall be duly qualified electors of the City of Olathe or own, or be an employee of, a business located in the city. (Ord. 81-04 § 1 (part), 1981.)

2.62.040 Appointment to Board. The members of the Energy Advisory Board shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. (Ord. 87-30 § 9, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.050 Term of Office. Each member of the Energy Advisory Board shall serve a term of four years. Each member may be reappointed to serve an additional term, but in no case shall a member serve for a period of time exceeding eight consecutive years. Each shall serve until a successor is appointed. (Ord. 81-04 § 1 (part), 1981.)

2.62.060 Filling of Vacancies. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 87-30 § 10, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.070 Removal. The mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member of the board at any time for good and sufficient cause. (Ord. 87-30 § 11, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.080 Compensation. The members of the Energy Advisory Board shall serve without compensation. (Ord. 81-04 § 1 (part), 1981.)

2.62.090 Organization. A majority of the members of the Energy Advisory Board shall constitute a quorum for the transaction of business, they may hold general or special meetings at such times as they may by order direct, and may make and establish such reasonable bylaws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities. (Ord. 81-04 § 1 (part), 1981.)

2.62.100 Duties. The Energy Advisory Board shall have the following functions, duties and responsibilities:

- (1) To evaluate the energy conservation needs of the City of Olathe, Kansas;
- (2) To develop an energy conservation policy for the consideration of the Olathe Governing Body. Such policy shall include operational goals and a program design;
- (3) To review the energy conservation activities of the various departments of the City of Olathe;
- (4) To oversee the development of the intergovernmental grant applications concerning energy conservation activities;
- (5) To report to the Olathe Governing Body, on a semiannual basis, concerning the status of energy conservation activities in Olathe, Kansas;
- (6) To arrange and disseminate information concerning energy conservation and energy conservation activities. (Ord. 87-30 § 12, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.110 Advisory Actions. All actions taken by the board shall be of an advisory nature only, and a written report of such recommended activities and programs together with recommended action shall be given to the Governing Body for appropriate action. (Ord. 87-30 § 14, 1987; Ord. 81-04 § 1 (part), 1981.)

2.62.120 Expenditure of Funds. The Energy Advisory Board shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for the expenditure of funds. (Ord. 87-30 § 15, 1987; Ord. 81-04 § 1 (part), 1981.)

CHAPTER 2.64

MAHAFFIE FARMSTEAD ADVISORY BOARD

Sections:

2.64.010	Creation.
2.64.020	Size of Board.
2.64.030	Appointment, Vacancies, Removal, Compensation.
2.64.040	Term of Appointment.
2.64.050	Organization.
2.64.060	Duties and Responsibilities.
2.64.070	Advisory Actions.

2.64.010 Creation. There is hereby established a Mahaffie Farmstead Advisory Board for the City of Olathe, Kansas. (Ord. 81-16 § 1 (part), 1981.)

2.64.020 Size of Board. The Mahaffie Farmstead Advisory Board shall consist of seven members. One member shall be a representative from Unified School District No. 233. The director of Parks and Recreation and the historical coordinator shall be ex officio, non-voting members. (Ord. 81-16 § 1 (part), 1981.)

2.64.030 Appointment, Vacancies, Removal, Compensation. The members of the Mahaffie Farmstead Advisory Board shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. The mayor with the consent of the remaining members of the Governing Body, may remove any appointed member of the board at any time for good and sufficient cause. The members of the Mahaffie Advisory Board shall serve without compensation. (Ord. 87-30 § 15, 1987; Ord. 81-16 § 1 (part), 1981.)

2.64.040 Term of Appointment. The term of appointment for each member shall be four years, except those members of the board first selected. One shall serve one year, two shall serve two years, two shall serve three years and two shall serve four years. Each member may be reappointed to the board, provided that the member's term of office shall not exceed eight consecutive years. Each shall serve until a successor is appointed. (Ord. 81-16 § 1 (part), 1981.)

2.64.050 Organization. The members of the Mahaffie Farmstead Advisory Board shall, by majority vote, elect from among the members a chairperson and vice-chairperson. The board may make and establish such reasonable bylaws, rules and regulations as may be necessary for their own government, and for the full and complete execution of their duties and responsibilities. General or special meetings may be held at such time as the chairperson or vice-chairperson directs. A majority of the members of the Mahaffie Farmstead Advisory Board shall constitute a quorum for the transaction of business. (Ord. 81-16 § 1 (part), 1981.)

2.64.060 Duties and Responsibilities. The Mahaffie Farmstead Advisory Board shall have the following functions, duties and responsibilities:

(1) To prepare and update restoration plans and to establish priorities for restoration and development projects;

(2) To establish policies pertaining to the use and operation of Mahaffie Farmstead;

(3) To engage in activities for the purpose of obtaining monetary and service donations for the restoration of the Farmstead;

(4) To engage in activities for the purpose of informing the public about the Mahaffie Farmstead and programs conducted at the Farmstead;

- (5) To determine use of funds donated for the restoration or development of the Farmstead;
- (6) To advise on programs and activities to conducted at the Mahaffie Farmstead;
- (7) To assist the historical coordinator in preparing annual budget recommendations. (Ord. 81-16 § 1 (part), 1981.)

2.64.070 Advisory Actions. All actions taken by the board shall be of an advisory nature only. Recommended actions and policies shall be given to the Governing Body for appropriate action. (Ord. 87-30 § 16; 1987; Ord. 81-16 § 1 (part), 1981.)

CHAPTER 2.66

OPEN PUBLIC RECORDS

Sections:

- 2.66.010 Policy.
- 2.66.020 Local Freedom of Information Officer and Records Custodian.
- 2.66.030 General Procedures.
- 2.66.040 Procedures for Inspection.
- 2.66.050 Procedures for Copying.
- 2.66.060 Fee Schedule for Copying Open Public Records.
- 2.66.070 Denial of Requests.

2.66.010 Policy. K.S.A. 45-215, et. seq., the Kansas Open Records Act, declares that, ‘public records shall be open for public inspection by any person unless otherwise provided by this act, and that this act shall be liberally construed and applied to promote such policy’. Consistent with the policy, duties and procedures established by the State of Kansas in the act, and to facilitate the public policy of open government, the Local Freedom of Information Officer and all city record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records. Copies of documents generated at recent public activities, such as Governing Body or commission or other board meetings and other current business activities, have been furnished on a free-of-charge basis in the past and that policy will continue. This ordinance and the act do not create any duties to retain particular public records, nor do they affect authority to destroy public records, the discretion of a public official to ‘open’ a record when not required or any other statutory created duty to make available for public inspection a particular record. (Ord. 00-79 § 1, 2000; Ord. 87-30 § 17, 1987; Ord. 84-07 § 1, 1984.)

2.66.020 Local Freedom of Information Officer and Records Custodian.

A. Local Freedom of Information Officer.

1. The Governing Body of the City of Olathe appoints the City Clerk as the local freedom of information officer.
2. The local freedom of information officer or his or her designee shall:
 - a) Prepare and provide educational materials and information concerning the Open Records Act;
 - b) Be available to assist the City and members of the general public to resolve disputes relating to the Open Records Act;
 - c) Respond to inquiries relating to the Open Records Act; and

d) Establish the requirements for content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise make available to the public under the Open Records Act. In establishing such requirements for the content of the brochure, the local freedom of information officer shall include plainly written basic information about the rights of a requestor, the responsibilities of a public agency, and the procedure for inspecting and obtaining a copy of public records under the Open Records Act.

B. Custodians.

1. All City officers and employees appointed or designated under this ordinance as records custodians shall protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the City; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this City for inspecting and copying open public records.

2. All City officers and employees appointed or designated under this ordinance shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the local freedom of information officer that contains basic information about the rights of a requestor, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the governmental body where it is available to members of the public who request public information in person under this ordinance.

3. The following City officers are hereby appointed as official custodian and record custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed records and duties:

a) Official Custodian. The City Clerk is appointed as official custodian of City records and as such shall receive and coordinate all requests for access to public records except for law enforcement records which will be received and coordinated by the Records Coordinator for the Police Department and the Fire Marshal for the Fire Department as provided in subparagraph b) following.

b) Custodial Procedure. The official custodian and law enforcement record custodian will be guided by the general provisions of Section 2.66.030 and the specific provisions contained in subparagraphs 1) and 2) following.

1) Official Custodian. If a requested record, other than a law enforcement record, is on file in the City Clerk's record vault, the City Clerk will act on the request. If the record is on file in another department, the City Clerk will coordinate with the record custodian for that department and obtain a date and time that the record will be available for inspection. The City Clerk will stamp the request form "Received" and ensure its delivery to the pertinent record custodian for action as appropriate. It will not be the City Clerk's duty to determine the accessibility of records not held by his office. The City Clerk will maintain a file of all requests received by the City other than law enforcement record requests.

2) Law Enforcement Records Custodian. Requests for law enforcement records will be received by the Records Coordinator for the Police Department and the Fire Marshal for the Fire Department and acted upon in accordance with the procedures established herein. The Records Coordinator for the Police Department and the Fire Marshal for the Fire Department will maintain a file of all law enforcement record requests separate of the file kept by the official custodian.

C. Record Custodians. The following City officials are appointed record custodians for all public records not on file in the City Clerk's office and as are kept and maintained in their respective offices:

1. City Manager.
2. Records Coordinator of the Police Department
3. Fire Marshal

D. Additional Record Custodians. Each of the custodians appointed in subsections A. B. and C. above is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act and this ordinance. Whenever record custodians shall appoint another person as an additional record custodian, he or she shall notify the City Clerk of such designation in writing, and the City Clerk shall maintain a register of all such designations. (Ord. 11-20 § 1, 2011; Ord. 00-79 § 2, 2000; Ord. 84-104 § 1 & 3, 1984; Ord. 84-07 § 1, 1984.)

2.66.030 General Procedures. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian and additional record custodian:

(1) Consistent with the policy, duties and procedures established by the State of Kansas in K.S.A. 45-205 et seq., as amended, the City's official and record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records.

(2) Record custodians shall adopt and apply procedures which will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.

(3) All persons requesting inspection of or a copy of open public records must make such request in writing, except as otherwise provided in this ordinance, and include their name, address and a reasonable description of the record document(s) they desire to inspect and copy. Although no particular form is required, the official custodian shall provide a City form for the requestor's convenience.

(4) Record custodians shall take necessary measures, not inconsistent with their duties, to provide full public access to open public records, to ensure that the essential functions of the custodian's office, department or agency are not disrupted by requests for record inspection and copying.

(5) All inspections and copying of Open Public Records shall be performed by, or under the supervision of, the record custodian responsible for such records.

(6) All record inspection and copying requests are to be submitted by the person requesting the record. The official or record custodian may demand reasonable identification of any person requesting a record.

(7) Fees for copying are due at the time application is made and are to be paid to the official custodian. A fee schedule shall be adopted by the Governing Body of the City by resolution.

(8) The official custodian shall determine and assess a charge covering mailing and handling costs accrued in responding to requests through the mail service.

(9) The official custodian may exercise his or her discretion to reduce or waive any copying fee when such is in the public interest.

(10) No record copying charge shall be assessed against officers or employees of the City who make requests which are reasonably necessary to the performance of their official duties.

(11) Hours for making requests for inspection and/or copying shall be all regular working hours for each day the office maintains regular working office hours. If an office keeping or maintaining public records does not have working office hours Monday through Friday, the record custodian for such office shall establish hours for each such day when no regular office hours are kept; at which time members of the public may make requests for record inspection and/or copies of records.

