



Welcome To Your City Commission Meeting - Please turn off or silence all cell phones during the commission meeting.
Meetings are televised everyday on Channel 2 at 7 p.m. and midnight

Call to Order – Pledge of Allegiance Followed by Silent Meditation

PRESENTATIONS:

1. New Employee Welcome (pg. 2)
2. Employee Service Awards (pg. 4)

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

3. Minutes: Nov 13, 2018 Regular Meeting & Nov 15, 2018 Special Meeting **Action:** Motion (pg. 6)

Second Consideration Ordinance:

4. Second Consideration Ordinance 8090 Rezoning West Glen Lot A **Action:** Roll Call Vote (pg. 11)

NEW BUSINESS:

Citizen Participation: *(i.e. Items not listed on the agenda or receipt of petitions- Please state your name and address)*

General Items:

5. Consider Request for Transient Merchant License 2019 Military Collector Show **Action:** Motion (pg. 14)
6. 2018 Cereal Malt Beverage (CMB) License-Minit Mart 3122 S 4th Street **Action:** Motion (pg. 16)
7. Cancel Outstanding Checks Prior to 2017 **Action:** Motion (pg. 17)
8. Approve 2019-2023 Capital Improvement Program (CIP) **Action:** Motion (pg. 19)

Resolutions:

9. Resolution B-2210 Approving KDHE Loan to Leavenworth Waterworks **Action:** Motion (pg. 20)

Bids, Contract and Agreements:

10. Supplemental Agreement No 1 K-7 Corridor MOU with KDOT **Action:** Motion (pg. 23)

First Consideration Ordinance:

11. First Consideration Ordinance Amending Sec. 54-134 Food Service School **Action:** Consensus (pg. 42)
12. First Consideration Ordinance Amending Chapter 26 Article III Massage **Action:** Consensus (pg. 46)

Consent Agenda: Claims for November 10, 2018 through November 23, 2018 in the amount of \$; Net amount for Payroll #24 effective November 23, 2018 in the amount of \$; (Including Police & Fire Pension of \$). **Action:** Motion

Other:

Adjourn **Action:** Motion

POLICY REPORT 18-05

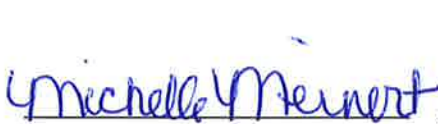
New Employee Welcome Ceremony

November 27, 2018

Prepared by:

Reviewed by:

Reviewed by:



Michelle Meinert
HR Specialist



Lona Lanter
HR Director



Paul Kramer
City Manager

ISSUE: To welcome newly hired regular full time and part time City of Leavenworth employees.

BACKGROUND: The City has established a program of welcoming new employees to the City Team. As part of this program, each new employee is asked to attend a regular meeting of the Leavenworth City Commission. At the meeting each employee will be introduced by the Mayor or the Mayor Pro Tem and will be presented with a City of Leavenworth pin. Brief background information of each employee listed below is attached.

EMPLOYEES TO BE WELCOMED:

Daniel Grijalva
Txujci (Sam) Xiong
Andrew Rosenstangle
Ryan Whimley
Jonathan Oney
Brandon Mills
Garett Nilges
Linda Meister
Timothy Warner II

Police Officer
IT Specialist I
Park Technician
Streets Equipment Operator I
WPC Operator I
Deputy Finance Director
Park Technician
Housing Custodian
Solid Waste Collector

Daniel Grijalva – Daniel was hired on June 28, 2018, as a Police Officer. He graduated from Sahuarita High School. He was last employed with the Kansas Department of Corrections as a Corrections Officer.

Sam Xiong – Sam was hired on July 5, 2018, as IT Specialist I. He graduated from Monona Grove High School and received a Bachelor's Degree in Information Technology from the University of Wisconsin. Sam was previously employed at the City of Madison, WI as a Management Information Systems Specialist II.

Andrew Rosenstangle – Andrew was hired on July 26, 2018, as a Park Technician. Andrew received his GED and was last employed for Laster Heating/Air as a HVAC Technician.

Ryan Whimley – Ryan was hired on October 11, 2018, as a Streets Equipment Operator I. Ryan received his GED from Happy Hearts and previously worked for Edge Pest Services as a Pest Control Tech.

Jonathan Oney – Jonathan was hired on October 18, 2018, as a WPC Operator I. Jonathan graduated from Lansing High School and received his Associates Degree in general education from KCKCC. He previously worked at Heatron as an Inventory Coordinator.

Brandon Mills – Brandon was hired on October 30, 2018, as Deputy Finance Director. Brandon received his MPA from Wichita State University and previously worked for Sedgwick County as a Senior Budget Analyst.

Garett Nilges – Garett was hired on November 1, 2018, as a Park Technician. He started as a Temp Park Laborer on August 1, 2018. He is a graduate of Santa Fe Trail High School and previously he worked for Terminix as a Pest Control Tech.

Linda Meister – Linda was hired on November 8, 2018, as Housing Custodian. Linda received her GED and previously worked for the Ft. Leavenworth School District as an Environmental Technician.

Timothy Warner II – Tim was hired on November 8, 2018, as a Solid Waster Collector. Tim graduated from Lafayette High School and worked production for Cereal Ingredients prior to coming to the City of Leavenworth.

POLICY REPORT 18-06
Employee Service Awards
November 27, 2018

Prepared by:

Reviewed by:



Lona M. Lanter
HR Director



Paul Kramer
City Manager

Issue:

In 2018, eight (8) employees reached a milestone in their career with the City of Leavenworth. These employees are being recognized for their faithful, dedicated, loyal and continuous service to the City. In turn, they are being recognized on the local level at a City Commission meeting and are presented their chosen awards and certificates by the Mayor or his designee.

In addition to recognizing the 10 year awards, we are also recognizing those employees who have continued loyal service to the City and/or local government. A list of those obtaining 15, 20, 30 and 35 years of service will be at the end of this policy report.

Background:

In 1926, the League of Kansas Municipalities began the practice of recognizing city employees for faithful, continuous service. Loyal and dedicated officials and employees form the foundation of every city with strong, progressive government. The pride and devotion shown by these men and women in their jobs is an important factor in making Kansas communities a better place to live. The following City of Leavenworth employees are being honored at this time:

Ten Year Awards

Russell Baker, Fire Driver/Operator
Shana Baragary, Telecommunications Specialist
Manuel Carrera, WPC Lab Technician
David Griffith, GIS Coordinator
Mike Hooper, Deputy Director Public Works
Leona Housell, Evidence Custodian/Crime Analyst
John Logan Jr., Solid Waste Equipment Operator II
Melvin Sewell III, Solid Waste Equipment Operator I

Ten Year Awards

Russ Baker – Russ was hired on January 10, 2008, as a Firefighter. He was promoted to Driver/Operator on May 8, 2014, the position he holds today.

