

CHAPTER 1. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and may be designated as the Code of the City of Liberal, Kansas, and may be so cited.

1-102. DEFINITIONS. The following definitions and rules of construction shall be observed in the construction of this code and of all ordinances unless they are inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:

City shall mean the City of Liberal, in Seward County, Kansas.

Computation of time. The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Sunday or legal holiday, that day shall be excluded.

County means the County of Seward, Kansas.

Delegation of Authority. Whenever a provision appears requiring or authorizing the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

Gender. Words importing the masculine gender include the feminine and neuter.

In the city means and includes any territory within the corporate limits of the City of Liberal, Kansas, and the police jurisdiction thereof and any other territory over which regulatory power has been conferred on the city by law, except as otherwise specified.

In the extraterritorial area means and includes any territory within the area specified in the Joint Seward County Resolution/Liberal City Ordinance No. 97-01/4114 Interlocal Agreement dated November 18, 1996, incorporated by reference.

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Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Number. Words used in the singular include the plural and words used in the plural include the singular.

Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath and in such cases, the words "swear" and "sworn" are equivalent to the words "affirm" and affirmed."

Owner applied to a building or land, shall include not only the known owner of the whole but any part known owner, joint owner, tenant in common or joint tenant of the whole or a part of such buildings or land.

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

Property includes real, personal and mixed property.

Real property includes land, tenements and hereditaments.

Shall and will are mandatory.

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

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

Tenant, occupant applied to a building or land, means any person who occupies the whole or part of such building or land, whether alone or with others.

1-103. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code.

1-104. CATCHLINES. The catchlines or headings of the sections of this code are intended as mere words to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.

1-105. AMENDMENTS: REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "That section _____ of the Code of the City of Liberal is hereby amended to read as follows: (The section as amended shall then be set out in full or incorporated by reference). . . A new section not heretofore existing in the code may be added as follows: "That the code of the City of Liberal is hereby amended by adding a section (or article or chapter) which reads as follows. . . (the new section shall be set out in full or incorporated by reference). . ." All sections, or articles or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the Code of the City of Liberal is hereby repealed."

- 1-106. POWERS GENERALLY. All powers exercised by cities of the first class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law.
- 1-107. ORDINANCES. The governing body shall pass all ordinances needed for the welfare of the city. No ordinance shall be valid unless a majority of all the members-elect of the city commission vote in favor. (K.S.A. 12-3002)
- 1-108. SAME; PUBLICATION. An appropriation ordinance shall be effective on passage, all others shall be in force when published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007)
- 1-109. SAME; ORDINANCE BOOK. Following passage and approval of each ordinance, the city clerk shall enter the same in numerical order in the ordinance book or ordinance cabinets or other designated locations. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the name of the newspaper in which published and the date of publication, as shown on the certified proof of publication.
- 1-110. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city commission. Abstention is counted as a non-vote, except for determining a quorum.
- 1-111. EMERGENCY GOVERNMENT. In the event of a catastrophe in which all or a majority of the members of the governing body are fatally injured, the interim governing body shall be composed of the surviving members, the city attorney, the city clerk and a sufficient number of employees selected by the above members to make up a governing body of the prescribed number until such vacancies can be filled as provided by law.
- 1-112. CONFLICT OF INTEREST. (a) No city officer, employee or city commissioner shall be signatory upon, discuss in an official capacity, vote on any issue concerning, or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business in which the city officer, city commissioner or employee has a substantial interest under K.S.A. 75-4301a:
- (b) The prohibitions contained in subsection (a) of this section shall not apply to the following:
- (1) Contracts let after competitive bidding has been solicited by published notice; and

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(2) Contracts for property or services for which the price or rate is fixed by law. (K.S.A. 75-4301a)

1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 et seq.

1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change, amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Liberal to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly enacted by the governing body.

1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful or misdemeanor, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed guilty of a violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense.

1-116. GENERAL PENALTY. A. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with Sections 12.1 and 12.2 of the Uniform Public Offense Code, and in addition to or in lieu of any other sentence authorized by law, the offender may be punished in accordance with this section or by one or more of the following:

- (a) Imprisonment as defined by the class of violation; or
- (b) A fine as defined by the class of violation; or
- (c) Restitution for damages done to the city or public at large; or
- (d) Community service, supervised or unsupervised; or
- (e) Any combination or all of the above.

B. The Municipal Court shall have the power to sentence a Municipal Court defendant to any of the items listed in K.S.A. 12-4509.