(12) Each request for access to open public records shall be acted upon as soon as possible, but no later than the end of the third business day following the date that the request was received. If access is not granted within three working days the requestor will be given a day, time and place that the record will be made available.

(13) Information extracted from public records and routinely passed to citizens verbally during the normal course of business will continue to be disseminated in this manner. For example, information from the computerized real estate file will continue to be given out by telephone. Additionally, all records which arise from current City business activities, such as Governing Body or other commission and board meetings, will be provided as in the past, for inspection and copying at no charge to the requesting individual.

(14) The record custodian will allow access to an open public record only in the area of the City Hall or other City building in which the record is kept. Under no circumstances will a public record be removed for public inspection or copying from such premises.

(15) The above procedure, as well as any other inspection and copying procedures, shall be posted in a conspicuous place in the office of the official custodian. (Ord. 02-118 § 1, 2002; Ord. 00-79 § 3, 2000; Ord. 87-30 § 18, 1987; Ord. 84-07 § 1, 1984.)

2.66.040 Procedures for Inspection. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian (including additional record custodians):

(1) Record custodians shall handle all inspection requests in accordance with their duties to protect and preserve public records and to assist persons requesting inspection of open public records.

(2) No particular request form is required for submission of a request (see Section 2.66.030 (3) above), however, request submitted must be in writing; contain the name and address of the requester, and a reasonable description of the document (s) to be inspected; be in the name of an individual person(s); and delivered to the official custodian (city clerk).

(3) A written request is sufficient if it reasonably describes the record sought. In instances where the requester cannot provide sufficient information to identify a record, the official custodian shall assist in making such identification.

(4) In cases where a request for a specific record gives the official or record custodians reason to believe that the record contains information of a personal nature which if disclosed would constitute an unwarranted invasion of personal privacy, the official or record custodians shall inform the requester that a 72-hour waiting period must run before such record may be inspected. During that 72-hour period, the custodian shall make every reasonable effort to determine the identity of those persons whose privacy interest may be so affected by disclosure. The record custodian shall attempt to contact such persons and ascertain whether they, or any of them, will seek a court order challenging disclosure. Additionally, he will notify the municipal counsel of the possibility of a privacy violation and obtain a legal opinion pertaining thereto. If, after these steps and the custodian's own objective assessment, it appears that a privacy violation could occur, the custodian shall deny inspection pending the outcome of litigation or an intervening court order. (Ord. 84-07 § 1, 1984.)

2.66.050 Procedures for Copying. The following procedures are hereby adopted and shall be applied by the official custodian and each record custodian (including additional record custodians):

A. Record custodians shall handle all copy requests in accordance with their duties to protect and preserve public records and to assist persons requesting copies of open public records.

B. All request forms must be completed by the party requesting the copies. In all cases the party so requesting must be an individual person or persons. Written requests may be made on the form provided by the official custodian.

C. Mechanical reproduction of a record shall not be undertaken when it is the judgment of the record custodian that any available means of mechanically reproducing the subject record is likely to cause damage to such record.

D. Copy fees shall be such fees as are adopted by the Governing Body of the City by resolution. No copy fee shall be assessed when multiple copies of the record requested have been prepared for free public distribution, or when the official custodian determines that the cost of charging and handling the fee exceeds the cost of providing a copy without charge. Further, copies of current City business activities, such as Governing Body and or other commission and board meetings, will continue to be furnished free of charge as in the past (see Section 2.66.010).

E. No copying fee will be assessed when a denial of a request is made. (Ord. 11-20 § 2, 2011; Ord. 02-118 § 2, 2002; Ord. 87-30 § 19, 1987; Ord. 84-07 § 1, 1984.)

2.66.060 Fee Schedule for Copying Open Public Records. In order to avoid the necessity of using general public funds of the city to subsidize special services and benefits to a record requester, a schedule of fees for copying of open public records will be published by a separate resolution adopted by the Governing Body of the City. Such fees are intended to cover costs of labor, materials and equipment to the city in reproducing public records. (Ord. 02-118 § 3, 2002; Ord. 84-07 § 1, 1984.)

2.66.070 Denial of Requests.

(1) Inspection. A custodian may deny a request for inspection on grounds that the requested record is not a record required by law to be disclosed or that such a request would create an unreasonable burden upon the city or that it was made with the intent to disrupt city activity. In the first instance, a record not required by law to be disclosed, the record is either not a record covered by the act or it is one that is specifically exempted from mandatory disclosure by the act. In no instance will a custodian issue a denial of access to public record without first obtaining a legal opinion from the municipal counsel. Denials when issued, will be done in writing on a city form which provides the requester with information as to why the record access was denied and notifies the requester that it is his right to challenge the denial in the Johnson County District Court.

(2) Copy. Requests for copying records that have been made available for inspection can only be denied if the mechanical reproduction would damage the record, such copying is restricted under federal or state law or the act specifically exempts such copying. In no instance will a custodian deny a copy request without first obtaining a legal opinion from the municipal counsel. Denials, when issued, will be done in writing on a city form which provides the requester with information as to why the copy was denied and notifies the requester that it is his right to challenge the denial in the Johnson County District Court. (Ord. 84-07 § 1, 1984.)

CHAPTER 2.68

SISTER CITIES COMMITTEE

Sections:

2.68.010	Creation.
2.68.020	Size of Board.
2.68.030	Appointment, Vacancies, Removal, Compensation.
2.68.040	Term of Appointment.
2.68.050	Organization.
2.68.060	Duties and Responsibilities.

2.68.010 Creation. There is hereby established a Sister Cities Committee for the City of Olathe, Kansas.

2.68.020 Size of Board. The Sister Cities Committee shall consists of (9) voting members. A Governing Body member and a school district representative shall serve as ex-officio, nonvoting members. (Ord. 87-30 § 20, 1987; Ord. 85-121 § 1, 1985.)

2.68.030 Appointments, Vacancies, Removal, Compensation. The members of the Sister Cities Committee shall be appointed by the mayor with the consent of and approval by the remainder of the Governing Body. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. The mayor with the consent of the remaining members of the Governing Body may remove any appointed member of the committee at any time for good and sufficient cause. The members of the Sister Cities Committee shall serve without compensation. (Ord. 85-121 § 1, 1985.)

2.68.040 Term of Appointment. The term of appointment for each member shall be four years, except those members of the committee first selected. Two shall serve one year, two shall serve two years, two shall serve three years and three shall serve four years. Each member may be reappointed. Each shall serve until a successor is appointed. (Ord. 85-121 § 1, 1985.)

2.68.050 Organization. The members of the Sister Cities Committee shall by a majority vote, elect from among the members a chairperson, vice-chairperson and any other officers deemed necessary. The committee may make and establish such reasonable by-laws, rules and regulations as may be necessary for their own governance, and for the full and complete execution of their duties and responsibilities. Meetings shall be held at least once a quarter. Additional meetings may be held at such time as the chairperson and vice-chairperson direct. A majority of the members of the Sister Cities Committee shall constitute a quorum for the transaction of business. (Ord. 85-121 § 1, 1985.)

2.68.060 Duties and Responsibilities. The Sister Cities Committee shall have the following functions, duties and responsibilities:

- (1) To promote mutual friendship and cultural understanding between Olathe and its sister cities;
- (2) To develop, compile, coordinate and exchange information with officials and citizens of the sister cities;

- (3) To plan, develop and carry out mutual economic, athletic and cultural activities.
- (4) To provide educational and cultural exchange programs;
- (5) To encourage private cooperation and exchange of technical, medical and manufacturing information and operation;
- (6) To promote information about the sister cities programs with Olathe. (Ord. 85-121 § 1, 1985.)

CHAPTER 2.70

AUDIT COMMITTEE

Sections:

2.70.010	Creation.
2.70.020	Size of Committee.
2.70.030	Qualifications of Members.
2.70.040	Appointment to Committee.
2.70.050	Term of Office.
2.70.060	Filling of Vacancies.
2.70.070	Removal.
2.70.080	Compensation.
2.70.090	Organization.
2.70.100	Duties.
2.70.110	City Facilities.
2.70.120	Advisory Actions.
2.70.130	Expenditure of Funds.

2.70.010 Creation. There is hereby created and established an Audit Committee for the City of Olathe, Kansas, whose purpose is to give advice to the Governing Body and city management on audits performed by the city's external and internal auditors. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.020 Size of Committee. The Audit Committee shall consist of five (5) members. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.030 Qualification of Members.

(a) All members of the Audit Committee shall be duly qualified electors of the city, or own, or be an employee of a business located in the city.

(b) Membership experience in the legal, accounting, data processing and managerial professions is desirable, but at least one of the five (5) members must have an accounting or financial background. Wide diversity in membership background is desirable. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.040 Appointment to Committee. The members of the Audit Committee shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.050 Term of Office. The term of office for the members of the Audit Committee shall be three (3) years. Members may be reappointed but in no case shall a member serve for a period of time exceeding six (6) consecutive years. Each shall serve until a successor is appointed. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.070 Removal. The mayor, with the consent of the remaining members of the Governing Body may remove any appointed member to the committee at any time for good and sufficient cause. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.080 Compensation. Members of the Audit Committee shall serve without pay. The city shall pay the cost of part-time secretarial help, storage space for documents and meeting supplies (blank audio tapes and photocopying). (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.090 Organization.

(a) A majority of the members of the Audit Committee shall constitute a quorum for the transaction of business.

(b) The committee may meet as often as necessary to deal with its business, but shall meet at least once every three months.

(c) The committee may make and establish such reasonable rules and bylaws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities.

(d) The committee shall select a chairman and vice chairman. The chairman and vice chairman shall serve one year terms or until their successors have been selected.

(e) The meetings of the Audit Committee shall be subject to the Kansas Open Meetings Act and its records subject to the Kansas Open Records Act. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.100 Duties. The Audit Committee shall have the following duties:

(a) Meet with the city's independent external auditors to review the certified audit opinion and management letter. Issue a statement to the City Council regarding the city's annual report. Monitor the city's efforts to correct any weaknesses or inefficiencies identified by the external auditors' report.

(b) Monitor the implementation of internal audit recommendations and periodically report the progress of the internal audit recommendations to the City Council.

(c) Provide the City Council with a periodic written listing of potential audit ideas, to be submitted by the Audit Committee for use in developing the Auditor's annual workplan.

(d) Provide advisory services/opinions for the City Council, Auditor and City Staff, as requested.

(e) Prepare and submit a year-end report summarizing the annual activities of the Audit Committee, to be submitted by March 31 of each year to the Governing Body. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.110 City Facilities. The city manager shall arrange for the Audit Committee to have the use of a meeting room when needed. Part-time secretarial help, postage and stationery for mailings to Committeemembers and Councilmembers, shall be provided by the city to the Audit Committee. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.120 Advisory Actions. All actions taken by the Audit Committee shall be of an advisory nature only, and a written report of recommended actions or policies shall be given to the Governing Body for appropriate action. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

2.70.130 Expenditure of Funds. The Audit Committee shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for expenditures. (Ord. 94-25 § 2, 1994; Ord. 88-18 § 1, 1988.)

CHAPTER 2.72

COMMUNITY IMAGE COMMITTEE

Sections:

2.72.010	Creation.
2.72.020	Size of Committee.
2.72.030	Qualifications of Members.
2.72.040	Appointment to Committee.
2.72.050	Term of Office.
2.72.060	Filling of Vacancies.
2.72.070	Removal.
2.72.080	Compensation.
2.72.090	Organization.
2.72.100	Duties.
2.72.110	City Facilities.
2.72.120	Minority Reports.
2.72.130	Advisory Actions.
2.72.140	Expenditure of Funds.

