

CHAPTER I. ADMINISTRATION

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ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of LaHarpe, Kansas," and may be so cited. The Code may also be cited as the "LaHarpe City Code." (Code 1992)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City shall mean the City of LaHarpe, Kansas.
 - (b) Code shall mean "The Code of the City of LaHarpe, Kansas."
 - (c) 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; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (d) County means the County of Allen in the State of Kansas.
 - (e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of 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.
 - (f) Gender. Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.
 - (h) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

(i) 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.

(j) Month shall mean a calendar month.

(k) Number. Words used in the singular include the plural and words used in the plural include the singular.

(l) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."

(m) Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

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

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

(p) Property includes real, personal and mixed property.

(q) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(r) Shall, may. "Shall" is mandatory and "may" is permissive.

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

(t) Signature, subscription includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(u) State shall be construed to mean the State of Kansas.

(v) 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.

(w) Tenant or occupant applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

(x) Tenses. Words used in the past or present tense include the future as well as the past and present.

(y) Writing or written may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(z) Year means a calendar year, except where otherwise provided.
(Code 1992)

1-103.

EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the

effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1992)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1992)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section 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. (Code 1992)

1-106. 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. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 1992)

1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section ____ of the code of the City of LaHarpe is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of LaHarpe is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." 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 LaHarpe is hereby repealed." (Code 1992)

1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 1992)

1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending

ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1992)

- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until 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; Code 1992)
- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1992)
- 1-112. 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 council. (Code 1992)
- 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 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 1992)
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or 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 LaHarpe to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 1992)
- 1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in 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. (Code 1992)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.

- (a) A fine of not more than \$1,000; or,
 - (b) Imprisonment in jail for not more than 179 days; or,
 - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 1992)

1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1992)

ARTICLE 2. GOVERNING BODY

1-201. GOVERNING BODY. The governing body shall consist of a mayor and city council to be elected as set out in Chapter 6 of this code. (Code 1992)

1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city. (K.S.A. 12-103; Code 1992)

1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the first Wednesday of each month at 7:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day not observed as a holiday as a meeting day.

(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn. (K.S.A. 15-106; Ord. 1244, Sec. 1; Code 1992)

1-204. SAME; QUORUM. In all cases, it shall require a majority of the councilmembers-elect to constitute a quorum to do business. (K.S.A. 15-106; Code 1992)

1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:

- (a) Have the superintending control of all officers and affairs of the city;
 - (b) Take care that the ordinances of the city are complied with;
 - (c) Sign the commissions and appointments of all officers elected or appointed;
 - (d) Endorse the approval of the governing body on all official bonds;
 - (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
 - (f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
 - (g) Sign all orders and drafts drawn upon the city treasury for money.
- (K.S.A. 15-301:309; Code 1992)

1-206. **PRESIDENT OF THE COUNCIL.** The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. 15-310; Code 1992)

1-207. **ADMINISTRATIVE POWERS.** The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor. (Code 1992)

1-208. **VACANCIES IN GOVERNING BODY; HOW FILLED.** In case of a vacancy in the office of councilman occurring by reason of failure or refusal to qualify, resignation, death, removal from the city, removal from office, or becoming mayor by reason of being president of the council when a vacancy occurs in the office of mayor, the mayor shall appoint, with the consent of a majority of the remaining councilmen, some suitable elector of the city to fill the vacancy until the expiration of the term of such office. In case of a vacancy in the office of mayor occurring by resignation, death, removal from office, removal from the city, or refusal or failure to qualify, the president of the council, or in the case of the mayor-elect's refusal or failure to qualify, the new president of the council, shall become mayor until the expiration of the term, and a vacancy shall occur in the office of the councilman becoming mayor. (C.O. No. 1, Sec. 2)

1-209. **COMPENSATION.** Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1992)

1-210. **EXPENSES.** Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

(a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or city council.

(b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or city council, provided such expenses shall be documented by proper receipts.

(Code 1992)

1-211.

RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

Rule 1. Adjourned Meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special Meetings. Special meetings may be held at any time upon a call signed by a majority of the governing body.

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

CALL FOR SPECIAL GOVERNING BODY MEETING

LaHarpe, Kansas

_____, 19__

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the city hall, _____, 19__ at _____ o'clock __m., the object of said meeting being to _____ (state object)

Signed:

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the _____ shall be issued by the city clerk to the chief of police, his or her deputy, or a law enforcement officer or other city employee, who shall be required to make service of said notice at once personally upon each _____ or to leave it at his or her usual place of residence, and such notice must be served or left at the usual place of residence at least two hours before the time of meeting. The person serving the notice shall make a return in writing of the service, showing the manner of such service. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member. The notice and the return shall be in substantially the following form:

NOTICE OF SPECIAL GOVERNING BODY MEETING

Office of the City Clerk
_____, Kansas

To _____

You are hereby notified that there will be a special meeting of the Governing Body at _____ o'clock ____ m., _____, 19____, at the city hall for the object of (state the same object as shown in the call).