Shana Baragary – Shana was hired on August 7, 2008, as a Telecommunications Specialist. She transferred to the Evidence Custodian position on February 3, 2011, and transferred back to the Telecommunications Specialist position on July 13, 2017, the position she holds today.

Manuel Carrera – Manuel was hired on April 17, 2008, as a WPC Lab Technician, the position he holds today.

David Griffith – David was hired on November 13, 2008, as a GIS Technician. His position was reclassified to GIS Coordinator effective March 10, 2016, the position he holds today.

Mike Hooper – Mike was hired on May 12, 2008, as the Public Works Project Manager. He was promoted to Deputy Director of Public Works on August 27, 2015, the position he holds today.

Leona Housell – Leona was hired on March 6, 2008, as a Police Officer. She earned her reclassification to Police Officer I on March 14, 2013, and received her reclassification to Police Officer II on March 12, 2015. She transferred within the department to the Evidence Custodian/Crime Analyst position on July 13, 2017, the position she holds today.

John Logan Jr. – John was hired on August 28, 2008, as a Solid Waste Collector. He was promoted to SW Equipment Operator I on August 2, 2012, and promoted again to SW Equipment Operator II on April 7, 2016, the position he holds today.

Melvin Sewell III – Melvin was hired on January 3, 2008, as a Solid Waste Collector. He was promoted to SW Equipment Operator I on July 13, 2017, the position he holds today.

We would also like to recognize the following individuals for their milestone achievements as listed below:

15 Years of Service

Jeremy Bennetts, Fire Driver/Operator
Michael Copeland, WPC Operator II
Danielle Herring, Police Sergeant
Linda Hoppe, Records Supervisor
James Magee, Firefighter

20 Years of Service

Robert Gilbert, Solid Waste Equipment Operator II
Stephen Herring, Police Sergeant
Brandon Pettis, Fire Captain
Kathy Rodgers, Zoning & Code Administrator
David Sommerla, Park Foreman

30 Years of Service

Curtis Marks Sr., Operations Superintendent
Michael McDonald, Public Works Director

35 Years of Service

Chris Kear, Police Lieutenant



CALL TO ORDER - The Governing Body met in regular session and the following commission members were present: Mayor Mark Preisinger, Mayor Pro-Tem Jermaine Wilson, Commissioners Nancy Bauder, Larry Dedeke and Myron J. (Mike) Griswold.

Others present: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Public Works Director Mike McDonald, City Planner Julie Hurley, Public Information Officer Melissa Bower, Catherine (Katie) Logan substituted for City Attorney David Waters, and City Clerk Carla K. Williamson.

Mayor Mark Preisinger opened the meeting with the pledge of allegiance followed by silent meditation.

Proclamation:

National American Indian Heritage Month – Pam Sarles accepted the proclamation.

Shop Small-Small Business Saturday – Wendy Scheidt Director of Main Street accepted the proclamation.

OLD BUSINESS:

Consideration of Previous Meeting Minutes:

Commissioner Bauder moved to approve the minutes from the October 23, 2018 regular meeting. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

NEW BUSINESS:

Citizen Participation: none

Mayor Preisinger moved Resolution B-2209 forward on the agenda.

Resolution B-2209 – Walter Schley, Senior Vice Commander Department of Missouri Military Order of the Purple Heart addressed the City Commission and presented a Special Recognition Award plaque to the City for Designating the City as a Purple Heart City. The Mayor read Resolution B-2209.

Commissioner Dedeke moved to approve Resolution B-2209. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

General Items:

Consider Request by Unified School District (USD) 453 to Waive Permit Fees – City Manager Paul Kramer presented for consideration a request from Leavenworth USD 453 a waiver of permit fees for the upcoming Intermediate Center Project on New Lawrence Road. The valuation of the construction is estimated at \$19,000,000. The building permit fee would be \$32,327 and the estimated fees for electrical, mechanical and plumbing permits would be \$5,000. A plan review fee paid by the City to send the plans out for review by a plan review service for this project will be \$21,012.55. The City has not waived the plan review fees on previous projects. The plan review fee of \$21,012.55 will not be waived as this is a fee that is incurred by the City. Matt Dedeke, Director of Facilities and Dr. Roth with USD 453 discussed the project.

Commissioner Griswold moved to waive building permit fees associated with the Leavenworth Intermediate Center Project. Commissioner Wilson seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Review Unsafe and Dangerous Structures; 209 Elm Street – City Planner Julie Hurley reviewed the property at 209 Elm Street placed on the demolition list by Resolution B-2203 by the City Commission and granted an extension to October 9, 2018 for the owner to complete needed repairs. At the October 9, 2018 City Commission meeting the City Commission granted another extension. The property is back before the City Commission for review. Staff recommends the property be removed from the demolition list as all repairs have been made.

Commissioner Bauder moved to remove the property at 209 Elm Street from the demolition list. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Resolutions:

Resolution B-2208 – City Clerk Carla Williamson presented for consideration a resolution authorizing the serving of complimentary (free) alcoholic liquor or cereal malt beverages to member of the general public during the 2019 Leavenworth Main Street Alive After Five events.

Commissioner Dedeke moved to approve Resolution B-2208. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

Bids, Contracts and Agreements:

Addendum No. 1 to Real Estate Contract 2017-54 with Kare Pharmacy – City Clerk Carla Williamson presented for consideration an addendum to contract 2017-54 with Kare Pharmacy related to the sale of City Owned property located near 2500 S 4th Street. The addendum will correct the legal description to include all lots intended to be sold to the buyer. All other considerations of the agreement remain unchanged.

Commissioner Griswold moved to approve addendum No. 1 to Contract 2017-54. Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor then declared the motion carried 5-0.

First Consideration Ordinance:

First Consideration Ordinance Rezoning Lot A West Glen Preliminary Plat – City Planner Julie Hurley presented for first consideration an ordinance rezoning Lot A of West Glen Preliminary Plat from R1-6, High Density Single Family Residential District to PUD, Planned Unit Development. The rezoning request was reviewed by the Planning Commission on October 1, 2018 and voted unanimously to approve the request.

There was a consensus by the Governing Body to place on first consideration.