2.72.010 Creation. There is hereby established and created a Community Image Committee for the City of Olathe, Kansas.(Ord. 88-112 § 1, 1988.)

2.72.020 Size of Committee. The Community Image Committee shall consist of fourteen (14) voting members and such nonvoting members as deemed appropriate by the Governing Body of the city. (Ord. 93-01 § 1, 1993; Ord. 91-60 § 1, 1991; Ord. 88-112 § 1, 1988.)

2.72.030 Qualification of Members. Eleven (11) members of the Community Image Committee shall be duly qualified electors of the city, or own, or be an employee of, a business located in the city. One student from each of the city's high schools shall be appointed to the three remaining positions. There shall be no qualification requirements for nonvoting members. (Ord. 93-01 § 2, 1993; Ord. 91-60 § 2, 1991; Ord. 88-112 § 1, 1988.)

2.72.040 Appointment to Committee. The members of the Community Image Committee shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. (Ord. 88-112 § 1, 1988.)

2.72.050 Terms of Office.

(a) Eleven Adult Members. The term of office for these positions shall be for four (4) years for the members first appointed, of which two shall serve one year, three shall serve for two years, three shall serve for three years and three shall serve for four years. Expiration for the terms shall be September 30 of each year. These members may be reappointed to the committee, provided that no individual member's term shall exceed eight (8) consecutive years. Each person shall serve until a successor is appointed, provided the successor's term shall be considered as having commenced on the former member's scheduled date of expiration.

(b) High School Students. The term of office for the high school student appointments shall be one year, beginning January 1. Expiration for the terms shall be December 31 of each year.

(c) Nonvoting Members. The term of office for nonvoting members shall be one year. Expiration for the terms shall be September 30 of each year. (Ord. 93-01 § 3, 1993; Ord. 91-60, § 3, 1991; Ord. 88-112 § 1, 1988.)

2.72.060 Filling of Vacancies. Vacancies occurring before the expiration of a term shall be filled by appointment by the mayor, with the consent of the remaining members of the Governing Body for the remained of the unexpired term. (Ord. 88-112 § 1, 1988.)

2.72.070 Removal. The mayor, with the consent of the remaining members of the Governing Body may remove any appointed member to the committee at any time for good and sufficient cause. (Ord. 88-112 § 1, 1988.)

2.72.080 Compensation. Members of the Community Image Committee shall serve without pay. The city may pay for the cost of travel on official business, secretary time and storage space for documents along with paper and office supplies for the committee. (Ord. 88-112 § 1, 1988.)

2.72.090 Organization.

(a) A majority of the voting members of the Community Image Committee shall constitute a quorum for the transaction of business.

(b) The committee may meet as often as necessary to deal with its business, but shall meet at least once every three (3) months.

(c) The committee may make and establish such reasonable rules and bylaws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities. Minutes of the committee meetings shall be maintained.

(d) The committee shall select one of their voting members as chairman, one as Vice-chairman, and one as secretary. The chairman, vice-chairman and secretary shall serve one year terms or until their successors have been selected.

(e) The committee may form such standing and ad hoc committees as may be necessary.

(f) The chairman may invite persons from the city to assist on projects or serve on ad hoc sub-committees provided that the committee shall maintain responsibility for the work and actions of such sub-committee. (Ord. 91-60 § 4, 1991; Ord. 88-112 § 1, 1988.)

2.72.100 Duties. The Community Image Committee shall be responsible for generating and promoting ideas for the enhancement of the city's image and the fostering of civic pride and public awareness in the community by:

(a) developing ideas and formulating programs for the development, promotion and maintenance of a positive community image;

(b) acting as an advisory body to the City Council and as an advocate for the image of the city;

(c) soliciting opinions through public hearings and surveys on the image of the city and to analyze and recommend to the City Council ways to improve or enhance the city's image;

(d) exchanging ideas on the improvement or enhancement of municipal image with private, federal, state and local agencies;

- (e) advising, planning and participating in programs and activities to improve the appearance of the city;
- (f) assisting and promoting community and neighborhood awareness and beautification programs and projects;
- (g) reviewing and advising on proposals to establish aesthetic requirements for construction within the city;
- (h) advising and promoting neighborhood renewal and preservation programs and activities;
- (i) advising and engaging in programs and activities as directed by the mayor and Governing Body to develop, promote and maintain a positive community image; and
- (j) preparing and submitting to the City Council reports and recommendations on the committee's activities at least three (3) times per year, with one report being an annual report. (Ord. 88-112 § 1, 1988.)

2.72.110 City Facilities. The city manager shall arrange for the Community Image Committee to have use of a meeting room when needed. Part-time secretarial help shall be provided and postage and stationery shall be provided by the city to the committee. (Ord. 88-112 § 1, 1988.)

2.72.120 Minority Reports. Any voting member of the committee and any group of voting members of the committee dissatisfied with any recommendation approved by a majority vote of the committee, may submit in writing a minority report, giving the view of the members of the committee who do not join in the majority opinion. (Ord. 91-60 § 5, 1991; Ord. 88-112 § 1, 1988.)

2.72.130 Advisory Actions. All actions taken by the Community Image Committee shall be of an advisory nature only, and a written report of recommended actions or policies shall be given to the Governing Body for appropriate action. (Ord. 88-112 § 1, 1988.)

2.72.140 Expenditure of Funds. The Community Image Committee shall have no authority to expend funds unless and until the Governing Body had given specific advance authorization for expenditures. (Ord. 88-112 § 1, 1988.)

CHAPTER 2.74

BOARD OF CODE REVIEW

Sections:

- 2.74.010 Creation.
- 2.74.020 Size of Board, Qualifications of Members.
- 2.74.030 Appointment, Term, Vacancies, Removal, Compensation.
- 2.74.040 Organization.
- 2.74.050 Duties and Responsibilities.

2.74.010 Creation. There is hereby created a Board of Code Review for the City of Olathe, Kansas. (Ord. 89-93 § 1, 1989.)

2.74.020 Size of Board, Qualifications of Members. The Board of Code Review shall consist of seven (7) members. One member shall be a master electrician, one member shall be a master plumber, one member shall be a master mechanical installer, one member shall be a professional licensed engineer and/or architect, one member shall be a builder and/or contractor, and two members shall be people who by training and experience are qualified to pass on matters pertaining to building construction. Further, the Director of Development Services or his or her designee, fire marshal and city engineer shall serve as ex-officio, non-voting members. (Ord. 01-83 § 1, 2001; Ord. 89-93 § 1, 1989.)

2.74.030 Appointment, Term, Vacancies, Removal, Compensation. The members of the Board of Code Review shall be appointed by the mayor with the consent and approval of the remainder of the Governing Body. The term of office shall be four years except for the members first appointed of which two shall serve for two years, three shall serve for three years, two shall serve for four years. Expiration date of the terms for members appointed by the mayor shall be September 1st of the appropriate year for each member. Ex-officio members shall serve as long as they remain employees of the city in appropriate position. Vacancies occurring before the expiration of a term shall be filled in the manner of the original appointment for the remainder of the unexpired term. The mayor, with the consent of the remainder of the Governing Body, may remove any member appointed by the mayor for a good and sufficient cause. The members of the Board of Code Review shall serve without compensation. (Ord. 89-93 § 1, 1989.)

2.74.040 Organization. The members of the Board of Code Review shall, by majority vote, elect from among the appointed members a chairperson or vice chairperson. The committee may make and establish such reasonable by-laws, rules and regulations, as may be necessary for their own governance for the full and complete execution of their duties and responsibilities; provided such rules and regulations do not conflict with procedures established by other chapters of this code or other codes adopted by reference by city ordinance. The board may form itself into sub-committees composed of no less than three members for the purpose of reviewing and rendering decisions pursuant to the duties and responsibilities described in Section 2.74.050 of this chapter. The ex-officio member whose responsibility includes enforcement of the code being questioned shall be a non-voting member of such sub-committee and shall act as secretary to record the proceedings of the meeting and decisions rendered. General or special meetings may be held at such time as the chairperson may direct. A majority of the members of the board shall constitute a quorum for the transaction of business. (Ord. 89-93 § 1, 1989.)

2.74.050 Duties and Responsibilities. The Board of Code Review shall have the following functions, duties and responsibilities:

1. To review, evaluate and make recommendations to the Governing Body of the City of Olathe on the adoption or amendment of building, plumbing, mechanical, electrical, Chapter 15.28 Property Maintenance, stormwater, fuel gas, fire and life safety codes.

2. To receive, evaluate and determine the suitability of materials and methods of construction alternate to those established by the building, plumbing, mechanical, electrical, Chapter 15.28 Property Maintenance, stormwater, fuel gas, fire or life safety codes.

3. To review and provide interpretations of the provisions of the building, plumbing, mechanical, electrical, Chapter 15.28 Property Maintenance, stormwater, fuel gas, fire or life safety codes.

4. To receive requests and render a decision to mitigate specific provisions of the various codes which create practical difficulties in their enforcement.

5. To advise the Governing Body of the City of Olathe on other such matters as may be requested by the Governing Body. (Ord. 08-87 § 1, 2008; Ord. 01-83 § 2, 2001; Ord. 89-93 § 1, 1989.)

CHAPTER 2.76

CABLE TELEVISION ADVISORY COMMITTEE

Sections:

2.76.010	Creation.
2.76.020	Size of Committee.
2.76.030	Qualifications of Members.
2.76.040	Appointment to Committee.
2.76.050	Term of Office.
2.76.060	Filling of Vacancies.
2.76.070	Removal.
2.76.080	Compensation.
2.76.090	Organization.
2.76.100	Duties.
2.76.110	City Facilities.
2.76.120	Minority Reports.
2.76.130	Advisory Actions.
2.76.140	Expenditure of Funds.

2.76.010 Creation. There is hereby created and established a Cable Television Advisory Committee for the city of Olathe. (Ord. 94-10 § 1, 1994.)

2.76.020 Size of Committee. The Cable Television Advisory Committee shall consist of nine (9) members. (Ord. 94-10 § 1, 1994.)

2.76.030 Qualification of Members. All members of the Cable Television Advisory Committee shall be duly qualified electors of the city, own, or be an employee of a business located in the city, or be an employee of an educational institution in the county, provided, however, that:

(a) A majority of the members shall be electors of the city;

(b) One member of the committee shall be a City Councilmember;

(c) At least two members of the Committee shall have video production management background and technical expertise in video production; and

(d) Two members shall be recommended by the governing body of Unified School District No. 233. The terms of office for the first committee shall be determined by lot. Members may be reappointed but in no case shall a member serve for a period of time exceeding six (6) consecutive years. Each shall serve until a successor is appointed. (Ord. 94-10 § 1, 1994.)

2.76.040 Appointment to Committee. The members of the Cable Television Advisory Committee shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 94-10 § 1, 1994.)

2.76.050 Term of Office. The term of office for the members of the Cable Television Advisory Committee shall be three (3) years, except for the members of the committee first selected, for which three (3) of the members shall serve one (1) year terms, three (3) of the members shall serve two (2) year terms, and three (3) of the members shall serve three (3) year terms. Members may be reappointed but in no case shall a member serve for a period of time exceeding six (6) consecutive years. Each shall serve until a successor is appointed. (Ord. 94-10 § 1, 1994.)

2.76.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 94-10 § 1, 1994.)

2.76.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the committee at any time for good and sufficient cause. (Ord. 94-10 § 1, 1994.)