C. A Class C violation, as defined in Section 12.1 of the Uniform Public Offense Code, shall carry the same penalty as defined in Section 12.2 of the Uniform Public Offense Code.

D. A Class B violation, as defined in Section 12.1 of the Uniform Public Offense Code, shall carry the same penalty as defined in Section 12.2 of the Uniform Public Offense Code.

E. A Class A violation, as defined in Section 12.1 of the Uniform Public Offense Code, shall carry the same penalty as defined in Section 12.2 of the Uniform Public Offense Code. (2000, Ord. 4254)

1-117. SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, or section of this Code shall be declared invalid, unconstitutional, or unenforceable by the valid judgment or decree of any court of competent jurisdiction, such invalidity, unconstitutionality, or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code, since such provisions would have been enacted by the City without the incorporation of any such invalid, unconstitutional, or unenforceable phrase, clause, sentence, paragraph, or section. The Code should be construed, to the extent possible, to legally carry out the intent of the Code provisions.

ARTICLE 2. GOVERNING BODY

- 1-201. BOARD OF COMMISSIONERS; MAYOR.
(a) The governing body shall consist of five commissioners. No distinction shall be made in title or duties among the commissioners, except as the governing body shall organize itself for business.
(b) The governing body shall choose its own chairperson annually and determine its own order of business. The chairperson shall have the title of mayor during the year of his or her office, to the end that the city shall have an official head on formal occasions. (K.S.A. 12-1006:1007)
- 1-202. SAME; TERMS. Terms of city commissions shall be determined as prescribed in K.S.A. 12-1005k.
- 1-203. SAME; VACANCY. In case of a vacancy from any cause in the office of commissioner, the board of commissioners shall proceed to fill the vacancy as provided in Kansas Statutes Annotated and amendments thereto.
- 1-204. SAME; DUTIES. The commission shall pass all ordinances needful for the welfare of the city, and shall perform such other duties as are or may be imposed upon the commission by law or ordinance, and no commissioner shall interfere with the conduct of any city department.
- 1-205. SAME; COMPENSATION. Each city commissioner shall receive a salary in an amount as may from time to time be fixed by the budget resolution.
- 1-206. RULES AND ORDER OF BUSINESS. The following shall constitute the rules and order of business of the city:

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Rule 1. Open Meetings. According to the Kansas Open Meetings Law, all city commission meetings must be open to the public except when the commission recesses the meeting to executive session, per K.S.A. 75-4317 et seq.

Rule 2. Regular and Special Meetings. The commission of the City of Liberal, Kansas is hereby authorized and empowered to set the time, the number of regular and special meetings per month, the day on which those regular and special meetings shall take place, and the location of such regular and special meetings. The commission reserves the privilege of calling special or emergency meetings whenever necessary, upon a call of the Mayor or in his absence, the Vice Mayor. In all cases, public notice is made in advance and local news media are notified. The meetings are governed by Robert's Rules of Order. The meetings may be televised on the local access channel.

A notice of a special meeting shall be provided personally or via facsimile upon each commissioner at his or her usual place of residence or business at least two hours before the time of the meeting. The notice shall be issued by the city clerk or another city employee for delivery to the commissioners.

The call of a special meeting shall be in substantially the following form:

CALL FOR SPECIAL COMMISSION MEETING

Liberal, Kansas
_____, Year

To the Board of Commissioners:

A special meeting of the Liberal City Commission is hereby called to be held in the City Commission Chambers at _____, Liberal, Kansas, on _____, Year at _____ o'clock ____m., for the matters shown on the attached agenda. No other business shall be transacted except that mentioned in the call. (K.S.A. 13-2008)

Signed:

Date and Time of Receipt:

Mayor

Vice-Mayor

Commissioner

Commissioner

Commissioner

Rule 3. Adjourned Meetings. Adjourned meetings of the commission may be held at such time and place as the commission may determine in the motion to adjourn.

Rule 4. Work Session. The city commission shall hold work sessions as called by the mayor and notice thereof published with the official agenda. The work session shall be held in the City Commission Chambers at 325 North Washington, or other places as designated in the meeting notice. In accordance with the open meeting law, the work sessions shall be open to the public.

Rule 5. Organization of Commission. At the first regular meeting in April of each year, the commission shall, by a majority vote of all the members thereof, elect one of its members to act as mayor, and one of its members to act as vice mayor and to serve as mayor in the absence of the mayor. In case either the mayor or vice mayor is not chosen at such regular meeting, the commission may, at its option continue to ballot for such officers at any adjourned or subsequent regular meeting.