CONSENT AGENDA:

Commissioner Griswold moved to approve Claims for October 20, 2018 through November 9, 2018 in the amount of \$1,732,977.94; Net amount for Payroll #22 effective October 26, 2018 in the amount of \$332,150.50; (Including Police & Fire Pension of \$11,572.36) and net amount of Payroll #23 effective November 9, 2018 in the amount of \$322,304.47; (No Police & Fire Pension). Commissioner Dedeke seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

Other:

Commissioner Wilson

- Inquired about the Rental Registration/Landlord Tenant program and when that will come back to the Commission for discussion
- City Manager Kramer stated that the topic is scheduled for the November 20th Study Session

Mayor Preisinger:

- Grand opening of Town Place Suites is at 11 am on November 14th followed by the KU Campus Grand Opening at the same location at 3:30 pm
- Reminded everyone that the Mayor’s Christmas Tree Lighting is on Friday, November 16th; The parade starts at 5:30 pm

Commissioner Bauder:

- Commented on the Veterans Day parade that was held on Monday, November 12th
- There was still a good turnout regardless of the bad snowy weather.

City Manager Kramer:

- Proposed the date of Dec 7th at noon for the annual Legislative Lunch
- Christmas decoration on Delaware going up on November 14th for the Mayors tree lighting and Holiday lighted parade
- Discussed the agenda for the November 20th Study Session

Adjourn:

Commissioner Dedeke moved to adjourn the meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried and the meeting adjourned.

Time Meeting Adjourned 7:41 p.m.
Minutes taken by City Clerk Carla K. Williamson, CMC



CALL TO ORDER - The Governing Body met in Special Session and the following commission members were present: Mayor Mark Preisinger, Mayor Pro-Tem Jermaine Wilson (present via phone call), Commissioners Nancy Bauder, Larry Dedeker and Myron J. (Mike) Griswold.

The Governing Body signed the consent for the special meeting and proper notice was given.

Others present: City Manager Paul Kramer, Assistant City Manager Taylour Tedder, Police Chief Pat Kitchens, City Planner Julie Hurley, Public Information Officer Melissa Bower, and City Clerk Carla K. Williamson.

Mayor Preisinger called for a motion to open a Special Meeting. Commissioner Dedeker moved to open a Special Meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried and the meeting opened.

Discussion on Comments made by Leavenworth County Commission Chairman – Mayor Mark Preisinger read a prepared statement regarding comments made by Leavenworth Board of County Commissioners Chairman Louis Klemp on November 14, 2018 during a Leavenworth County Commission meeting. The statement read as follows:

City statement regarding comments made by County Commissioner Louis Klemp

The Leavenworth City Commission is aware of recent comments made by Board of County Commissioners Chairman Louis Klemp. These comments have resulted in widespread negative attention and have harmed the overall perception of residents, businesses, cities, organizations and agencies in Leavenworth County.

The City Commission unequivocally denounces the use of "master race" or any other language that has historic ties to racism, division and bigotry in any setting at any time.

Further, the City Commission condemns the lack of decorum, professionalism and common decency shown to the woman presenting to the County Commission. Such behavior and treatment has no place in the Leavenworth community, is never justified and should never be allowed.

The City Commission believes in respect toward our citizens, contractors and others when they approach public officials during a government meeting. The City of Leavenworth strives continuously for unity in our community for all.

As a City government, we have no authority to remove Mr. Klemp from office, however, the City Commission believes it is in the best interest of the Leavenworth community for Mr. Klemp to apologize and resign immediately.

Mayor Preisinger moved to accept the city statement. Commissioner Griswold seconded the motion and was unanimously approved. The Mayor declared the motion carried 5-0.

ADJOURN:

Commissioner Dedeke moved to adjourn the meeting. Commissioner Bauder seconded the motion and was unanimously approved. The Mayor declared the motion carried and the meeting adjourned.

Time Special Meeting Adjourned 5:05 p.m.

Minutes taken by City Clerk Carla K. Williamson, CMC

**POLICY REPORT
SECOND CONSIDERATION
ORDINANCE No. 8090
REZONING LOT A WEST GLEN PRELIMINARY PLAT**

NOVEMBER 27, 2018

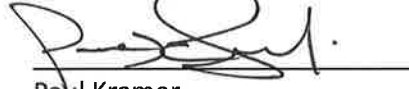
Prepared by:



Carla K. Williamson, CMC

City Clerk

Reviewed by:



Paul Kramer

City Manager

BACKGROUND:

At the November 13, 2018 City Commission meeting the City Commission reviewed and placed on first consideration:

AN ORDINANCE AMENDING THE 2016 DEVELOPMENT REGULATIONS OF THE CITY OF LEAVENWORTH, KANSAS BY REZONING LOT A IN THE WEST GLEN PRELIMINARY PLAT TO PLANNED UNIT DEVELOPMENT (PUD).

There have been no changes since this item was placed on first consideration.

RECOMMENDATION:

Staff recommends approval of Ordinance No. 8090.

ACTION:

Ordinance No. 8090 is now presented for second consideration and requires a roll call vote.

ATTACHMENTS:

- Ordinance No. 8090

(Summary Published in the Leavenworth Times on November 30, 2018)

ORDINANCE NO. 8090

AN ORDINANCE AMENDING THE 2016 DEVELOPMENT REGULATIONS OF THE CITY OF LEAVENWORTH, KANSAS BY REZONING LOT A IN THE WEST GLEN PRELIMINARY PLAT TO PLANNED UNIT DEVELOPMENT (PUD).

WHEREAS, under the 2016 Development Regulations of the City of Leavenworth, Kansas, the Governing Body of the City of Leavenworth is given the power to amend, supplement or change existing zoning regulations within said City; and

WHEREAS, the City Planning Commission, after fully complying with the requirements of the Ordinances of the City of Leavenworth, Kansas, held a public hearing on the 1st day of October, 2018 in the Commission Room, 1st Floor of City Hall, 100 N. 5th Street, Leavenworth, Kansas, the official date and time set as was published in the Leavenworth Times newspaper on the 7th day of September 2018; and

WHEREAS, upon a motion made, duly seconded, and passed, the Planning Commission adopted findings of fact and recommended approval of the request rezoning of Lot A West Glen Preliminary Plat, Leavenworth Kansas from High Density Single Family Residential District (R1-6) to Planned Unit Development (PUD); and

WHEREAS, upon a roll call vote duly passed, the Governing Body adopted the findings of fact and conclusions to rezone the property described herein.