2.76.080 Compensation. Members of the Cable Television Advisory Committee shall serve without pay. The City may pay the cost of travel on official business, secretary time and storage space for documents, along with paper and office supplies for the committee. (Ord. 94-10 § 1, 1994.)

2.76.090 Organization.

(a) A majority of the members of the Cable Television Advisory Committee shall constitute a quorum for the transaction of business.

(b) The committee may meet as often as necessary to deal with its business, but shall meet at least once every three (3) months.

(c) The committee may make and establish such reasonable rules and bylaws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities.

(d) The committee shall select one of their members as chairman, one as vice chairman, and one as secretary. The chairman, vice chairman and secretary shall serve one (1) year terms or until their successors have been selected.

(e) The meetings of the Cable Television Advisory Committee shall be subject to the Kansas Open Meetings Act and its records subject to the Kansas Open Records Act. (Ord. 94-10 § 1, 1994.)

2.76.100 Duties. The Cable Television Advisory Committee shall have the following duties:

I. The Cable Television Advisory Committee, under the direction and consent of the Governing Body, shall be responsible for programming the city's government access cable channel. The committee's duties will include, but are not limited to:

(a) Investigate the opportunities or availability of locally-produced educational programming.

(b) Develop a plan that determines objectives and priorities for local government/education programming.

(c) Review the content of programming to ensure that all programming is within existing guidelines and make recommendations to modify the guidelines.

(d) Assess CATV equipment, and make recommendations for maintenance or improvement needs.

(e) Review channel accessibility options for the hearing impaired community.

(f) Take a leadership role in educating the community about the local channel's programming.

II. The Cable Television Advisory Committee shall be responsible for reviewing Cable Customer Service Regulation under the 1992 Cable Act, and to submit to the Governing Body reports and recommendations. Areas to be addressed may include, but are not limited to:

(a) Calculation of late charges;

(b) Credit policies for outages, missed appointments, etc.;

(c) Disconnection policies;

(d) Customer survey requirements;

(e) Timeliness of service extension;

(f) Promotional advertising;

(g) Construction performance standards; and

(h) Complaint procedures. (Ord. 94-10 § 1, 1994.)

2.76.110 City Facilities. The City Manager may arrange for the Cable Television Advisory Committee to use a meeting room when needed. (Ord. 94-10 § 1, 1994.)

2.76.120 Minority Reports. Any member of the committee and any group of members of the committee dissatisfied with any recommendation approval by a majority vote of the committee may submit in writing a minority report giving the view of the members of the committee who do not join in the majority opinion. (Ord. 94-10 § 1, 1994.)

2.76.130 Advisory Action. All actions taken by the Cable Television Advisory Committee shall be of an advisory nature only, and a written report of recommended actions or policies shall be given to the Governing Body for appropriate action. (Ord. 94-10 § 1, 1994.)

2.76.140 Expenditure of Funds. The Cable Television Advisory Committee shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for expenditures. (Ord. 94-10 § 1, 1994.)

CHAPTER 2.78

CITIZEN'S POLICE ADVISORY COUNCIL

Sections:

2.78.010	Creation.
2.78.020	Size of Council.
2.78.030	Qualifications of Members.
2.78.040	Appointment to Council.
2.78.050	Term of Office.
2.78.060	Filling of Vacancies.
2.78.070	Removal.
2.78.080	Compensation.
2.78.090	Organization.
2.78.100	Duties and Responsibilities.
2.78.110	Advisory Actions.
2.78.120	Expenditure of Funds.
2.78.130	Council Staff Support.

2.78.010 Creation. There is hereby established a Citizen's Police Advisory Council for the city of Olathe, Kansas. (Ord. 95-08 § 1, 1995.)

2.78.020 Size of Council. The Citizen's Police Advisory Committee shall consist of eleven (11) members. The Chief of Police shall be an ex-officio member of the Council. (Ord. 95-08 § 1, 1995.)

2.78.030 Qualification of Members. All members of the Citizen's Police Advisory Council shall be duly qualified electors of the city of Olathe; or own, or be an employee of a business located in the city. Membership should also reflect a diversity of civic, service charitable, religious and business groups. (Ord. 95-08 § 1, 1995.)

2.78.040 Appointment to Council. The members of the Citizen's Police Advisory Council shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 95-08 § 1, 1995.)

2.78.050 Term of Office. Each member of the Council shall serve a term of three (3) years, except those members first selected. Four (4) members of the first Council shall be appointed for three (3) year terms, four (4) shall be appointed for two (2) year terms, and three (3) shall be appointed for a one (1) year term. Thereafter, appointments shall be for three (3) year terms. (Ord. 95-08 § 1, 1995.)

2.78.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body for the remainder of the unexpired term. (Ord. 95-08 § 1, 1995.)

2.78.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Council at any time for good and sufficient cause. (Ord. 95-08 § 1, 1995.)

2.78.080 Compensation. The members of the Council shall serve without compensation. (Ord. 95-08 § 1, 1995.)

2.78.090 Organization. A majority of the members of the Council shall constitute a quorum for the transaction of business. The may hold general meetings once a month. Special meetings may be held at such times as the Council may direct. The Council may make and establish such reasonable by-laws, rules and regulations as may be necessary for their own government and for the full and complete execution of their duties and responsibilities. (Ord. 95-08 § 1, 1995.)

2.78.100 Duties and Responsibilities. The duties of the Council shall be:

- a. To serve as an advisory body to the City Council, City Manager and the Police Chief;
- b. To study, recommend and review policy programs and concepts utilized in other communities which are designed to improve understanding and communication between the police and the community;
- c. To invite and enlist the cooperation of all economic, educational, social, religious, social and ethnic groups of the city, and to act as a coordinating agency among them, in the establishment and maintenance of improved understanding and communication between the police and the community;
- d. To institute and conduct educational and other programs to promote understanding and communication between the police and the community; and
- e. To provide semi-annual reports to the Governing Body. (Ord. 95-08 § 1, 1995.)

2.78.110 Advisory Actions. All actions taken by the Council shall be of an advisory nature only, and a written report of recommended actions or policies shall be given to the Governing Body for action. (Ord. 95-08 § 1, 1995.)

2.78.120 Expenditure of Funds. The Council shall have no authority to expend funds unless and until the Governing Body of the city has given specific advance authorization for the expenditure of funds. (Ord. 95-08 § 1, 1995.)

2.78.130 Council Staff Support. The city manager shall assign appropriate staff support to the Council to facilitate the completion of Council business. (Ord. 95-08 § 1, 1995.)

CHAPTER 2.80

PROPERTY MAINTENANCE APPEAL BOARD

Sections:

- | | |
|----------|---------------------------|
| 2.80.010 | Creation. |
| 2.80.020 | Size of Board. |
| 2.80.030 | Qualification of Members. |
| 2.80.040 | Appointment to Board. |
| 2.80.050 | Term of Office. |

- 2.80.060 Filling of Vacancies.
- 2.80.070 Removal.
- 2.80.080 Organization.
- 2.80.090 Duty.

2.80.010 Creation. There is hereby created a property Maintenance Appeal Board. (Ord. 97-25 § 1, 1997.)

2.80.020 Size of Board. The Board shall consist of five (5) members. (Ord. 97-25 § 1, 1997.)

2.80.030 Qualification of Members. The members of the Board shall be duly qualified electors of the city. (Ord. 97-25 § 1, 1997.)

2.80.040 Appointment to Board. The members of the Board shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 97-25 § 1, 1997.)

2.80.050 Term of Office. The term of office for the members of the Board shall be three (3) years, provided that the person first appointed shall serve for one, two and three year terms so one term will expire each year. Members may be reappointed, but in no case shall a member serve for a period of time exceeding six (6) consecutive years. (Ord. 97-25 § 1, 1997.)

2.80.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body, for the remainder of the unexpired term. (Ord. 97-25 § 1, 1997.)

2.80.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Board at any time. (Ord. 97-25 § 1, 1997.)

2.80.080 Organization.

- A. A majority of the members of the Board shall constitute a quorum for the transaction of business.
- B. The Board shall meet as often as necessary to deal with its business.
- C. The Board may make and establish such reasonable rules, bylaws and regulations as may be necessary for their own government and for the full and complete execution of its duties and responsibilities.
- D. The Board shall select a chairman and vice chairman. The chairman and vice chairman shall serve one year terms or until their successors have been selected.
- E. The meetings of the Board shall be subject to the Kansas Open Meetings Act and its records subject to the Kansas Open Records Act. (Ord. 97-25 § 1, 1997.)

2.80.090 Duty. The primary duty of the Board shall be to hear appeals from the application of the city's property maintenance ordinance found at Chapter 15.38 of this code. The Board may advise the Governing Body of the city on other matters as may be requested by the Governing Body. (Ord. 97-25 § 1, 1997.)

CHAPTER 2.82

OLATHE PUBLIC ART AND CULTURE COMMISSION

Sections:

2.82.010	Creation
2.82.015	Purpose
2.82.020	Size of Commission
2.82.030	Membership
2.82.040	Appointment to Commission
2.82.050	Term of Office
2.82.060	Filling of Vacancies
2.82.070	Removal
2.82.080	Compensation
2.82.090	Organization
2.82.100	Powers and Duties
2.82.110	City Facilities
2.82.120	Expenditure of Funds

2.82.010 Creation. There is hereby created and established an Olathe Public Art and Culture Commission for the City. (Ord. 00-06 § 1, 2000.)

2.82.015 Purpose. The purpose of the Olathe Public Art and Culture Commission is to vitalize the City by supporting the region's cultural assets, enriching the human spirit, and integrating arts and culture into Olathe's community life. The Commission will oversee and administer the process for allocating public dollars for arts and cultural projects which enhance the quality of life, enrich the human spirit, encourage and strengthen the creative process, and deepen community and societal values. The commission will make recommendations to the Olathe City Council for allocating the funding. (Ord. 06-123 § 1, 2006; Ord. 00-14 § 1, 2000.)

2.82.020 Size of Commission. The Olathe Public Art and Culture Commission shall consist of 15 members. (Ord. 06-123 § 2, 2006; Ord. 00-06 § 1, 2000.)

2.82.030 Membership. The membership for the Commission shall be as follows:

- (a) One member who shall be recommended by and represent the Olathe Civic Band;
- (b) One member who shall be recommended by and represent the Olathe Community Orchestra;
- (c) One member who shall be recommended by and represent the Olathe Community Theatre Association;
- (d) One member who shall be recommended by and represent the Olathe Visual Artists;
- (e) One member who shall be recommended by and represent the Hidden Glen Arts Festival;
- (f) One member who shall be recommended by and represent the Olathe Youth Symphony;
- (g) Two members recommended by the Board of Directors of the Olathe Arts Alliance;
- (h) Seven members recommended by the Governing Body of the City of Olathe. (Ord. 06-123 § 3, 2006; Ord. 00-06 § 1, 2000.)

2.82.040 Appointment to Commission. The members of the Commission shall be appointed by the Mayor with the consent and approval of the remainder of the Governing Body. (Ord. 00-06 § 1, 2000.)

2.82.050 Term of Office.

(A) The term of office for the members of the Commission shall be for three years.

(B) Members of the Commission shall not serve more than three (3) complete successive terms. (Ord. 06-123 § 4, 2006; Ord. 00-06 § 1, 2000.)

2.82.060 Filling of Vacancies. Vacancies occurring before the expiration of term shall be filled by appointment by the Mayor with the consent of the remaining members of the Governing Body in the same manner as such member received the original appointment. (Ord. 00-06 § 1, 2000.)