Rule 6. Presiding Officer. The mayor shall preside at all meetings of the commission. In the absence of the mayor, the vice mayor shall preside.

Rule 7. Quorum. At all meetings of the commission, four (4) commissioners shall constitute a quorum. (Charter Ord. No. 25)

Rule 8. Order of Business. At the hour appointed for meeting, the commission shall be called together by the mayor, and in his or her absence by the vice mayor. The city clerk shall call the roll and note the absentees and announce whether a quorum is present. Upon the appearance of a quorum the commission shall proceed to business, which shall be conducted in the following order or the order listed on the Agenda, as modified at a regular meeting:

- (1) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
- (2) Items from Citizens and Groups;
- (3) Consent Agenda;
- (4) Unfinished business;
- (5) New business;
- (6) Report of manager;
- (7) General Reports of Information. (Staff reports and minutes of all advisory and autonomous boards)

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Rule 9. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the board.

Rule 10. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 11. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 12. Certain Motions in Writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 13. Resolutions. All resolutions must be in writing.

Rule 14. Motions During Debate. When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;
- (4) To postpone;
- (5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 15. Voting. When a question is put by the chair, every member present shall vote or abstain. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 16. Passing of Ordinances. All Ordinances shall be passed by a majority of the commission. (K.S.A. 12-3002; 3004)

Rule 17. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book or vault and the original shall be signed by the mayor, or in the absence of the mayor by the vice mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 18. Executive Sessions. When the board is in executive session, the room shall be cleared of all persons, except such officers and persons as requested to attend by the City Commission. All remarks and proceedings of an executive session shall be kept confidential and secret.

Rule 19. Suspension of Rules. These rules, or any of them, except those specified by statute, may be temporarily suspended by consent of two-thirds of the commissioners elect.

Rule 20. Robert's Rules of Order. In all points not covered by these rules the board shall be governed in its procedure by The New Robert's Rules of Order, Second Edition, May, 1998 version.

Rule 21. Items on Agenda.

(a) Every individual or individuals desiring to be placed on the agenda and/or have a subject placed on the agenda for a meeting of the city commission, shall inform the city manager of their desire by noon on the Wednesday preceding the regular meeting day of the city commission on which they desire to be placed on the agenda and/or to have a subject placed on the agenda.

(b) All information pertinent to such subjects which are placed on the agenda shall be provided to the city manager in writing by noon on the Wednesday preceding the regular meeting day of the commission on which such subjects are on the agenda.

(c) Where the above time constraints are not met, the commission shall not take official action on any such individual, individuals, or subject unless there are unusual or hardship conditions existing which would warrant such official action.

(d) Citizen Comment -- Individuals are requested to keep their remarks limited to five minutes or less. This can be relaxed at the discretion of the mayor. During scheduled public hearings, all public comment is heard after the scheduled presentations, when the mayor calls for public input the comments are limited to five minutes or less. In case of controversial issues attracting larger numbers, groups are asked to use representatives who will speak for those present. Names of those present but unable to speak will be recorded and attached to the minutes of the hearing. The Citizen Comment allots time to speak on any matter except matters involving litigation or discussion of city personnel.

Rule 22. Consent Agendas. Consent agendas may be used by the city manager in the preparation of regular city commission meeting agendas.

(a) Items which may be placed on the consent agenda by the city manager include, but are not limited to the following:

- (1) Minutes from all advisory and autonomous boards;
- (2) Airport leases;
- (3) Oil and gas leases;
- (4) Cereal malt beverage licenses; and
- (5) Licenses and other permits.

(b) If any elected official requests the removal of any item on the consent agenda for debate; or if the city manager or any one acting in his or her place, requests the removal of any item or items on the consent agenda for debate, the item or items shall be removed from the consent agenda and this item or items shall be considered separate and apart.

(c) A motion and second with a majority vote for approval is sufficient to carry and approve all of the items listed on the consent agenda with the exception of those which may have been removed under the procedures outlined in subsection (b); and that this approval shall have the same force and effect as though each item were considered separately and voted upon separately.

ARTICLE 3. CITY MANAGER

1-301. APPOINTMENT. The commission shall appoint a city manager, who shall hold office at the pleasure of the board.

1-302. SALARY. The manager shall receive a salary to be fixed by the commission.