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

Section 1: That the following described property, to-wit:

A tract of land in the Northeast Quarter of Section 15, Township 09 South, Range 22 East of the 6th P.M., in the City of Leavenworth, Leavenworth County, Kansas being described as follows:

Commencing at the Northeast corner of said Northeast Quarter, thence South 88 degrees 06 minutes 55 seconds West along the north line of said Northeast Quarter a distance of 2,605.15 feet; thence South 01 degrees 53 minutes 05 seconds East perpendicular to said north line a distance of 1,188.22 feet to the Point of Beginning, said point being the southwest corner of Tract C, West Glen 1st Plat; thence North 88 degrees 51 minutes 15 seconds East along the south property line of said Tract C a distance of 14.72 feet; thence South 77 degrees 46 minutes 24 seconds East continuing along said south property line a distance of 35.24 feet; thence South 57 degrees 35 minutes 13 seconds East continuing along said south property line a distance of 236.09 feet to the northwest corner of Lot 47, West Glen 1st Plat; thence South 01 degrees 50 minutes 16 seconds East a distance of 346.30 feet to the northeast corner of Tract E, West Gen 1st Plat; thence North 73 degrees 10 minutes 39 seconds West along the north property line of said Tract E a distance of

247.80 feet to a point on the east right of way of 20th Street Trafficway; thence South 88 degrees 09 minutes 44 seconds West along said right of way a distance of 30.00 feet; thence North 01 degrees 50 minutes 16 seconds West along said right of way a distance of 250.00 feet; thence North 05 degrees 36 minutes 26 seconds West along said right of way a distance of 159.98 feet to the Point of Beginning.

Contains 101,035.16 square feet or 2.3194 acres more or less.

Section 2: That the “Zoning District Map” adopted under the 2016 Development Regulations of the City of Leavenworth, Kansas shall be and the same is hereby corrected to conform to the rezoning as set forth in Section 1 above.

Section 3: That this Ordinance shall take effect and be in force from and after its passage, approval and publication in the official City newspaper of the City of Leavenworth, Kansas, as provided by law.

PASSED and APPROVED by the Governing Body on the 27th day of November, 2018.

Mark Preisinger, Mayor

{Seal}

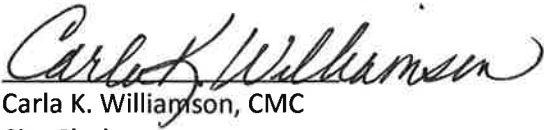
ATTEST:

Carla K. Williamson, CMC, City Clerk

POLICY REPORT
REQUEST A WAIVER FOR A TRANSIENT MERCHANT PERMIT
MILITARY COLLECTORS SHOW
RIVERFRONT COMMUNITY CENTER

NOVEMBER 27, 2018

Prepared by:



Carla K. Williamson, CMC
City Clerk

Reviewed by:



Paul Kramer
City Manager

BACKGROUND:

Edward Trevor Brown submitted an application that was received in the Office of the City Clerk for the February 16, 2019 Military Collectors Show at the Riverfront Community Center. This Collectors Show has been held at the Riverfront Community Center for several years. The show will be held from 9:00 a.m. to 4:00 p.m. The show typically has 40-50 vendors from the local area and as far away as Omaha and St. Louis. Admission is by donation and vendors do sell their items. All vendors have a Kansas Retail Tax number or the event coordinator will provide the vendors with a tax form to complete and return to the Kansas Department of Revenue. The City reports all events to the Kansas Department of Revenue so they can verify that taxes on admissions, booth fees and any other applicable sales are submitted as required.

The City of Leavenworth Code of Ordinances Chapter 78, Peddlers and Solicitors Sec. 78-3 States:

- In no case may a transient merchant license be issued for use in or on a city owned property including rights-of-way, parks or open spaces or the **community center**. The governing body of the city may grant in specific cases a waiver of this prohibition.

The City of Leavenworth Codes of Ordinances Chapter 78, Peddlers and Solicitors Sec. 78-1 Definitions, defines a transient merchant as:

- *Transient merchant, itinerant merchant or itinerant vendor* are defined as any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, or public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this chapter merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. A transient merchant is not a person who has a permanent business presence in Leavenworth and conducts sales or activities similar as described herein on a temporary basis.

The City of Leavenworth Codes of Ordinances Appendix F, Schedule of Fees:

- A Transient Merchant, Itinerant Merchant or Itinerant Vendor Permit fee is \$50.00 per day. The permit is not to exceed 5 days; and no more than two licenses may be issued during a calendar year.

If the City Commission should grant the waiver all applicable fees and insurance requirements would still apply, the waiver just allows the sale to be held on city property, specifically the Community Center which is prohibited by ordinance. The applicant is also required to provide a certificate of liability insurance prior to the date of the event along with any fees required by the Community Center.

CITY COMMISSION ACTION:

Grant a waiver of a Transient Merchants Permit for use of the Community Center for the Military Collectors Show on February 16, 2019;

Or

Deny the request for a Transient Merchant Permit

**POLICY REPORT
2018 CEREAL MALT BEVERAGE LICENSE**

November 27, 2018

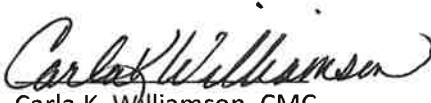
Prepared by:

Reviewed by:

Reviewed by:



Beverly Wilson
Receivable/License Coordinator



Carla K. Williamson, CMC
City Clerk



Paul Kramer
City Manager

ISSUE:

Request for 2018 Cereal Malt Beverage License by Minit Mart, LLC, Leavenworth, Kansas. This location already has a Cereal Malt Beverage license, however due to new ownership; a new Cereal Malt Beverage license is required.

BACKGROUND:

The application has been approved by the Police Department and Sanitation Department for the following applicant:

Minit Mart, LLC

3122 S 4th St.

Off Premise

ACTION:

Motion to approve the 2018 off premise Cereal Malt Beverage License for Minit Mart, LLC, 3122 S 4th St., Leavenworth, Kansas.

**Policy Report No. FIN-18-07
Cancellation of Outstanding City Checks**

November 27, 2018

Prepared By:



Ruby Maline
Finance Director

Approved By:



Paul Kramer
City Manager

Issue:

According to KSA 10-816a, checks that remain outstanding after a period of two years of issuance may be canceled by the City Commission. The City has a total of 21 checks in the amount of \$1,790.95 that remain outstanding after two years of issuance (see attached listing).

Recommendation:

It is recommended that the City Commission cancel checks that remain outstanding after two years of issuance and that these balances – in accordance with KSA 10-816c- revert back to the City Fund upon which such checks were drawn.

Background:

It is appropriate to cancel outstanding checks after two years. After cancellation by the City Commission, if a check is presented for payment, the Finance Department would honor the obligation and issue a new check.

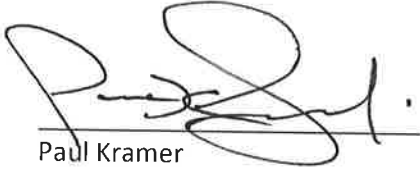
The funds revert back to the original City Fund upon which they were drawn.