Witness my hand and the seal of said city this _____ day of _____, 19_____.

State of Kansas

City Clerk

County of Allen ss.

City of LaHarpe

To (chief of police, his or her deputy, or a law enforcement officer or other city employee).

Greeting:

You are hereby directed to serve the above notice at once personally upon _____ or to leave it at his or her usual place of residence before _____ o'clock ____ m., _____ 19____, and to make a return in writing of said service, showing the manner of such service.

(SEAL)

City Clerk

RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at _____ o'clock ____ m., on the _____ day of _____, 19____, and (served the same personally on _____ or left said original notice at the usual place of residence of _____) at _____ o'clock ____ m., on the _____ day of _____, 19_____.

Dated this _____ day of _____, 19_____

Signed:

Person serving notice

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business, which shall be conducted in the following order:

- (1) Reading of the minutes of the last regular meeting and intervening special meetings, which if no corrections are offered, shall stand approved;
- (2) Presentation of petitions, memorials, and remonstrances;
- (3) Presentations of claims and appropriation ordinance;
- (4) Unfinished business;
- (5) New business;
- (6) Reports of other city officers.

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. 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 6. Point of Order. A member called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. 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 8. Resolutions. All resolutions must be in writing.

Rule 9. 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 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. 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 12. Precedence of Questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 13. Previous Question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002, 12-3004)

Rule 15. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 16. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 17. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 1992)

1-212.

CODE OF ETHICS. (a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

(b) Responsibilities of Public Office - Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the long term public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach.

(c) Dedicated Service - All officials and employees of the city should be responsive to the political objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rule of work and performance established as the standard for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

(d) Fair and Equal Treatment - (1) Interest in Appointments. Canvassing of members of the city council, directly or indirectly, in order to obtain preferential consideration in connection with any appointment to the municipal service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the city council.

(2) Use of Public Property - No official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business.

(3) **Obligations to Citizens** - No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

(e) **Conflict of Interest** - No elected or appointive city official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association.

Specific conflicts of interest are enumerated below for the guidance of officials and employees:

(1) **Incompatible Employment** - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

(2) **Disclosure of Confidential Information** - No elected or appointive city official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others.

(3) **Gifts and Favors**. No elected or appointive city official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (a) an occasional nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.

(4) **Representing Private Interest Before City Agencies or Courts** - No elected or appointive city official or employee whose salary is paid in whole or in part by the city shall appear in behalf of private interest before any agency of this city. He or she shall not represent private interests in any action or proceeding against the interest of the city in any litigation to which the city is a party.

(Code 1992)

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTMENT. (a) At the first regular meeting in May of each year the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, chief of police and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance.
- (b) All appointed officials or officers of the city shall be residents of the State of Kansas. Appointed officials or officers, by way of example, include but not limited to the city clerk, the city treasurer, the city engineer, the city attorney, the prosecuting attorney, the municipal judge, the pro tempore municipal judge and law enforcement officers.
- (c) All other employees who are not elected or appointed, but are hired from time to time on a week-to-week, month-to-month, or year-to-year basis, shall be residents of the State of Kansas. Employees, by way of example include but are not limited to the consulting engineer for the city, the water maintenance supervisor, and other miscellaneous general or part-term employees.
(K.S.A. Supp. 15-204; C.O. No. 3, Secs. 3:4; Code 1992)
- 1-302. EMPLOYEES. The mayor with the consent of the council shall have authority to hire all other employees, or such authority may be delegated to the respective department heads. (Code 1992)
- 1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.
- (b) For good cause, the mayor may suspend at any time any appointed officer.
- (c) Employees, other than appointed officers, may be removed by the mayor upon recommendation of the respective department heads.
- (d) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing.
(K.S.A. Supp. 15-204; Code 1992)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 1992)
- 1-305. CITY CLERK. The city clerk shall:
- (a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;

- (b) Carry on all official correspondence of the city;
- (c) Attend and keep a record of the proceedings of all regular and special 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 its passage;
- (f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance. (Code 1992)

1-306.

SAME; FISCAL RECORDS. The city clerk 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.
- (Code 1992)

1-307.

SAME; SEAL; OATHS. The city clerk shall:

- (a) 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;
 - (b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
 - (c) Keep suitable files of all such oaths required to be deposited in his or her office.
- (Code 1992)

1-308.

SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) 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. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 1992)

1-309.

ASSISTANT CITY CLERK. (a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.

(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.

(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.