1-303. DUTIES, MANAGER. The manager of the City of Liberal shall be responsible for the administration of all of the affairs of the city including the appointment and removal of all heads of departments, and all subordinate officers and employees of the city. All appointments shall be made upon merit and fitness alone. He or she shall be responsible for the discipline of all appointive officers, and may, without notice, cause the affairs of any department, board or office or the conduct of any officer or employee to be examined or investigated. He or she shall prepare and submit the annual budget to the governing body, and keep the commission duly advised as to the financial condition and needs of the city. He or she shall make recommendations to the commissioners on all matters concerning the welfare of the city, and shall have a seat, but no vote, in all meetings of the commission. He or she may countersign all warrants and warrant checks issued by the director of finance and shall perform such other and further duties as are or may be prescribed by law or ordinance. He or she is authorized to sign conflict of interest waivers for legal counsel representation when it is in the city's best interest, giving advance notice to the city commission when appropriate. (C.O. No. 13)

1-304. ASSISTANT CITY MANAGER & INTERIM CITY MANAGER.
(a) DUTIES. The assistant city manager is a part time, as needed position, and shall perform the duties of the city manager in his or her absence. The assistant city manager shall be protected from political fallout. The position of assistant city manager may be terminated or filled by a different employee at the discretion of the City Manager, provided that the full time position simultaneously

held by the Assistant City Manager may only be terminated for cause due to actual job performance.

(b) APPOINTMENT & COMPENSATION. As there is not a current need for a full time assistant city manager, the city manager may appoint an assistant city manager as deemed necessary to fulfill the duties as stated in Section (a) above for a period of time as determined appropriate by the City Manager. The appointment shall be of a current, full time city employee and compensation for the duties of Assistant City Manager shall be set by the City Manager in an amount not to exceed \$1,000 per month in addition to the employee's current salary. Notice of the appointment shall be provided to the commission and all department heads by the City Manager. In the event the City Manager appoints a different Assistant City Manager (and absence cause for termination), then the replaced Assistant City Manager shall be allowed to return to his or her current, full time employment and be paid the same compensation as previously set. At no time shall there be more than one Assistant City Manager.

(c) ABSENCE. In the event of the absence of the city manager for more than fourteen (14) consecutive work days, then the City Commission shall, by a majority vote, make appointment for an interim city manager or city manager which may or may not be the current assistant city manager. In said event, the City Commission shall set the compensation for the interim city manager/city manager. In the event the Commission offers the position of Interim City Manager/City Manager to said employee then the employee shall have the discretion to choose to keep his or her full time employment position in the City or accept the position of Interim City Manager/City Manager. In the event this individual is appointed as Interim City Manager and then subsequently is not chosen as City Manager, then that individual may return to his or her prior full time position.

1-305. CITY MANAGER; EX-OFFICIO MEMBER. The city manager shall be an ex-officio member of all city boards, projects, commissions, or undertakings of any kind that are funded or supported in any way by the city. As an ex-officio member, the city manager shall have all rights as regular members, except voting.

ARTICLE 4. OFFICERS AND EMPLOYEES

1-401. DEPARTMENTS CREATED. The following city departments are hereby authorized:

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(a) Administration: City Clerk, Human Resources, Economic Development, Finance, Airport, Air Museum, Housing and Neighborhood Development and Tourism;

(b) Fire;

(c) Police and Animal Control;

(d) Municipal Court, City Prosecutor, and Code Enforcement;

(e) Parks and Recreation; and

(f) Public Works, Building Inspection, Engineering, Sanitation, Streets/Transportation, Utility Maintenance, Wastewater and Water.

1-402. SAME; ADDITIONAL DEPARTMENTS. The city manager may create other departments within the city's adopted budget.

1-403. APPOINTMENT OF PERSONNEL. All officers and employees of the city shall be appointed by the city manager at will.

1-404. MANAGER IN ANY CAPACITY. The city manager may perform the duties of any officer whose office he or she is qualified to fill and in such cases the appointment of such officer may be dispensed with. No additional compensation shall be paid the manager for performance of any such duties. (K.S.A. 12-1024)

1-405. HOLD MORE THAN ONE OFFICE. The city manager may appoint one person to hold and perform the duties of more than one office. However, one person may not hold offices which are incompatible or when such dual holding is prohibited by law. (K.S.A. 12-1024)

1-406. REMOVAL, OFFICERS AND EMPLOYEES. The city manager may remove, suspend, with or without pay, or discipline any appointive officer or employee at will.