City of Leavenworth
Cancellation of
Outstanding AP and PR Checks

| Issue Date | Check # | Payee | Amount | Fund | Program |
|------------------------------|-----------|--|----------|------|-------------|
| 02/05/16 | 93677 | PR Derrick I Singletary | 8.44 | 02 | 02730 |
| 12/01/15 | 290008553 | AP Yvette Green | 133.00 | 62 | 62650 |
| 12/16/15 | 290008866 | AP KVC | 234.00 | 01 | 01100 |
| 01/25/16 | 290009397 | AP Kyle Scouten | 85.00 | 01 | 01350 |
| 02/01/16 | 290009523 | AP Ashley Hayes | 32.00 | 62 | 62650 |
| 02/01/16 | 290009613 | AP Krystle Caylor | 65.00 | 62 | 62650 |
| 02/03/16 | 290009691 | AP Freedom's Frontier National Heritage Area | 11.00 | 13 | 13075 |
| 03/31/16 | 290010500 | AP Herschel D Lincoln | 25.00 | 01 | 01350 |
| 04/22/16 | 290010839 | AP Kristina Russell | 5.00 | 02 | 02730 |
| 05/27/16 | 290011432 | AP Janice Favero | 300.00 | 02 | 02760 |
| 05/27/16 | 290011434 | AP Knights of Columbus | 29.05 | 02 | 02760 |
| 06/24/16 | 290011888 | AP Kayla Moritz | 45.00 | 02 | 02770 |
| 07/01/16 | 290012026 | AP Daniel Northern | 13.00 | 62 | 62650 |
| 07/01/16 | 290012123 | AP Ariel A Cammock | 99.00 | 62 | 62650 |
| 07/01/16 | 290012187 | AP Bison Property Management | 234.00 | 62 | 62650 |
| 08/05/16 | 290012710 | AP Danny Hadley | 117.00 | 14 | 14370 M0501 |
| 08/05/16 | 290012717 | AP Diana L Willbanks | 12.00 | 02 | 02740 |
| 08/26/16 | 290012999 | AP Mary Ann Carrel | 177.68 | 01 | 01140 |
| 09/01/16 | 290013185 | AP Megan Young | 15.78 | 02 | 02750 |
| 10/21/16 | 290013852 | AP Christ New Movement | 50.00 | 01 | 01710 |
| 11/04/16 | 290014114 | AP New Beginnings Fellowship | 100.00 | 02 | 02760 |
| Total checks to be cancelled | | | 1,790.95 | | |

Policy Report
Approval of the 2019-2023 Capital Improvements Plan
Nov. 27, 2018

Prepared by:

A handwritten signature in black ink, appearing to read 'Paul Kramer', written over a horizontal line.

Paul Kramer
City Manager

Subject:


At the Nov. 6 City Commission Study Session, the governing body reviewed the recommended 2019 - 2023 Capital Improvements Program (CIP). The Commission reviewed minor changes at the Nov. 20 Study Session and gave consensus to move the CIP forward for final approval.


The CIP is a comprehensive plan outlining all capital improvements and projects proposed to be pursued by the City for the next five years as constrained, of course, by limited financial resources.

There have been no changes since the Nov. 20 meeting.

**POLICY REPORT
RESOLUTION B-2210
APPROVING A LOAN FROM KANSAS PUBLIC WATER SUPPLY LOAN FUND
ADMINISTERED BY KDHE TO LEAVENWORTH WATERWORKS**

NOVEMBER 27, 2018


Carla K. Williamson, CMC
City Clerk


Paul Kramer
City Manager

ISSUE:

Consider Resolution B-2210.

BACKGROUND:

The Resolution before the City Commission was requested by Leavenworth Waterworks in order to proceed with their Kansas Public Water Supply Loan Fund (KPWSLF) loan to finance the Horizontal Collector Well project. The Leavenworth Waterworks Board applied to Kansas Department of Health and Environment (KDHE) for a loan in an aggregate amount of \$6,900,000 to finance the project. The process requires that the City, as "owner" of the System approve the action by the Waterworks Board.

No City funds are being pledged or committed and the loan is the sole responsibility of Leavenworth Waterworks.

Joel Mahnken, General Manager Leavenworth Waterworks, will be present to answer any questions.

ACTION:

Approve Resolution B-2210

ATTACHMENTS:

- Resolution B-2210

RESOLUTION B-2210

A RESOLUTION APPROVING A LOAN FROM THE KANSAS PUBLIC WATER SUPPLY LOAN FUND ADMINISTERED BY THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT TO THE LEAVENWORTH WATERWORKS BOARD; APPROVING THE FORM OF THE LOAN AGREEMENT, AND CONSENTING, WITH CERTAIN LIMITATIONS, TO CERTAIN COVENANTS AND PROVISIONS THEREOF.

WHEREAS, the City of Leavenworth, Kansas (the "City") is a municipal corporation duly organized under the laws of the State of Kansas (the "State") as a city of the first class; and

WHEREAS, the City owns a public water supply and distribution system (the "System"), which is statutorily managed, operated, maintained and controlled by the Leavenworth Waterworks Board (the "Waterworks Board"); and

WHEREAS, the members of the Waterworks Board (the "Waterworks Board Governing Body") have heretofore determined it to be in the best needs of the customers of the System to undertake certain modifications and improvements to the System, described generally as follows (the "Project"):

Construct a new horizontal collector well and connect to the existing transmission main to transport water to the South Water Treatment Plant.

WHEREAS, pursuant to K.S.A. 65-163c *et seq.* (the "Act"), the Kansas Department of Health and Environment ("KDHE") administers the Kansas Public Water Supply Loan Fund (the "Fund") from which loans are made to certain qualified Municipalities (as said term is defined in the Act) to finance modification and improvements to public water supply systems; and

WHEREAS, the Waterworks Board has heretofore made an application to KDHE for a loan in an aggregate amount not to exceed \$6,900,000 (the "Loan") to finance the Project; and

WHEREAS, the Waterworks Board Governing Body has heretofore conducted a public hearing on the advisability of proceeding with the completion of the application for the Loan and has authorized the appropriate officials of the Waterworks Board to accomplish the completion process; and

WHEREAS, the City owns the System, meets the definition of "municipality" in the Act, and desires to approve the action heretofore taken by the Waterworks Board to obtain the Loan to finance the Project and to consent to the covenants and agreements contained in the Loan Agreement insofar as they are capable of being performed only by the City as owner of the System;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF LEAVENWORTH, KANSAS, AS FOLLOWS:

Section 1. Approval of Loan. The action heretofore taken by the Waterworks Board to apply for and obtain approval of the Loan from KDHE under the Act in order to provide financing for the Project is hereby approved by the City as owner of the System.