2.82.070 Removal. The Mayor, with the consent of the remaining members of the Governing Body, may remove any appointed member to the Commission at any time for good and sufficient cause. Cause shall include, but be not limited to, violations of the conflict of interest laws, any violation of any applicable law, regulation or policy, neglect of duty, and failure to comply with the City's attendance policy. (Ord. 00-06 § 1, 2000.)

2.82.080 Compensation. Members of the Commission shall serve without pay. The City may pay the cost of travel on official business, secretary time, and storage space for documents, along with paper and office supplies for the Commission. (Ord. 00-06 § 1, 2000.)

2.82.090 Organization.

(A) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(B) The Commission may meet as often as necessary to deal with its business, but shall meet no less than two (2) times a year. A public hearing to provide public input and discussion of goals and objectives shall be held once every year.

(C) The officers of the Commission shall be selected by the Commission members at the first meeting of the Commission following the thirty first day of December of each year, and shall serve until the thirty first day of December the next succeeding year. The officers will be selected at an annual meeting and shall consist of Chairman, Vice Chairman, Secretary, Treasurer and a staff liaison member designated by the City Manager. The staff liaison is a non-voting member of the Commission. No officer shall serve in the same capacity for more than two (2) consecutive one-year terms.

(D) The meetings of the Commission shall be subject to the Kansas Open Meetings Law; its records subject to the Kansas Open Records Law; its members bound by the City's Code of Ethics and the State of Kansas Conflict of Interest Statutes; and any financial or property transactions or records subject to review by the City's auditors. (Ord. 06-123 § 5, 2006; Ord. 00-06 § 1, 2000.)

2.82.100 Powers and Duties. The Commission shall have the following powers and duties.

(A) To assist and advise the City Council in the establishment of essential policies, rules and regulations relating to public art and culture programs in Olathe. In addition, the Commission may recommend policies related to the presentation, acquisition, disposition, maintenance, use, care and promotion of public arts within the City.

(B) To recommend to the City Council a method of allocating public dollars for arts and cultural enrichment in our community. Recommendations for criteria for funding from the Public Art and Culture Commission will be based on the following:

- a) Only 501c3 agencies may qualify, although the Commission itself may also submit and qualify for programs;
- b) Funding must benefit the Olathe community, its artists and audiences;
- c) Applications to the Commission should detail, in narrative, the purpose of the project, who are the participants, what is the potential audience. A financial statement containing the annual budget (income by source, expenses by item) must also be presented. Itemized budget for the proposed project completes the application;
- d) Applications for grants must be submitted c/o Chairman, Olathe Public Art and Culture Commission, P. O. Box 768, Olathe, KS 66051;
- e) Deadline for grant applications will be determined by the Commission;
- f) Successful applications will be funded by June 30th of each year.

(C) The Commission shall further have the authority, and it shall be its duty, to review applications made by agencies, commissions and other subdivisions of the City, or by private groups seeking funds in connection with projects involving the arts and cultural enrichment. Following such review, the Commission shall have the authority, and it shall be its duty to recommend to the City Council which, if any, such applications shall be endorsed and funded.

(D) This review process will include a process for soliciting proposals, screening proposals, ranking proposals and making recommendations to the City Council for the allocation of these dollars for public arts and cultural activities in our community.

(E) The Commission will have authority to establish and reduce to writing criteria, rules and regulations for the evaluation of items submitted for its consideration. These rules and regulations shall become effective when approved by the City Council.

(F) The Commission is authorized to accept on behalf of the City gifts, contributions, donations and gratuities to the Commission. Such gifts, contributions, donations and gratuities shall be set aside in a special fund known as the Arts and Culture Fund and shall be distributed only upon approval of the City Council. Such gifts, contributions, donations and gratuities shall be used solely for purposes consistent with this Ordinance and the regulations established herein.

(G) Submit to the City Manager by October 30th of each year a written work plan, a report on activities for the preceding year, and a report on attendance of members. (Ord. 00-06 § 1, 2000.)

2.82.110 City Facilities. The City Manager may arrange for the Commission to use a meeting room when needed. (Ord. 00-06 § 1, 2000.)

2.82.120 Expenditure of Funds. The Commission shall have no authority to expend funds unless and until the Governing Body has given specific advance authorization for expenditures. (Ord. 00-06 § 1, 2000.)

CHAPTER 2.84

HISTORIC PRESERVATION

Sections:

2.84.010	Scope
2.84.020	Definitions
2.84.030	Olathe Historic Preservation Board
2.84.040	Historic Landmark Designation
2.84.050	Historic Landmark Designation Criteria
2.84.060	Historic District Designation Criteria
2.84.070	Nomination
2.84.080	Historic District Exemptions. (Repealed 12-7-10)
2.84.090	Historic Preservation Board
2.84.100	Procedure for Designation of Historic Landmark and Historic District
2.84.110	Historic District Preservation Guidelines
2.84.120	Historic District Designation Administrative Requirements
2.84.130	Certificate of Appropriateness Review
2.84.135	Review Standards
2.84.140	Historic Landmark and Historic District Demolition and Moving Permits
2.84.150	Review of Demolition Buildings and Moving Permits of/for Historic Resources
2.84.160	Historic Landmark and Historic District Demolition by Neglect
2.84.170	Penalty
2.84.180	Severability

2.84.010 Scope. The Governing Body finds and declares as a matter of public policy that the identification, designation, protection, enhancement, preservation and use of historic resources is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the public. Preservation of historic resources will:

- A.. Protect, enhance and perpetuate historic, distinctive and important elements of the City's cultural, social, economic, political, archaeological and architectural history;
- B. Safeguard the City historic and cultural heritage as embodied and reflected in such historic resources;
- C. Stabilize and improve property values in such locations of historic resources and thus strengthen the economy of the City;
- D. Promote and encourage restoration, rehabilitation, and maintenance of historic properties, neighborhoods and districts and thus combat blight and decay;
- E. Foster civic pride in the beauty and noble accomplishments of the past;
- F. Protect and enhance City attractions to tourists and visitors and provide support and stimulus to business and industry; and
- G. Promote the use and adaptive reuse of historic resources for the culture, education, enjoyment and economic welfare of the City citizens and visitors. (Ord. 07-54 § 1, 2007.)

2.84.020 Definitions. As used in this Chapter, the following words, terms and phrases shall be as defined below:

Alteration means any change to or modification, through public or private action, of any historic resource or any property located within a historic district, including, but not limited to, exterior changes to, or modifications of, a structure or any of its architectural details or visual characteristics, including paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbances of archeological sites or areas, and the placement or removal of any object such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plants, and landscape accessories affecting the historic qualities of the property.

Appurtenances and environmental setting means the parcel, as of the date of "historic district" or "historic landmark" designation, on which is located a historic resource. Appurtenances and environmental setting include walkways and driveways (whether paved or not) fences, gateways, open space and waterways. Interiors of structures are included only when a historic resource is designated a historic landmark and the owner consents to the addition of the interior of the structure.

Certificate of Appropriateness means the approval given by the Historic Preservation Board for projects impacting historic landmarks and resources within historic districts.

Certified Local Government (CLG) means a program of the National Parks Service designated to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts, establishing a partnership between the local government, State Historic Preservation Office (SHPO), a division of the Kansas State Historical Society, and the National Parks Service. A certified local government carries out the purposes of the National Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the SHPO.

Demolition shall mean any and all activity that requires a demolition permit under the provisions of the building code and shall also include any other activity by the owner or any party in possession of a historic resource or historic resource within a historic district which creates or results in the removal, destruction or deterioration of exterior walls, roof, chimneys, doors, windows, porches, steps or trim of interior structures, fixtures and features which would or could cause permanent damage, injury, or loss of or to historically significant exterior or interior features.

Demolition by neglect means the failure to provide ordinary and necessary maintenance and repair to a structure resulting in the deterioration of the structure or resulting in permanent damage, injury or loss to exterior features.

Design criteria means the standard used for issuing a Certificate of Appropriateness. The criteria shall be based upon the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or guidelines adopted by the historic district and based upon criteria of the Secretary of Interior's Standards as recommended by the Historic Preservation Board and approved by the respective jurisdiction. Examples illustrating said standards shall be made available by Planning Services.

Environs means the vicinity surrounding any state or federal historic structure, object, or site, and those structures, objects, or sites that directly contribute to the architectural and/or historical significance of a state or federal historic site.

Growth Area means the City of Olathe's planning area beyond City limits that is potentially annexable land within its sphere of influence.

Historic district means a group of residential historic resources, consisting of three (3) or more principal use residential structures or a residentially zoned tract of ground five (5) acres or larger which are significant as a cohesive unit and contribute to the historical, architectural, archaeological or cultural values of the City, county, state, or nation which is so designated by the Governing Body. Historic district includes all state and national registered residential districts provided the owner(s) of record consents in writing to the inclusion.

Historic landmark means a historic resource that has been designated, with the written consent of the owner(s) of record, as having historical, architectural, archaeological, or cultural importance or value which the City's Governing Body determines shall be protected, enhanced and preserved in the interest of the culture, prosperity, education and welfare of the public. Historic landmark may also include the interior of a structure with written consent from the owner(s) of record. Historic landmark includes all state and national registered structures provided the owner(s) of record consents in writing to the inclusion.

Historic resource means a site, land area, building, structure or object, including appurtenances and environmental setting, which has historical, cultural, aesthetic, architectural and/or archaeological significance, or is a site, land area, building, structure, or object with potential importance or value.

Maintenance means any cleaning, painting or restoration that does not result in the alteration of a historic landmark, site or structure.

"Original Town" Overlay District Zoning means any zoning that functions in addition to the existing land use zoning, as in the case of historic landmark or residential historic district zoning as outlined in Chapter 18.52 of the Unified Development Ordinance of the City of Olathe.

Permit means authorization whether by administrative action or actions by the Governing Body and includes, but is not limited to, a building, demolition, moving, zoning, sign, fence, parking lot, roofing, sidewalk, siding, special uses, or swimming pool permit which is issued by Planning Services.

Project classification means for the purpose of the Certificate of Appropriateness review procedure, proposed work involving a historic landmark or resource within a historic district shall be classified as major or minor.

1. Major projects include:
 - a. Any undertaking requiring a permit on a national or state register property or historic landmark unless determined minor by Planning Services; or a structure within a national or state register district; unless determined minor by Planning Services;
 - b. Any demolition permit or moving permit for any structure listed as a historic landmark or historic resource within a historic district listed in the preservation plan adopted by the Governing Body.
2. Minor project. For the purpose of a Certificate of Appropriateness review, a minor project is any project requiring a permit on a historic landmark or property within a historic district, or state or national register property that proposes repairing or restoring an existing exterior element, or replacing an element or material with identical material and design to that which is existing.

Preservation plan means a document developed, adopted and implemented by the Historic Preservation Board that identifies trends affecting and impacting historic resources and provides guidance for their preservation. The preservation plan will include a list of all historic resources, historic landmarks and historic districts within Olathe and the growth boundaries of the City of Olathe. The preservation plan will be a component of the comprehensive plan for the City.

Preservation program means the overall program administered by the Historic Preservation Board that involves the implementation of the historic preservation ordinance, the historic preservation plan, and all activities relating to the furtherance of historic preservation in Olathe and the growth area of the City of Olathe.

Repair means any change to, or modification of, any improvement, historic resource or any property located within a historic district, other than removal or alteration, where the purpose and effect of such change or modification is to correct any deterioration or damage to such improvement, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration or damage.