1-407. CITY ATTORNEY. The city attorney shall be a member of the Kansas bar and a practicing attorney in the State of Kansas. The attorney shall:

(a) Represent the city;

(b) Advise the city governing body and other city officers regarding any matters relating to their official duties, if there is no conflict with the city or the conflict is waived;

(c) Draft or review all ordinances, contracts, leases and other instruments as may be required by the city;

(d) Furnish a written opinion upon any legal question when requested to do so by the city manager;

(e) Perform such other professional services incident to his or her office as may be required by the city manager;

(f) Not advise anyone on any issue, other than as set forth above, unless directed to do so by the city manager or his designated agent.

- 1-408. CITY PROSECUTOR. The city prosecutor shall be a member of the Kansas bar and a practicing attorney in the State of Kansas. The prosecutor shall:
- (a) Advise the chief of police and officers of the police department upon legal questions affecting the duties of their offices;
 - (b) Prosecute cases in municipal court;
 - (c) Represent the city in all appeals from the municipal court;
 - (d) Annually revise the police department manual;
 - (e) Quarterly give seminars on the police department manual to police officers.
- 1-409. CITY CLERK. The city clerk shall:
- (a) Be custodian of all the city records, books, files, papers, surety bonds, documents and other personal effects belonging to the city not properly pertaining to any other office.
 - (b) Carry on all the official correspondence of the city.
 - (c) Attend and keep a record of the proceedings of all meetings of the governing body.
 - (d) Enter every appointment of office and the date thereof in the journal.
 - (e) Enter or place each ordinance of the city in the ordinance books after passage.
 - (f) Publish all ordinances (except those appropriating money) and such resolutions, notices and proclamations as may be required by law or ordinance.
 - (g) Perform such other duties prescribed by state law or ordinances of the city.
 - (h) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts and other documents required to be authenticated;
 - (i) Have power to administer oaths for all purposes pertaining to the business and affairs of the city.
 - (j) Keep suitable files of all such oaths required.
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- 1-410. FINANCE DIRECTOR; FISCAL RECORDS. The finance director shall:
- (a) Prepare and keep suitable fiscal records according to generally accepted accounting principles.
 - (b) Assist in preparing the annual budget.
 - (c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund.
 - (d) Keep an accurate account of all bonds issued by the city.
 - (e) Keep a record of all special assessments.
 - (f) Publish a quarterly financial statement;
 - (g) Deposit all public moneys;
 - (h) Pay out the funds of the city upon warrant and checks properly signed by a combination of any two (2) of the following categories:

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- (1) The city manager (or in his/her absence or in his/her incapacity, his/her designee);
- (2) The city clerk (or in his/her absence or in his/her incapacity, the deputy city clerk); or
- (3) The finance director (or in his/her absence or in his/her incapacity, his/her assistant).

(i) Is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income Tax) Act and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee.

1-411. CLAIMS; AUTHORITY TO SETTLE. The city manager is hereby authorized to effect settlement, on behalf of the city, for any and all claims not exceeding \$2,000 made by any person against the city. After offering any larger settlement or denial of said claim or claims, the city manager shall notify the governing body of such after offering any larger settlement or denial of a claim or claims and if there is no objection within 5 days said settlement should be deemed authorized and approved.

1-412. COMPENSATION. Minimum and maximum salaries for each position in the city shall be established by the annual budget resolution. Individual salaries to be paid to each employee within his or her assigned range shall be determined by the city manager. (K.S.A. 13-2101)

1-413. OATH REQUIRED. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter the name of office). So help me God." (K.S.A. 75-4308)

1-414. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk.

1- 415. BOND. (a) The following appointive commissioners and employees shall, prior to performing any duties of their office, give a corporate surety bond, conditioned as provided by law in the following amounts:

- (1) Chief Clerk, Water Department - \$50,000;
- (2) City Finance Director - \$50,000;
- (3) City Clerk - \$50,000;
- (4) Superintendent, Waterworks - \$10,000;
- (5) Municipal Court Clerk - \$10,000;

- (6) Clerk, Water Department - \$10,000;
- (7) City Inspector - \$50,000;
- (8) City Manager - \$50,000;
- (9) City Commissioners - \$50,000 each;
- (10) Air Museum Director - \$50,000;
- (11) City Engineer - \$50,000; and
- (12) Housing & Neighborhood Development Director - \$50,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.

(c) All premiums on surety bonds shall be paid by the city.

1-416. SAME; APPROVAL. All surety 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 the laws of the state.

ARTICLE 5. PERSONNEL AND EMPLOYEE BENEFITS

1-501. SOCIAL SECURITY. The city hereby extends the benefits of Title II of the Federal Social Security Act, in conformity with the applicable provisions of such Act, to the employees of the city, according to the provisions of K.S.A. 40-2301:2309.