Section 2. Approval of Form of Loan Agreement; Limitation on City Liability. The form of the Loan Agreement between KDHE and the Waterworks Board as heretofore exhibited to the City's Governing Body is hereby approved, and the City hereby consents to, and agrees to be bound by, the terms and provisions thereof solely as respects the System and the revenues generated from ownership and operation of the System. Neither the taxing power nor any of the general assets or revenues of the City is pledged or committed in any way to the performance of the covenants and agreements contained in the Loan Agreement.

Section 3. Further Proceedings. The Mayor, City Clerk and other officers and representatives of the City are hereby authorized and directed to sign such consents and take such action as may be necessary to implement this Resolution.

Section 4. Further Authority. This Resolution shall be in full force and effect from and after its adoption by a majority of the Governing Body of the City.

ADOPTED by the Governing Body of the City of Leavenworth, Kansas on this 27th day of November 2018.

CITY OF LEAVENWORTH, KANSAS

By: _____
Mark Preisinger, Mayor

(SEAL)

ATTEST:

Carla K. Williamson, CMC City Clerk

POLICY REPORT PWD NO. 18-50

CONSIDER APPROVAL OF SUPPLEMENTAL AGREEMENT NO. 1
TO THE MEMORANDUM OF UNDERSTANDING ON THE K-7 CORRIDOR
WITH KDOT

November 27, 2018

Prepared by:



Michael G. McDonald, PE
Director of Public Works

Reviewed by:



Paul Kramer
City Manager

ISSUE:

Consider approval of Supplemental Agreement No. 1 to the K-7 Corridor Management Plan

BACKGROUND:

Communities in Leavenworth, Wyandotte, Johnson and Miami Counties have expressed interest for many years in having improvements on K-7 between Spring Hill and Lansing be focused on efficient movement of vehicular traffic. Much of the corridor currently south of I-70 resembles a "Freeway", and there has been a lot of interest in extending the freeway section north from I-70 to Lansing. A Kansas Department of Transportation (KDOT) Corridor Management group was formed in early 2000s to evaluate options and coordinate construction projects. A committee was created and has met several times each year since about 2005.

KDOT sought to formalize the committee into the corridor management process and a "Memorandum of Understanding" (MOU) was created. Most communities adopted this MOU in 2006 and 2007. The City approved the agreement in 2006 and signed it in early 2007.

This collaboration resulted in a corridor study, which can be viewed on-line at <http://www.ksdot.org/Assets/wwwksdotorg/bureaus/burTransPlan/pdf/K-7/K-7CorridorMgmtPlan.pdf>

The original terms for extension of the agreement have expired, and KDOT proposes that the agreement be reinstated with a "Supplemental Agreement No. 1" that would extend the expiration date to 2037. Individual governments could remove themselves from the agreement at each five-year renewal.

Several critical changes have occurred since 2007 that should be considered as time moves forward:

1. KDOT has consistently stated that there are no funds for significant expansion of K-7 north of I-70 although individual projects may be considered.
2. A signal coordination project was completed along the corridor north to Eisenhower Road. The Unified Government did not participate in the project due to concerns over control of signal operations.
3. The intermodal shipping area in Gardner has created additional truck traffic north on K-7.
4. Olathe has removed themselves from the MOU and (apparently) successfully arranged for KDOT to move the "K-7/US-73" designation to use K-10 and I-35 to avoid routing through traffic into western Olathe. There is a substantial cost to KDOT for this and it is unclear if Olathe will pay for the revisions to KDOT signs or reimburse KDOT for corridor management funds received over the years.
5. All of the original MOU agreements have expired.

6. Unified Government is considering additional signals and reduced speed limits along K-7 within their jurisdiction. KDOT has not agreed to this at this time.

KDOT has requested that cities and counties that want to continue to discuss and attempt to manage the future of K-7 reapprove the MOU with this supplemental agreement. City commitment to this agreement is really only related to participation in meetings and communicating with interested and involved parties.

RECOMMENDATION:

Staff recommends that the City Commission approve Supplemental Agreement No. 1 for the K-7 MOU.


ATTACHMENTS:

Policy Report from 2006
Original Agreement from 2007
Proposed Supplemental Agreement No. 1

**POLICY REPORT NO. CM-06-04
MEMORANDUM OF UNDERSTANDING WITH KDOT
K-7 CORRIDOR MASTER PLAN**

PREPARED BY:

REVIEWED BY:


Robyn Stewart
Assistant City Manager


M. Gary Ortiz
City Manager

ISSUE:

Consider adoption of the Memorandum of Understanding with the Kansas Department of Transportation (KDOT) regarding the K-7 Corridor Master Plan.

STAFF RECOMMENDATION:

Staff recommends approval of the Memorandum of Understanding.

BACKGROUND:

KDOT has performed a K-7 Corridor Management Study which focused on Kansas Highway 7 from Mary Street in Lansing to the 223rd Street interchange in Miami County. The study examined the regional issues surrounding the use of the highway and considered future development along the corridor including the situation that will exist in the year 2030 and after full build-out. The result of this analysis is the recommendation that K-7 become a freeway. The study also examined details within each segment of the highway and identified interchange locations, overpass locations and the local street network needed to work with the highway. Extensive meetings have been held to obtain stakeholder and community input.

The study has evolved into a K-7 Corridor Master Plan and a K-7 Footprint Map designed to preserve this transportation corridor, protect the functionality of K-7 into the future and establish a framework for the interface between K-7 and the local street/road network and all adjacent development. In order to achieve the objectives of the Master Plan, the cities and counties along the highway and KDOT must work together to implement the plan.

This Memorandum of Understanding is intended to serve as a framework for cooperation among the communities along the K-7 corridor and KDOT in implementation of the Master Plan. It is designed to be a moral obligation rather than a binding legal obligation. It details efforts that will be taken to preserve and advance acquire rights-of-way, identify and pursue funding sources for improvements, work to identify interim improvements to

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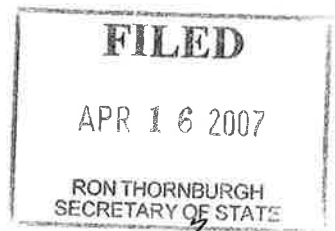
enhance the functionality of K-7, coordinate the interconnectivity of the local street/road network, and use of a full range of planning and corridor preservation tools.

KDOT is requesting that all cities and counties along the study area sign a Memorandum of Understanding. The City of Leavenworth stands to benefit from the eventual conversion of K-7 to a freeway since people will be able to quickly travel into Leavenworth from the south. The focus of the study area stops south of Leavenworth, so the city is not directly impacted by many of the components of the Memorandum of Understanding.