Residential means for purposes of historic preservation zoning designation residential shall mean: “RUR,” “RR-1,” “R-1 through “R-5,” “TN,” “AG” zoning classifications. . (Ord. 10-82 § 1, 2010; Ord. 10-07 § 1, 2010; Ord. 07-54 § 1, 2007.)

2.84.030 Olathe Historic Preservation Board. There is created and established a board to be known as the "Olathe Historic Preservation Board" of the City of Olathe. The Olathe Historic Preservation Board will hereafter be called the "Historic Preservation Board."

A. Scope of duties. The duties of the Historic Preservation Board are to advise the Governing Body on historic resources and to safeguard the architectural and cultural heritage of the community through the preservation of historic landmarks and historic districts. The Historic Preservation Board may carry out these duties through the identification, documentation and designation of historic resources; development and implementation of a historic preservation plan; administration of ordinances/resolutions governing the designation, alteration and removal of historic resources; assistance with educational programs, economic development and tourism, and coordination of public and private historic preservation activities.

B. Compensation. Members of the Historic Preservation Board shall serve without compensation, but shall be reimbursed by the City for approved expenses incurred in connection with their duties.

C. Members. The Historic Preservation Board shall be composed of seven (7) members, appointed by the Mayor with approval of the Governing Body. All members of the Historic Preservation Board shall live in the City, or own, or be an employee of a business located in the City, or have a substantial interest in historic preservation in the City of Olathe and/or Johnson County. The Historic Preservation Board membership shall be comprised of people who have a demonstrated interest in historic preservation through their community and/or professional involvements. The members of the Board shall be drawn from such backgrounds as architecture, history, landscape architecture, architectural history, planning, archaeology, urban design, neighborhood and community development, geography, real estate, law, finance, building trades or related areas. A minimum of four (4) members shall be preservation related professionals. The Board may include members of the Olathe Historical Society, but shall not be required to include members of the Olathe Historical Society. The Board shall regularly communicate its activities with the Olathe Historical Society so as to avoid duplication of efforts.

D. Terms. The initial terms of office shall be as follows:

One (1) year term	Two (2) members
Two (2) year terms	Two (2) members
Three (3) year terms	Three (3) members

Thereafter, all terms shall be for a three-year period commencing on January 1 and terminating on December 31, three years hence; however, members may serve until their successor has been appointed.

E. Officers. The Historic Preservation Board shall elect a chairperson and one vice-chairperson from its members.

F. **Meetings.** The Olathe Historic Preservation Board shall meet at least quarterly, with additional meetings upon call by the chairperson or upon petition of a majority of the members. All meetings shall be open to the public and notification shall be given in the official newspaper and to those who request notification. Unless otherwise required herein, five (5) members present constitute a quorum for the transaction of business.

G. **Ex-officio members.** The following may serve on the Historic Preservation Board as ex-officio members:

1. The Planning Manager or designee.
2. The chair or designee of the Olathe Planning Commission.
3. The director or designee of the Parks and Recreation Department.
4. One member of the Olathe Governing Body.

H. **Jurisdiction.** The ordinance shall apply to the City of Olathe.

I. **Committees and subcommittees.** The Historic Preservation Board may establish through its bylaws such committees, including a design review committee, as deemed necessary or convenient to carry out the various functions and duties of the Board. Such committees or subcommittees may be made up of part or all of the members of the Board and may include members outside the Historic Preservation Board and may meet upon such schedule and for such purposes as established by the Board. (Ord. 10-82 § 2, 2010; Ord. 10-07 § 2, 2010; Ord. 07-54 § 1, 2007.)

2.84.040 Historic Landmark Designation. The Governing Body may designate certain historic resources as historic landmarks or historic districts. Historic resources located within the City shall be designated by the Governing Body. Such designation shall be in addition to any other zoning designation established in the comprehensive zoning regulations of the City of Olathe known as the "Original Town" Overlay District (Chapter 18.52 of the Unified Development Ordinance). An official register of all historic designations in the City of Olathe shall be created, maintained and filed for public information and use in the office of the City Clerk and Olathe Historical Society. (Ord. 07-54 § 1, 2007.)

2.84.050 Historic Landmark Designation Criteria.

A. In the designation of buildings, structures and objects as historic landmarks certain criteria must be met. These properties must be fifty (50) years or older. In addition, the property must meet one or more of the following criteria:

1. Is associated with events that have made a significant contribution to the broad pattern of history of the City, county, state or nation;
2. Is associated with a significant person or group of persons in the history of the City, county, state or nation;
3. Embodies distinctive characteristics of a type, period, or method of construction; represents the work of a master builder/architect; possesses high artistic values; or represents a distinguishable entity whose components may lack individual distinction;
4. Yields or is likely to yield information important in prehistory or history; or
5. Possesses integrity of location, design, setting, materials and workmanship.

B. Properties less than fifty (50) years old may be eligible for designation provided they are of extreme historical significance. All other criteria listed herein shall apply. (Ord. 07-54 § 1, 2007.)

2.84.060 Historic District Designation Criteria. In the designation of buildings, structures and objects as residential historic districts certain criteria must be met. The historic resources within the historic district must be located on residentially zoned property and must be fifty (50) or more years old. In addition, the historic resources must meet one or more of the following criteria.

A. Are associated with events that have made a significant contribution to the broad pattern of history of the City, county, state or nation;

B. Are associated with a significant person or group of persons in the history of the City, county, state or nation;

C. Embody distinctive characteristics of a type, period, method of construction; represent the work of a master builder/architect; possess high artistic values; or represent a distinguishable entity whose components may lack individual distinction;

D. Yield or are likely to yield information in prehistory or history; or

E. Possess integrity of location, design, settings, materials and workmanship.

F. The boundaries of historic districts shall be drawn so as to include all buildings, structures, sites, objects or land areas which meet one or more of the criteria set out herein or which directly affect or relate to such buildings, structures, sites, objects or land areas meeting one or more of the above criteria, provided that at least fifty (50) percent of the total structures within the boundaries are of architectural, historical, archaeological, or cultural importance or value as determined by the Historic Preservation Board. (Ord. 07-54 § 1, 2007.)

2.84.070 Nomination.

A. The process is initiated when a historic landmark or historic district nomination form is accompanied by the following information and submitted to the Historic Preservation Board. Copies of the nomination form shall be retained by the City Clerk, and Planning Services. The nomination form shall include:

1. A description of the specific historic resource nominated as a historic landmark or a list of specific residential historic resources located within the proposed district boundaries and a description of the particular importance or value of each such historic resource, such description to include the following:

- a. Approximate date of construction, and dates of major alterations, if known,
- b. Builder and/or architect, if known,
- c. Architectural style,
- d. Primary building materials,
- e. Current owner of record,
- f. Legal description of each property;

2. A map showing the boundaries of the proposed historic district and the location of each structure of importance or value identified by a number or letter designation;

3. Sufficient photographs of each historic resource proposed as a historic landmark or historic resources listed within the historic district;

4. Written consent to the nomination by all of the current owners of record of the proposed historic landmark is required.

5. For a residential historic district, sixty (60) percent of the current owners of record within the proposed residential historic district must provide written consent.

B. Applications to increase or otherwise expand the boundaries of a residential historic district may be made if one or more of the following conditions are met:

1. When additional residential historic resources which relate to the historic district are requested for inclusion.
2. When facts previously undisclosed to or unknown by the Historic Preservation Board are revealed which indicate that a particular residential building or site is possessed of special architectural, archaeological, or cultural character, or economic viability to the district.
3. When property within a historic district is exempt from the district at the time of district formation or exempt from the district at the time of a sale of the property in accordance with Section 2.84.080.

C. Applications to reduce the boundaries of a residential historic district may be made when one or more of the following conditions have been met:

1. When it can be shown that a particular residential building, structure, site, object or land area has no historic, architectural, archaeological, or cultural importance or value to the viability of the historic district.
2. When it can be shown that no physical, historical, architectural, archaeological or cultural degradation will result from exclusion of property from the district. (Ord. 10-82 § 3, 2010; Ord. 10-07 § 3, 2010; Ord. 07-54 § 1, 2007.)

2.84.080 Historic District Exemptions. Repealed 12/7/10. (Ord. 10-82 § 4, 2010; Ord. 10-07 § 4, 2010; Ord. 07-54 § 1, 2007.)

2.84.090 Historic Preservation Board. The Historic Preservation Board shall have the following functions:

- A. The Historic Preservation Board shall familiarize itself with the historic resources within the community and those which may be eligible for designation as historic landmarks or residential historic districts and shall administer the identification, documentation and designation of such historic landmarks and historic districts, and shall present verification of significance to the Governing Body.
- B. The Historic Preservation Board, using the criteria identified herein, shall determine whether certain buildings, structures, land areas, and interiors (only for historic landmarks and with owner consent) should be designated as historic landmarks or historic districts.
- C. The Historic Preservation Board shall administer a Certificate of Appropriateness review according to design criteria as defined to determine whether to grant or deny approval of proposed undertakings.
- D. The Historic Preservation Board shall review and comment on projects which may be determined to pose a threat to an archaeological site as designated by the Kansas State Historic Preservation Office.
- E. The Historic Preservation Board may suggest sources of funds for preservation and restoration activities for acquisition, to include federal, state, municipal, private and foundation sources.
- F. The Historic Preservation Board may recommend incentives for preservation.
- G. If the Historic Preservation Board finds that certain historic resources cannot be preserved without acquisition, the Historic Preservation Board may recommend to the Governing Body that the fee or a lesser interest in the property be acquired by gift, or purchase, using funds or facilities available for preservation or restoration.
- H. The Historic Preservation Board shall annually review the status of designated historic landmarks and residential historic districts and include in the Historic Preservation Board minutes a report of such review.

I. The Historic Preservation Board shall make and adopt a historic preservation plan and review and update the plan as needed. The plan may include a list of historic resources which may not have attained the status of a historic landmark or as historic district. Within twenty (20) days of a resource listing determination by the Historic Preservation Board, the following shall be provided as administered by Planning Services:

1. Property owners of those sites and structures which are listed as historic resources shall be notified of such listing.
2. Property owners of historic resources shall be provided the opportunity to concur, or not to concur, with the inclusion of their property in the listing.
3. Notice of the listing of a property as a historic resource shall be filed with the appropriate office of Johnson County and recorded as an official notice to subsequent property owners.

J. The Historic Preservation Board may implement a receivership program for conservation easement donations for the purpose of historic preservation. Such easements shall be held by the City and monitored by the Historic Preservation Board.

K. The Historic Preservation Board may recommend programs and legislation to the Governing Body to encourage historic preservation in the City.

L. The Historic Preservation Board, upon request of the property owner, may assist in the preparation of national and/or state register nominations.

M. The Historic Preservation Board, upon request of the property owner, may render advice and guidance with respect to any proposed work on a historic resource.

N. The Historic Preservation Board may enter into an agreement with the SHPO authorizing the City to make recommendations or to perform any or all responsibilities of the SHPO, including protection of the environs of property included in the national register of historic places or the state register of historic places, all in accordance with the provisions of K.S.A. 75-2724 (e) (1), and amendments thereto, upon a determination by the SHPO that the City has enacted a certified local preservation ordinance, established a local historic preservation board, and is actively engaged in a local historic preservation program. (Ord. 10-82 § 5, 2010; Ord. 10-07 § 5, 2010; Ord. 07-54 § 1, 2007.)

2.84.100 Procedure for Designation of Historic Landmark and Historic District. An application for historic landmark and residential historic district designation requires the following procedures:

A. A historic landmark or historic district nomination form, accompanying material, and for historic districts, historic district preservation guidelines as defined herein, shall be submitted to Planning Services.