(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body.
(Code 1992)

1-310. CITY TREASURER. The city treasurer shall:

(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;

(b) Publish a quarterly financial statement;

(c) Deposit all public moneys and sign all checks of the city;

(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;

(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.

(K.S.A. 10-803; K.S.A. 12-1608; Code 1992)

1-311. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:

(a) Attend meetings of the city governing body when so directed to attend by the governing body;

(b) Advise the city governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;

(c) When requested by the city governing body, give opinions in writing upon any such questions;

(d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;

(e) Approve all ordinances of the city as to form and legality;

(f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;

(g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;

(h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.

(Code 1992)

1-312. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for:

(a) The design and specifications for all city streets, sewers, water lines, public buildings and other public facilities;

(b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;

(c) The general supervision of the maintenance and repair of all public facilities.

(Code 1992)

1-313. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 1992)

1-314. CONFLICT OF INTEREST. (a) No city officer or employee 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:

(1) In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or

(2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or

(3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.

(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

(2) Contracts for property or services for which the price or rate is fixed by law.

(K.S.A. 75-4301; Code 1992)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS

1-401. PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Rules and Regulations for the City of LaHarpe." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of LaHarpe"

and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 1992)

ARTICLE 5. OATHS AND BONDS

1-501. OATH. 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 name of office or position). So help me God." (K.S.A. 75-4308; Code 1992)

1-502. 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. (Code 1992)

1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:

- (1) City treasurer - \$10,000;
- (2) City clerk - \$10,000;
- (3) Clerk of municipal court - \$1,000;
- (4) Judge of municipal court - \$1,000.

(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.
(Code 1992)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1992)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and 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 by virtue of his or her office. (Code 1992)

- 1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1992)

ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
(Code 1992)
- 1-602. RECORD CUSTODIANS. The record custodian(s) appointed and designated pursuant to this article shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record. (Code 1992)
- 1-603. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 1992)
- 1-604. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 1992)
- 1-605. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such

procedures shall be posted in each city office keeping and maintaining open public records. (Code 1992)

1-606. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official 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 public records:

(a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.

(b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.

(c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.

(d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.

(e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.

(f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
(Code 1992)

1-607. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 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.
(Code 1992)

1-608. DUTIES OF CUSTODIANS. All city officers and employees appointed or designated as record custodians 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; and shall carry out the procedures adopted by this city for inspecting and copying open public records. (Code 1992)

1-609. 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 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 under this article 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. 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.

(Code 1992)

1-610. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 1992)

1-611. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$5 per hour per employee engaged in the record search. A minimum charge of \$5 shall be charged for each such request.

(Code 1992)

1-612. COPYING FEE. (a) A fee of \$.10 per page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(Code 1992)

1-613. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued 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) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$5.

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

(Code 1992)

1-614.

PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Code 1992)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

1-701.

PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

(a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.

(b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services.

(Code 1992)

1-702.

INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereafter described be invested in:

(a) Temporary notes or no-fund warrants of the city;

(b) Time deposits, open accounts or certificates of deposit in commercial banks or trust companies which have offices located in the city. If no commercial bank or trust company is located in the city, then in commercial banks or trust companies which have offices located in Allen County, or in the counties of the State of Kansas adjacent to Allen County, as provided for, and subject to the restrictions of, K.S.A. 12-1675;

(c) Time certificates of deposit with state or federally chartered savings and loan associations which have offices located in the city;

(d) Repurchase agreements with commercial banks, trust companies, or state or federally chartered savings and loan associations with offices located in the city, for direct obligations of, or obligations that are insured by, the United States government or any agency thereof. If no commercial bank, trust company, or state or federally chartered savings and loan association has an office in the city, then in any commercial bank, trust company, or state or federally chartered

savings and loan association with offices located in Allen County. If no such commercial bank, trust company, or state or federally chartered savings and loan association will enter into such an agreement at or above the interest rate set out by K.S.A. 12-1675(b)(4), then such repurchase agreements may be entered into with commercial banks, trust companies, or state or federally chartered savings and loan associations which have offices located in the State of Kansas;

(e) United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding six months. Investments may be made in U.S. treasury bills or notes only if no eligible bank, trust company, or state or federally chartered savings and loan association can or will make the investments authorized in subsections (b) and (c) at interest rates equal to or greater than the average yield before taxes received on 91-day U.S. treasury bills or the maximum rates such banks, trust companies or savings and loan associations may pay on investments authorized under subsections (b) and (c), whichever is lower. (K.S.A. 12-1675; Code 1992)

1-703.

PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 1992)

1-704.

CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 1992)

1-705.

SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have

authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 1992)

1-706. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 1992)

Ref. See K.S.A. 12-1677, and amendments thereto.