1-502. EMPLOYEE RETIREMENT. All eligible employees of the city shall be members of the Kansas Public Employees Retirement System (KPERs) or the Kansas Police and Fire Retirement System (KP&F) and their employment and compensation shall be subject to the state statutes and supplemental rules governing such membership and are eligible to participate in the ICMA Retirement Corporation program.

1-503. EMPLOYEE BENEFITS CONTRIBUTION FUND. (a) The city, in accordance with the provisions of K.S.A. 12-16,102, does hereby recognize an employee benefits contribution fund for the purpose of paying the city's share of employee benefits prescribed by subsection (b).

(b) The cost of employee benefits authorized for payment from the fund created by section 1-503(a) shall include the following: Employer contributions for social security, worker's compensation, unemployment insurance, health care costs, employee benefits plans, and employment retirement and pension programs.

1-504. EMPLOYEE BENEFITS. The City of Liberal employee benefit handbook may be provided as the city manager desires from time to time.

ARTICLE 6. INVESTMENT OF IDLE FUNDS

- 1-601. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may be invested in accordance with K.S.A. 12-1675.
- 1-602. PROCEDURE AND RESTRICTIONS. The city manager, finance director, or other officer designated by the city manager may invest any temporarily idle city funds not immediately required for the purposes for which the funds were collected or received.

ARTICLE 7. PETTY CASH FUND

- 1-701. FUND AUTHORIZED. The governing body may, by resolution, in accordance with K.S.A. 12-171, authorize one or more petty cash funds to be established and maintained in the central business office of the city. The city finance director is designated to receive such fund and shall keep a record of all receipts and expenditures from the fund.

ARTICLE 8. PUBLIC RECORDS

- 1-801. PROCEDURES REGARDING BOTH INSPECTION AND COPYING OF OPEN PUBLIC RECORDS. The following procedures are hereby adopted and shall be applied by each official custodian and record custodian, as specified by the Kansas Open Records Act.
- 1-802. PROCEDURES. The following procedures are hereby adopted and shall be applied by every official custodian and record custodian:
- (a) All request forms must be completed by the party requesting the record. In all cases the party so requesting must sign his or her individual name to the form. Written requests shall be made on the form provided by the record custodian and presented to the record custodian.
 - (b) 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 custodian shall assist in making such identification.
 - (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) The official custodian or record custodian may deny access of inspection to a requester or copying of an open public record in accordance with the policies, duties and procedures established by the State of Kansas in K.S.A. 1983 Supp. 45-205:214 (L. 1983, Ch. 171) and other applicable Kansas state laws or federal laws.

- 1-803. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act, K.S.A. 1984 Supp. 45-201:214 and are hereby charged with responsibility for compliance with that act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the office of the city clerk and all other public records not provided for elsewhere in this section.
 - (b) Finance Director - All public records not on file in the office of the city clerk and kept and maintained in the office of the finance director and finance department.
 - (c) Chief of Police - All public records not on file in the offices of the finance director or city clerk and kept and maintained in the city police department.
 - (d) Clerk of the Municipal Court - All public records not on file in the offices of the finance director and city clerk and kept and maintained in the municipal court.
- 1-804. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-803 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
- 1-805. DUTIES OF CUSTODIANS. All city officers and employees appointed or designated under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records.
- 1-806. REQUESTS TO BE DIRECTED TO CUSTODIANS. (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the City Clerk, who shall notify the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.
- (b) Whenever any city officer or employee appointed or designated as a custodian is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record and/or the City Clerk. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

1-807. FEES. All fees and utility rates shall established in the budget resolution and are found in Exhibit C in this ordinance and hereafter changed if applicable by the annual budget resolution.

1-808. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees. Fees are established annually in the budget resolution and are found in Exhibit C-103. The prepayment amount shall be an estimate of the inspection and/or copying charges in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

1-809. PAYMENT. All fees charged shall be paid to the custodian of the records inspected and/or copied. Each custodian shall transmit all record fee moneys collected to the office of the finance director on a timely basis.

ARTICLE 8. CODE OF ETHICS

1-901. DECLARATION OF POLICY. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all city officials and employees is adopted. The purpose of this code of ethics is to establish guidelines for ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city.

1-902. DEFINITIONS. The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Business means any corporation, association, partnership, proprietorship, trust, joint venture, and every other business interest, including ownership or use of land for income.