B. Upon receipt of such nomination, a hearing by the Historic Preservation Board will be scheduled either at its regular meeting or at a special meeting, provided that notice of the meeting shall be published twenty (20) days prior to the date of such hearing. For purposes of holding a hearing to consider designation of a historic landmark or historic district, five (5) members of the Historic Preservation Board shall constitute a quorum. The owner or owners of record of any parcel on which a proposed historic landmark is situated or which is a part of a proposed historic district shall be mailed written notice at least twenty (20) days prior to the hearing relating to the designation of such proposed historic landmark or historic district, the amendment to any designation thereof, or the proposed reduction of any designation or the amendment thereto. Owner(s) consent to the historic landmark or historic district designation is a requirement for such designation to occur. The Historic Preservation Board shall afford a full and fair hearing to all interested persons.

The Historic Preservation Board may solicit expert testimony regarding the historic and architectural importance of the historic resource(s) under consideration for designation. All interested persons may appear in person or by representative and present evidence or comment. The Historic Preservation Board shall make its decision regarding the designation within a reasonable time, no later than fifteen (15) days following the close of the hearing. In the event a member of the Historic Preservation Board shall make application, evidence shall be presented in the same manner as all other persons and the Historic Preservation Board member shall not vote on the matter contained in the application. Four (4) affirmative votes shall be required to constitute a recommendation of approval on any nomination application presented to the Historic Preservation Board.

C. After consideration and recommendation by the Historic Preservation Board, the application shall be submitted to Planning Services. The following is required as part of the designation application:

1. The Historic Preservation Board recommendation;
2. Legal description and map of the boundaries of the proposed designation;
3. Completed historic landmark or historic district nomination form and accompanying materials;
4. Applicable historic district preservation guidelines as defined herein; and
5. A list of property owner(s) of record.

D. The designation shall be placed on the next possible Olathe Planning Commission meeting agenda for public hearing to consider historic landmark or historic district designation. The same public notices and public hearing as required by law in a zoning case shall be observed. The owner or owners of record of any parcel on which a proposed historic landmark is situated or within a proposed historic district as well as all property owners of record within a two hundred (200) foot radius in the City will be notified of the hearing. At the conclusion of its hearing, Planning Services shall set forth in writing findings of the Planning Commission as to whether the designation is consistent with adopted plans and shall transmit such findings to the Governing Body.

E. After notice and public hearing as required by law in a zoning case, a historic landmark or historic district may be created by resolution by the Governing Body.

F. Upon approval of a historic landmark or residential historic district designation resolution by the Governing Body, Planning Services shall cause the official designation and delineation of the property or properties involved. (Ord. 10-82 § 6, 2010; Ord. 10-07 § 6, 2010; Ord. 07-54 § 1, 2007.)

2.84.110 Historic District Preservation Guidelines. Preservation guidelines for a proposed residential historic district shall be submitted with a nomination application. The district preservation guidelines shall include, but not be limited to the following:

A. Guidelines for those seeking a Certificate of Appropriateness including, but not limited to the following:

1. Acceptable materials for any construction, additions, remodeling or rehabilitation activities to the exterior of the structures;
 2. Appropriate architectural character, scale, and detail for any construction, additions, remodeling or rehabilitation activities;
 3. Acceptable appurtenances to the structures;
 4. Acceptable textures and ornamentation to the exterior of the structures;
 5. Acceptable accessories on structures;
 6. Such other building regulations which would have impact on the buildings;
 7. Acceptable standards for changes to non-contributing resources within the district;
- and
8. Acceptable signage.

B. Guidelines for public improvements in the district, including street furniture, signs, design textures of sidewalks, streets and parks. (Ord. 07-54 § 1, 2007.)

2.84.120 Historic District Designation Administrative Requirements. The following shall apply:

A. When the Historic Preservation Board considers an area as a possible residential historic district, the Historic Preservation Board shall, prior to rendering its final recommendation, submit the nomination package including district preservation guidelines to appropriate City departments and other public agencies directly affected.

B. In addition, the Historic Preservation Board shall, prior to rendering its final recommendation, make the historic district preservation guidelines available upon request to all landowners in the proposed historic district.

C. Historic Preservation Board approved graphics for designated residential historic resources within a historic district may be made available to the owners of designated structures. (Ord. 07-54 § 1, 2007.)

2.84.130 Certificate of Appropriateness Review. The following procedures and requirements shall apply to Certificate of Appropriateness review:

A. A permit for any project as defined herein affecting a designated historic landmark or any property within a designated residential historic district shall not be issued to any applicant by Planning Services unless an application for a Certificate of Appropriateness has first been reviewed and approved by Planning Services, by the Historic Preservation Board and, if a protest is filed, by the Governing Body. Projects not requiring a permit but which propose to alter features which have been defined in a historic district's preservation guidelines as requiring protection shall require a Certificate of Appropriateness application. Projects which will or have the potential to damage or destroy historic features of a historic landmark or a historic resource which is located within a residential historic district shall be subject to a Certificate of Appropriateness review.

B. When applying for a Certificate of Appropriateness, the applicant shall provide plans, specifications or other documentation pertaining to the work as required on the Historic Preservation Board's adopted application forms. A Certificate of Appropriateness application and accompanying materials shall be submitted to Planning Services for review of the application and determination if the proposed work is a major or minor project.

C. The Historic Preservation Board shall review the application and recommend approval, approval with conditions, or denial within thirty (30) days of the receipt of the application. A fifteen (15) day period for written comments regarding the project shall be provided prior to the Historic Preservation Board's hearing. These written comments shall be directed to the Historic Preservation Board. If approved, and provided that a protest is not filed within five (5) business days, Planning Services shall issue a copy of the Certificate of Appropriateness to the applicant. If an appeal is filed by the applicant or any interested party with Planning Services within five (5) business days of the Historic Preservation Board's action, the Certificate of Appropriateness shall not be issued until the Planning Commission holds a public hearing regarding the application. This public hearing shall be at the next available meeting of the Planning Commission. For the purpose of this section, interested party shall mean an individual or individuals with a legally recognized interest in the real property located within the subject historic district.

D. A Certificate of Appropriateness for a minor project shall be reviewed and approved or denied by Planning Services. If approved, Planning Services shall provide a Certificate of Appropriateness to the applicant. An appeal from a denial of an application for a minor project may be filed with Planning Services within five (5) business days. A public hearing on the appeal shall be at the next available meeting of the applicable governing body.

E. Ordinary maintenance and repair not otherwise subject to a permit or restricted by the historic preservation guidelines may be carried out without a Certificate of Appropriateness.

F. If no action has been taken by Planning Services and/or the Historic Preservation Board within thirty (30) days for major projects and within fifteen (15) days for minor projects after date of receipt of the completed application, the permit may be applied for with Planning Services.

G. No significant change shall be made in the work defined in the Certificate of Appropriateness application after issuance of a Certificate of Appropriateness without resubmittal and approval thereof in the same manner provided herein.

H. A Certificate of Appropriateness may be re-filed provided the request addresses the concerns stated by the Governing Body in its denial. (Ord. 10-82 § 7, 2010; Ord. 10-07 § 7, 2010; Ord. 07-54 § 1, 2007.)

2.84.135 Review Standards. The Review Standards for a Certificate of Appropriateness align with the Secretary of the Interior's Standards for Rehabilitation (Department of Interior regulations, 36 CFR 67) and pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior (and possible interior if included in the designation), related landscape features and the building's site and environment as well as attached, adjacent, or related new construction. Review Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 10-82 § 8, 2010.)

2.84.140 Historic Landmark and Historic District Demolition and Moving Permits.

A. If an application is received by Planning Services for demolition or moving of any historic landmark or structure within a residential historic district, the application shall be referred to the Historic Preservation Board for a Certificate of Appropriateness application. Review of such application for a Certificate of Appropriateness shall be as provided herein.

B. For a project which involves demolition of a historic landmark property or properties within a residential historic district or national and state registered properties, the proponents of such project shall, before doing any of the demolition or work in furtherance of such project, whether or not a building or other permit is required to be obtained to do such demolition work, file an application for a Certificate of Appropriateness for review as provided herein.

C. After review of Certificate of Appropriateness and upon the recommendation of the Historic Preservation Board and Planning Services, the Planning Commission shall hold a hearing within thirty (30) days of the Historic Preservation Board's recommendation. In addition to the recommendation of the Historic Preservation Board, the Planning Commission shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, owner hardship, the purpose of preserving the designated historic landmark or structure within a residential historic district, alternatives presented by interested parties, the character of the neighborhood, the economic consequences to the City or county and the affected owner(s), and all other factors which it finds appropriate. The owner(s) of the historic landmark or owner(s) of the structure within the residential historic district shall bear the burden of proof demonstrating hardship.

D. The Planning Commission may approve the Certificate of Appropriateness or deny the Certificate of Appropriateness if it determines that feasible alternatives to demolition or moving of the historic landmark or structure within the residential historic district exist and that in the interest of preserving historical values, the historic landmark or structure within the residential historic district should not be demolished or moved.

E. In the event of an "emergency" demolition of a historic landmark or a structure within a residential historic district, Planning Services shall notify the Historic Preservation Board as soon as possible.

F. The Historic Preservation Board shall, in the case of a historic resource, suggest to the owner of the property alternatives to demolition, or if demolition is the conclusive alternative, the Historic Preservation Board shall document or cause to be documented the historic resource with photographs and/or measured drawings. Planning Services shall notify the Historic Preservation Board in the event a permit for demolition is requested for a historic resource. (Ord. 10-82 § 9, 2010; Ord. 10-07 § 8, 2010; Ord. 07-54 § 1, 2007.)

2.84.150 Review of Demolition Buildings and Moving Permits of/for Historic Resources. An application to Planning Services for a demolition or moving permit shall require notification to Planning Services if the permit is for a historic resource determined by the Historic Preservation Board to have potential for landmark designation. These resources shall be fifty (50) years or older and meet one or more of the criteria for landmark designation described herein. The following procedure applies:

A. Demolition and moving permit applications for buildings or structures listed as historic resources or structures within Original Town Olathe that have the potential to be a historic resource will be reviewed by Planning Services.

B. Planning Services may make the determination that a building, site or structure threatened with demolition or removal meets the criteria for landmark designation.

C. If a building, site or structure is determined by Planning Services to meet criteria for historic landmark designation a written notice shall be sent by certified mail to the owner or owners of such building, site or structure. Said notice shall describe the property which meets historic landmark criteria including its location and boundaries and justification of its historic or architectural significance.

D. Following application for a moving or demolition permit for a listed historic resource, a ninety (90) day delay shall occur prior to the issuance of the requested moving or demolition permit in order for alternatives to be explored with the owner by Planning Services.

E. During such period, no permit shall be issued unless for emergency public safety reasons, or a Certificate of Appropriateness has been issued.

F. After the delay, if demolition of the historic resource is the conclusive alternative, the Historic Preservation Board shall direct Planning Services to document the resource with photography, and/or measured drawings for record purposes. (Ord. 10-82 § 10, 2010; Ord. 10-07 § 9, 2010; Ord. 07-54 § 1, 2007.)

2.84.160 Historic Landmark and Historic District Demolition by Neglect. In the event of demolition by neglect of a historic landmark or structure within a residential historic district on public or private property, the following provisions shall apply:

A. If a historic landmark or a property within a residential historic district has been determined by the Historic Preservation Board to be the subject of demolition by neglect, the Historic Preservation Board or Planning Services shall provide the owner of record with a written notice specifying the conditions of deterioration and the minimum items of repair or maintenance necessary to correct or prevent further deterioration.