ATTACHMENT:
Memorandum of Understanding

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MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is dated *February 28*, 2006, and is between the Kansas Department of Transportation, an Executive Agency of the state of Kansas, (“KDOT”) and the City of Leavenworth, Kansas, a municipal corporation, (“City”) (collectively “the Parties”).

Whereas, KDOT has among its responsibilities the planning and design, construction, maintenance and operation of the State Highway System; and

Whereas, Kansas Highway 7 (“K-7”) from K-5/Muncie in Leavenworth, Kansas, to the 223rd Street interchange in Miami County and the adjacent local street network (the “K-7 Corridor”) is an important component of the transportation system of Kansas serving an area that is expected to experience a significant amount of growth and development over the coming years; and

Whereas, the K-7 Corridor Management Study (the “Study”) has involved two major phases that have progressed over the duration of the Study. Phase 1 involved examining regional issues including future 2030 and full build-out land use, development of a travel demand model, and determination of a facility type, which was recommended to be a freeway, and the associated local supporting street network. Phase 2 examined details within each segment and identified interchange locations, overpass locations, and the local street network needed to work with the K-7 mainline. Extensive meetings have been held throughout the Study to obtain stakeholder and community input, which meetings included City meetings, Advisory Group meetings, Technical Committee meetings, Public Officials meetings, and two general Public Information Meetings; and

Whereas, KDOT has prepared a K-7 Corridor Management Plan (the “Corridor Management Plan”), and associated K-7 Footprint Map, the later of which is attached hereto as **Exhibit A**, for the preservation of the K-7 Corridor; to protect the functionality of K-7 into the future; to establish a framework for the proper interface between K-7 and the local street/road network and all adjacent development; and to provide opportunities for economic development along the K-7 Corridor with sensitivity to the long range plans of the cities and counties within the K-7 Corridor and the need to manage access so that the objectives of interested constituencies, to the greatest extent possible, are achieved; and

Whereas, transportation corridor planning, preservation, utility master planning, and mutual plan implementation promotes well-designed road and access systems that help protect community character and conserve natural resources; enhances public safety; furthers the orderly layout and use of land and the efficient and orderly location of streets; helps in determining necessary off-site and on-site public improvements; efficiently locates utilities; establishes building setback lines, facilitates compatibility of design; improves visual appearance of highway facilities and development; protects public investment in existing transportation facilities and reduces the need for remedial measures and the cost to taxpayers; and

Whereas, there is a recognized need among the Parties and all stakeholders along the Corridor to ensure that orderly development occurs within the K-7 Corridor that would permit safe and efficient access to the K-7 Corridor; and

Whereas, local planning, incentives, zoning controls, land development regulations, subdivision regulations and other development approvals, utility locations, and permits can be effectively utilized to address future needs; and

Whereas, though KDOT historically has assumed primary responsibility for acquisition of rights-of way needed for state highways, it is acknowledged by the communities along the K-7 Corridor that each will have to cooperate with KDOT in identifying opportunities to preserve and acquire needed additional rights-of-way, as well as in preserving and acquiring these rights-of-way, to have any opportunity that the Corridor Management Plan will be successfully implemented within a reasonable timeframe; and

Whereas, the Kansas Secretary of Transportation (“Secretary”) has the statutory power and authority to designate, adopt and establish, lay out, open, relocate, alter, vacate, remove, redesignate and reestablish highways throughout the state of Kansas, which highways constitute the state highway system; and

Whereas, the Secretary possesses inherent police powers to regulate and restrict the use of state public roads and to take other actions which promote the public health, safety and welfare; and

Whereas, a substantial body of traffic engineering studies and other evidence exists demonstrating that effective access management along a highway corridor enhances traffic safety and roadway efficiency, as well as reduces costs of facilities; and

Whereas, K-7 in Miami, Johnson, Wyandotte and Leavenworth counties is part of the state highway system and city connecting links, and the Secretary and the local jurisdictions have determined enhanced coordination and management of access within the K-7 Corridor will enhance the safety and efficiency of the K-7 Corridor and therefore promote the health, safety and general welfare of the traveling public; and

Whereas, the Parties desire that land, utilities, and roadways within and adjacent to the K-7 Corridor be developed in an orderly and efficient manner; and

Whereas, the Parties understand that the Corridor Management Plan’s goals and objectives can be best achieved if KDOT and the City, as well as all the other cities and counties whose jurisdictional boundaries include land covered by the Plan, join in cooperation to implement the Plan; and

Whereas, the Parties further understand that this MOU is intended to serve as a framework for cooperation among the communities along the K-7 Corridor in the mutual implementation of the Corridor Management Plan, and that its intent is to create in the Parties a moral obligation to take appropriate actions to participate in implementation of the Plan, but not to create a binding legal obligation to adopt or carry out every implementation measure

identified herein, which is further evidenced by the lack of any breach or penalty provisions within this MOU.

Now, therefore, the Parties agree to cooperate with each other on the following matters:

A. **Purpose.** Through the collaboration forged by this MOU, the Parties desire to undertake a cooperative effort to attempt to: (1) preserve and advance acquire the rights-of-way for the future improvements identified in the Corridor Management Plan; (2) identify and pursue traditional and non-traditional funding sources for K-7 improvements, as well as local planning and capital improvement needs consistent with the Corridor Management Plan; (3) during the short term, take measures, including interim improvements, that are reasonable and mutually agreed upon to preserve the functionality of K-7; (4) during the mid-term, work cooperatively to identify interim improvements (and the timing of their installation) that will enhance the functionality of K-7 and discuss a fair allocation of costs of those interim improvements; (5) pursue funding for and discuss the appropriate allocation of cost between the Parties for interchanges shown on the Corridor Management Plan, as well as mainline segments of K-7 and city connecting links; (6) coordinate the interconnectivity of the local street/road network with K-7; (7) provide opportunities for economic development along the K-7 Corridor by implementing the Corridor Management Plan; and (8) use a full range of planning and corridor preservation tools and techniques. The over-riding purpose of this MOU is to acknowledge and describe the understandings between the Parties and their commitment to preserve the integrity of the K-7 Corridor as the area it services experiences growth and development and to jointly create economic development opportunities along K-7 that will benefit the Parties to this MOU, the other communities along K-7, and all residents of the state of Kansas.