(b) Compensation means any money, thing of value or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by that person or another, but shall not mean nor include reimbursement of reasonable expenses if the reimbursement does not exceed the amount actually expended for the expense and it is substantiated by an itemization of expenses.

(c) Contract means agreement, including but not limited to, sale and conveyance of real and personal property, and agreement for the performance of services.

(d) Gift means anything of economic value, regardless of form, without adequate and lawful consideration.

(e) Interest means direct or indirect monetary or material benefit accruing to a public officer or employee as a result of a contract, transaction, zoning decision, or other matter which is or may be the subject of an official act or action by or with the city except for such contracts or transactions which by their terms and by the substance of their provision confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. "Interest" means any of the following:

(1) If an individual or an individual's spouse, either individually or collectively, has owned within the preceding 12 months a legal or equitable interest exceeding \$5,000.00 or five percent of any business, whichever is less, the individual has an interest in that business.

(2) If an individual or an individual's spouse, either individually or collectively, has received during the preceding 12 months compensation which is or will be required to be included as taxable income on federal income tax returns of the individual and spouse in an aggregate amount of \$2,000.00 from any business or combination of businesses, the individual has an interest in that business or combination of businesses.

(3) If an individual or an individual's spouse, either individually or collectively, has received in the preceding 12 months, without reasonable and valuable consideration, goods or services having an aggregate value of \$250.00 or more from a business or combination of businesses, the individual has an interest in that business or combination of businesses.

(4) If an individual or an individual's spouse holds the position of officer, director, associate, partner, or proprietor of any business, other than an organization exempt from federal taxation of corporations under section 501(c)(3), (4), (6), (7), (8), (10), or (19) of chapter 26 of the United States code, the individual has an interest in that business, irrespective of the amount of compensation received by the individual or individual's spouse.

(5) If an individual or an individual's spouse receives compensation which is a portion or percentage of each separate fee or commission paid to a business or combination of businesses, the individual has an interest in any client or customer who pays fees or commissions to the business or combination of businesses from which fees or commissions the individual or the individual's spouse, either individually or collectively, received an aggregate of \$2,000.00 or more in the preceding 12 months.

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

(f) Official act or action means any legislative, administrative, appointive, or discretionary act of any public officer or employee of the city or any agency, board, committee, or commission thereof.

(g) Public employee means any employee of the city or any of its agencies. (h) Public officer means any elected or appointed officer of the city or any of its agencies, including members of advisory boards and commission.

(i) Transaction means the carrying on or completion of a business deal, including, but not limited to, purchase of goods and services.

1-903.

SCOPE OF ARTICLE. The requirements set forth in this article shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the city.

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

a. Have or thereafter acquire an interest in such contract, transaction, zoning decision, or other matter.

b. Have an interest in any business entity representing, advising, or appearing on behalf of, whether paid or unpaid, any person involved in such contract, transaction, zoning decision, or other matter.

c. Have solicited or accepted present or future employment with a person or business entity involved in such contract, transaction, zoning decision, or other matter.

d. Have solicited, accepted, or granted a present or future gift, favor, service, or thing of value from or to a person involved in such contract, transaction, zoning decision, or other matter.

e. The prohibition against gifts or favors shall not apply to:

1. An occasional non-pecuniary gift, insignificant in value;

2. An award publicly presented in recognition of public service; or

3. Any gift which would have been offered or given to such person

if such person were not an officer or employee.

A public officer or employee does not violate the provisions of subsections (1)a. through (1)d. of this section when such officer or employee has such an interest but abstains from any and all action, participation, or vote involving the contract, transaction, zoning decision, or other matter. Any person abstaining shall, upon realization of such conflict, as soon as reasonably possible, state that a conflict exists, leave the room until all discussion and action on the contract, transaction, zoning decision, or other matter has concluded, and direct the city clerk or any recording secretary to reflect such abstention and departure from the proceedings. A reason for abstaining need not be disclosed.

(2) Preacquisition of interest. No public officer or employee with respect to any contract, transaction, zoning decision, or other matter which is or may be the subject of an official act or action of the city shall acquire an interest in such

contract, transaction, zoning decision, or other matter at a time when the public officer or employee believes or has reason to believe that it will directly or indirectly be affected by an official act or action of the city.

(3) Incompatible service. No public officer or employee shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

(4) Interest in public contract. No public officer or employee shall in the capacity as such officer or employee, be a signatory upon, discuss in an official capacity, vote on any issue concerning, or otherwise participate in his or her capacity as a public officer or employee in the making of any contract with any person or business in which the public officer or public employee has a substantial interest, as the same is herein defined. This section shall not apply to:

- a. A contract awarded through a process of public notice and competitive bidding; or
- b. Contracts for property or services for which the price or rate is fixed by law.