B. Such notice shall be sent by certified mail, return receipt requested, addressed to the owner of the property, contract purchaser, if applicable, at his or her last known address, or the address shown on the real property tax records maintained by Johnson County, Kansas. Such notice, when so addressed and deposited with the Postal Service with proper postage prepaid, shall be deemed complete and sufficient. In the event that notification cannot be accomplished, as aforesaid, after reasonable efforts, notice shall be accomplished by posting a public notice on the property.

C. The notice shall provide that corrective action shall commence no later than thirty (30) days from the receipt or posting of said notice, unless an extension is granted by the Historic Preservation Board. The owner or contract purchaser, if applicable, shall demonstrate continual progress and all repairs shall be completed within a reasonable period of time. The notice shall state that the owner(s) of record of the subject property may within ten (10) days request a hearing before the Historic Preservation Board challenging the finding of demolition by neglect and/or the notice to repair. If such request for a hearing is received within this time period, a hearing will be held at the next regular meeting of the Historic Preservation Board. The Historic Preservation Board shall review all evidence of demolition by neglect at the scheduled hearing.

D. In the event that the Historic Preservation Board finds that, notwithstanding the necessity for such improvements, corrective action would impose a substantial hardship on the owner or any or all persons with any right or title in the subject property, then the Board shall establish a period of forty-five (45) days and direct Planning Services to seek alternative methods to preserve the historic landmark or property located within a historic district.

E. If no alternative is found to preserve the structure without undue hardship to the owner and any or all persons with any right or title in the subject property, and the structure is determined a threat to human safety and is in violation of City code, a demolition permit may be issued. (Ord. 10-82 § 11, 2010; Ord. 10-07 § 10, 2010; Ord. 07-54 § 1, 2007.)

2.84.170 Penalty. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, deface, move or maintain any historic landmark in violation of the provisions of this ordinance. In addition to other remedies, the City may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, moving or maintenance to restrain, correct or abate such violation. Any person who violates any provision of the ordinance codified in the sections cited above shall be guilty of a separate offense for each day or portion thereof during which any such violation is committed, continued or permitted, and each offense shall be punishable by a fine of not less than One Hundred Dollars (\$100) and not more than Five Hundred Dollars (\$500) in combination with civil remedies. (Ord. 07-54 § 1, 2007.)

2.84.180 Severability. If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. (Ord. 07-54 § 1, 2007.)

CHAPTER 2.86

LAND BANK

Sections:

2.86.010	Definitions
2.86.020	Authority and Governance
2.86.030	Governing Law
2.86.040	Appointment of Officers and Conduct of Meetings
2.86.050	Powers of the Board
2.86.060	Transfer of Property to the Land Bank
2.86.070	Administration of Land Bank Property
2.86.080	Disposition of Land Bank Property
2.86.090	Taxes and Assessments
2.86.100	Use of Proceeds from the Sale of Land Bank Property
2.86.110	Neighborhood Advisory Committee

2.86.010 Definitions. As used in this Chapter:

- A. “City” means the City of Olathe.
- B. “Board” means the Board of Trustees of the City of Olathe Land Bank.
- C. “Bank” means the City of Olathe Land Bank established pursuant to this Chapter.
- D. “Governing Body” means the Governing Body of the City.
- E. “Municipality” means any city, county or other political or taxing subdivision which has the power to levy special assessments. (Ord. 10-19 § 1, 2010.)

2.86.020 Authority and Governance.

- A. The Governing Body of the City hereby establishes the City of Olathe Land Bank.
- B. The Bank shall be governed by a Board of Trustees. The Governing Body shall serve as the Board of Trustees. Vacancies on the Board shall be filled by appointment for the unexpired term.
- C. The Governing Body shall advance operating funds to the Bank to pay expenses of the Board and the Bank.
- D. The Bank may be dissolved by ordinance of the Governing Body. In such case, all property of the Bank shall be transferred to and held by the City and may be disposed of as otherwise provided by law. (Ord. 10-19 § 1, 2010.)

2.86.030 Governing Law.

- A. The Bank shall be subject to the provisions of the Kansas cash-basis law, K.S.A. 10-1101 et seq., and amendments thereto.
- B. The budget of the Bank shall be prepared, adopted and published as provided by law for other political subdivisions of the state. No budget shall be adopted by the Board until it has been submitted to, reviewed and approved by the Governing Body.
- C. The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Board.

D. All records and accounts shall be subject to public inspection pursuant to K.S.A. 45-216 et seq., and amendments thereto.

E. Any moneys of the Bank which are not immediately required for the purposes of the Bank shall be invested in the manner provided by K.S.A. 12-1675, and amendments thereto.

F. The Bank shall make an annual report to the Governing Body on or before January 31 of each year, showing receipts and disbursements from all funds under its control and showing all property transactions occurring in each year. Such report shall include an inventory of all property held by the Bank. A copy of such inventory also shall be published in the official City newspaper on or before January 31 of each year.

G. The Bank shall be subject to the provisions of K.S.A. 9-1401 et seq., and amendments thereto. (Ord. 10-19 § 1, 2010.)

2.86.040 Appointment of Officers and Conduct of Meetings.

A. The Board shall select annually, from its membership, a chairperson, a vice-chairperson and a treasurer. The treasurer shall be bonded in such amounts as the Governing Body may require.

B. The Board may appoint such officers, agents and employees as it may require for the performance of its duties, and shall determine the qualifications and duties and fix the compensation of such officers, agents and employees.

C. The Board shall fix the time and place at which its meetings shall be held. Meetings shall be held within the City and shall be subject to the provisions of K.S.A. 75-4317 et seq., and amendments thereto.

D. A majority of the Board shall constitute a quorum for the transaction of business. No action of the Board shall be binding unless taken at a meeting at which at least a quorum is present.

E. The members of the Board shall be subject to the provisions of the laws of the state of Kansas which relate to conflicts of interest, including, but not limited to, K.S.A. 75-4301 et seq., and amendments thereto.

F. Subject to the provisions of K.S.A. 75-6101 et seq., and amendments thereto, if any action at law or equity, or other legal proceeding, shall be brought against any member of the Board for any act or omission arising out of the performance of duties as a member of the Board, such member shall be indemnified in whole and held harmless by the Board for any judgment or decree entered against such member and, further, shall be defended at the cost and expense of the Bank in any such proceeding. (Ord. 10-19 § 1, 2010.)

2.86.050 Powers of the Board. The Board may:

A. Sue and be sued;

B. Enter into contracts;

C. Authorize the City Manager to appoint and remove staff and provide for the compensation thereof;

D. Acquire, by purchase, gift or devise, and convey any real property, including easements and reversionary interests, and personal property subject to the provisions of this Chapter;

E. Rebate all, or any portion thereof, the taxes on any property sold or conveyed by the Bank;

F. Exercise any other power which may be delegated to the Land Bank by the Governing Body;
and

G. Exercise any other incidental power which is necessary to carry out the purposes of the Land Bank and this Chapter. (Ord. 10-19 § 1, 2010.)

2.86.060 Transfer of Property to the Land Bank.

A. Except as otherwise provided in this Chapter, any property acquired by the City, the county, another city or other taxing subdivision within the county may be transferred to the Bank. The Board may accept or refuse to accept any property authorized to be transferred pursuant to this subsection. The transfer of any property pursuant to this subsection shall not be subject to any bidding requirement and shall be exempt from any provision of law requiring a public sale.

B. The fee simple title to any real estate which is sold to the county in accordance with the provisions of K.S.A. 79-2803 and 79-2804, and amendments thereto, and upon acceptance by the Board of Trustees may be transferred to the Bank by a good and sufficient deed by the County Clerk upon a written order from the Board of County Commissioners.

C. Property subject to a foreclosure sale may only be acquired by the Board if:

1. Such property is located within the City's Community Development Block Grant-eligible area and Neighborhood Revitalization Area, and
2. But for acquisition of the property by the Board (at the sole discretion of the Board), the property would not otherwise be put to productive use. (Ord. 10-19 § 1, 2010.)

2.86.070 Administration of Land Bank Property. The Board shall assume possession and control of any property acquired by it under this Chapter and shall hold and administer such property. In the administration of property, the Board shall:

A. Manage, maintain and protect or temporarily use for a public purpose such property in the manner the Board deems appropriate;

B. Compile and maintain a written inventory of all such property. The inventory shall be available for public inspection and distribution at all times;

C. Study, analyze and evaluate potential, present and future uses for such property which would provide for the effective reutilization of such property;

D. Plan for and use the Board's best efforts to consummate the sale or other disposition of such property at such times and upon such terms and conditions deemed appropriate;

E. Establish and maintain records and accounts reflecting all transactions, expenditures and revenues relating to the Bank's activities, including separate itemizations of all transactions, expenditures and revenues concerning each individual parcel of property acquired; and

F. Thirty days (30) prior to the sale of any property owned by the Bank, publish a notice in the official City newspaper announcing such sale. (Ord. 10-19 § 1, 2010.)

2.86.080 Disposition of Land Bank Property.

A. The Board, without competitive bidding, may sell any property acquired by the Board at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants deemed necessary or appropriate to assure the property's effective reutilization. The sale of any real property by the Board under the provisions of this Chapter on which there are delinquent special assessments to finance public improvements levied by the Governing Body shall be conditioned upon the approval of the Governing Body.

B. The Board, for purposes of land disposition, may consolidate, assemble or subdivide individual parcels of property acquired by the Bank. (Ord. 10-19 § 1, 2010.)

2.86.090 Taxes and Assessments.

A. Until sold or otherwise disposed of by the Bank and except for special assessments levied by the Governing Body to finance public improvements, any property acquired by the Bank shall be exempt from the payment of ad valorem taxes levied by the state and any other political or taxing subdivision of the state.

B. Except for special assessments levied by the Governing Body to finance public improvements, when the Board acquires property pursuant to this Chapter, the County Treasurer shall remove from the tax rolls all taxes, assessments, charges, penalties and interest that are due and payable on the property at the time of acquisition by the Board.

C. Property held by the Bank shall remain liable for special assessments levied by a municipality to finance public improvements, but no payment thereof shall be required until such property is sold or otherwise conveyed by the Bank.

D. The Governing Body may abate part or all of the special assessments it has levied, and the Bank and Governing Body may enter into agreements related thereto. Any special assessments that are abated shall be removed from the tax rolls by the County Treasurer as of the effective date of the abatement. (Ord. 10-19 § 1, 2010.)

2.86.100 Use of Proceeds from the Sale of Land Bank Property.

A. Except as provided in paragraph (b), any moneys derived from the sale of property by the Bank shall be retained by the Bank for the purposes and operations thereof.

B. The Board may use all or any part of the proceeds from the sale described in paragraph (a) to reimburse the City bond and interest fund for delinquent special assessments due on such property. (Ord. 10-19 § 1, 2010.)

2.86.110 Neighborhood Advisory Committees. The Board may establish separate neighborhood or City advisory committees consisting of persons living or owning property within the City or neighborhood. In the case of neighborhood advisory committees, the Board shall determine the boundaries of each neighborhood. In the absence of a resolution by the Board providing otherwise, each advisory committee shall consist of not less than five (5) nor more than nine (9) persons, to be appointed by the Board for two-year overlapping terms. The Board shall consult with each advisory committee as needed to review the operations and activities of the Bank and to receive the advice of the members of the advisory committee concerning any matter which comes before the committees. (Ord. 10-19 § 1, 2010.)