5) Participation in non-contract transactions. A public officer or employee shall not participate or take any official act or action on any transaction, zoning decision, or other matter involving the city which is non-contractual in nature when such public officer or employee has an interest in the transaction, zoning decision, or other matter. A public officer or employee does not participate or act if such officer or employee abstains from all participation in the transaction, zoning decision, or other matter.

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

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

(8) Later case interest. No public officer or employee shall, after the termination of service or employment with the city, appear before any board, commission, committee, agency, or the municipal court of the city in relation to any case, proceeding or application in which such officer or employee personally participated during the period of service or employment, or which was under active consideration by such officer or employee.

(9) Disclosure of confidential information. No public officer or employee, with respect to any contract, transaction, zoning decision, or other matter which is or may be subject of an official act or action of the city shall, without proper legal

authorization, disclose confidential information regarding the property, government, or affairs of the city, or use such information to advance the financial or other private interest of the officer or employee or others.

- 1-904. PROHIBITED CONDUCT. No public officer or employee shall engage in any conduct or act which would be a violation of any federal, state, or municipal statute, law, or ordinance. Any public officer or employee violating federal, state, or municipal laws shall be subject to imposition of all sanctions or discipline authorized by city personnel policy and/or state or municipal law pertaining to termination of employment or removal from elected office. In addition, a determination may be made as to whether there has been a violation of any portion of this article.

State law reference— Prohibited contracts by local government officers or employees, K.S.A. 75-4304.

- 1-905. EXCEPTIONS.
- (a) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this state to engage in the making of such loans shall not be deemed to create an interest in violation of this division.
- (b) A contract or transaction for a commercial retail sale, even though over the value of \$250.00 shall not be deemed to create an interest in violation of this division.

- 1-906. ENFORCEMENT.
- (a) The city attorney or his or her designee shall have the primary responsibility for the enforcement of this article.
- (b) The governing body may direct the city attorney to investigate any apparent violation of this division or it may employ or appoint any qualified attorney to investigate any violation or series of violations by one or more persons of this article.
- (c) Any person who believes that a violation of any portion of this article has occurred may file a complaint with the city attorney or with the governing body, who may thereafter proceed with appropriate action. However, nothing in this article division shall be construed to prevent complainants from instituting direct legal action through the appropriate judicial authority.
- (d) The city attorney shall present such investigative findings to the city manager and the governing body.
- (e) Where any public officer or employee has a doubt as to the applicability of any provision of this division to a particular situation, or as to the definition of terms used herein, such officer or employee may apply to the city attorney for an advisory opinion. The public officer or employee shall have the opportunity to present an interpretation of the facts at issue and of the applicability of provisions of this division before such advisory opinion is made.

1-907.

PENALTIES; FORFEITED POSITION; EXEMPTIONS; INJUNCTION.

(a) Any public officer or employee who willfully and knowingly violates any of the provisions of this article may be subject to any one or more of the following penalties, listed in no particular order of intended application by the governing body and/or the city manager:

(1) In the case of appointed members of a city board or agency; warning, reprimand, or removal from such position;

(2) In the case of city employees, initiation of discipline pursuant to city personnel rules and regulations;

(3) In the case of elected or appointed members of the governing body, submission to the state attorney general or the county attorney of a request for review, investigation, and appropriate action pursuant to state law.

(b) Any person who is the subject of an alleged violation shall have the right to present evidence on such person's behalf before the governing body. Nothing in this article shall be construed or operate to eliminate any of the procedures or rights afforded to city employees pursuant to the city personnel rules and regulations.

(c) Any contract, transaction, zoning decision, or other matter which was the subject of an official act or action of the city in which there is an interest prohibited by this article, or which involved the violation of a provision of this article, shall be voidable at the option of the city.

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

1-908.

DISTRIBUTION. The city clerk shall cause a copy of this article to be distributed to every public officer and employee of the city within 30 days after enactment of this article. Each public officer and employee elected, appointed, or engaged thereafter shall be furnished a copy before entering upon the duties of an office or employment.

1-909.

PROVISIONS SUPPLEMENTAL. The provisions of this article are supplemental to any and all applicable federal, state, county and city laws or regulation and shall not be construed to relieve the public officer or employee from compliance with any such laws or regulations. (2014; Ord. 4422)

Liberal Code