B. **The K-7 Corridor Parameters.**

1. The desired level of service for the planning horizon is Level of Service D. Level of Service D is defined as traffic approaching unstable flow characterized by lower speeds. This is as compared to Level of Service A characterized by free flow and Level of Service F characterized by stoppages and gridlock.
2. A freeway-type facility is desired to be developed, where possible, throughout the K-7 Corridor.
3. Interchange spacing is ultimately desired at two (2) miles, but is accepted at one (1) mile spacing, with the corresponding additional improvements and rights-of-way width needed to preserve the integrity of K-7 (i.e. collector/distributor roads, auxiliary lanes, etc.).
4. Access along K-7 will ultimately be controlled as corresponds to a freeway-type facility (i.e. no private drives, close non-approved median openings, and provide frontage roads for property access).

5. The local street network will be provided in accordance with the Collector or Arterial designation on the Corridor Management Plan to the standards of the local jurisdiction.

C. **Funding Under MOU.**

Each of the Parties to this MOU shall bear their own administrative costs related to their participation in the implementation of the Corridor Management Plan.

D. **Administration.**

The KDOT shall be responsible for administering this cooperative undertaking; provided that, it is not anticipated that the cooperative implementation of the Corridor Management Plan, as provided for in the MOU, will require joint operational administration. For the most part, each party to this MOU will assume administrative responsibility for its own participation in this cooperative undertaking. This provision shall not be interpreted to grant to either party any type of control over the other party with respect to the separate and independent powers vested in each party by the Constitution and laws of the state of Kansas.

E. **Real and Personal Property.**

Real or personal property will not be jointly acquired, held or disposed of in furtherance of this cooperative undertaking. It is anticipated that additional rights-of-way will be independently acquired by both Parties to this MOU to accommodate the K-7 Corridor, as shown on the Corridor Management Plan. However, when and to the extent real or personal property is acquired, held or disposed of by a party to this MOU, pursuant to its independent participation in the MOU, that property shall be acquired, held and disposed of by that party, in accordance with any laws or regulations that would normally govern those actions by that party.

F. **The K-7 Corridor Review Committee.**

1. A K-7 Corridor Review Committee (the "Committee") is hereby established. The purpose of the Committee is to serve as an advisory body to regularly review, evaluate, facilitate discussions of and provide input on events and developments that may have an impact on the K-7 Corridor and the Corridor Management Plan, and to assist in the development of the K-7 Corridor implementation strategy. The Committee shall not have any authority regarding powers vested in cities and counties pursuant to state law.
2. The Committee shall be composed of one representative from each participating county and city whose jurisdictional boundary includes land

covered by the K-7 Footprint Map, a KDOT representative and a representative of the Mid-America Regional Council ("MARC"). The city and county representatives shall be appointed by the chief elected official of that particular city or county for a term to be determined by that official. The KDOT representative shall serve as one Co-Chair of the Committee and the members of the Committee each year shall elect one other member to serve as the other Co-Chair. The Committee shall meet whenever the Co-Chairs jointly determine that a meeting is appropriate, but shall, at a minimum, meet twice a year.

3. A majority of the members appointed shall constitute a quorum to do business. A vote of a majority of Committee members present at a Committee meeting shall be required to take any action.

G. **Corridor Management Plan Amendment**

1. At least once every two (2) years or upon the receipt of a written request signed by three-fourths (3/4) of the then current members of the Committee, which request shall contain a specific recommendation or specific recommendations, KDOT shall review or reconsider the Corridor Management Plan and may propose amendments, extensions or amendments to the Plan.
2. These amendments, extensions or additions shall be adopted by KDOT in accordance with then applicable procedures for amendment, extension or addition of corridor management plans.
3. Ninety (90) days prior to initiation by KDOT of review or reconsideration of the Corridor Management Plan, or fifteen (15) days after receipt of a request from the Committee as specified above, KDOT shall provide the City and the Committee with written notice of its intent to initiate review and reconsideration, such notice shall set a date by which the City and Committee shall submit to the Committee representative any comments it may have regarding review or reconsideration of the Corridor Management Plan; provided however, that the date shall not be less than thirty (30) before the date KDOT initiates its review or reconsideration.
4. Thirty (30) days prior to the adoption by KDOT of an amendment, extension or addition to the Corridor Management Plan, KDOT shall provide the City and the Committee with written notice of its intent to adopt amendments, extensions or additions, which notice shall set forth the specific amendments, extensions or additions KDOT is proposing be adopted, and provide the City and the Committee with a minimum of fifteen (15) days, prior to adoption of any amendment, extension or addition, to submit comment to KDOT regarding the proposal.

H. **KDOT and City Participation.**

The Parties desire to undertake a cooperative effort in an attempt towards:

1. continual, open and full communications between the Parties with respect to any and all matters that may have the potential to impact the K-7 Corridor and the areas covered by the Corridor Management Plan;
2. specifically mapping, in relation to individual parcels of land, the boundaries of the rights-of-way necessary to accommodate future K-7 improvements and of the K-7 Footprint Map;
3. working collaboratively with the MARC to incorporate the Corridor Management Plan recommendations into MARC's Long Range Transportation Plan;
4. utilizing appropriate tools currently at their disposal, including planning, regulatory and financial tools, to preserve and acquire the rights-of-way shown in the Corridor Management Plan for a future freeway and the local street network and to otherwise implement the Corridor Management Plan;
5. seeking, independently and cooperatively, to identify new tools that can be effectively used to preserve and acquire the rights-of-way shown in the Corridor Management Plan for a future freeway and the local street network and to implement the Corridor Management Plan, and advise other jurisdictions within the K-7 Corridor as to their efficacy;
6. monitoring developments in the K-7 Corridor, traffic on K-7 itself and in areas directly impacted by it so that, when appropriate, as funds are available, and upon consideration of established warrants, interim and permanent improvements to K-7 are made in a timely manner;
7. seeking to identify and pursue, traditional and non-traditional sources of funding to construct K-7 and local street network improvements and to implement the Corridor Management Plan and related planning efforts; and
8. recognizing the unique nature of this cooperative undertaking and that it will be necessary for the Parties to share in the funding of K-7 improvements to facilitate timely implementation of the Corridor Management Plan, and to work cooperatively to identify and capitalize on shared funding opportunities.

I. **KDOT Participation.**

1. Designate a representative of KDOT to serve as the contact point for the City on all matters covered by or related to the Corridor Management Plan.
2. Coordinate with utility providers on plans for new or expanded facilities within the areas included in the K-7 Footprint Map.
3. Work with the City to determine, in consideration of established warrants, when interim improvements (such as traffic signals and turn lanes) are needed, so the functionality of K-7 is maintained, and negotiate in good faith with the City to determine a fair allocation of those costs.
4. Consult with the City on the passage of an ordinance establishing building or setback lines along the K-7 Corridor.
5. Work with the cities and counties to identify and employ innovative K-7 Corridor preservation techniques.
6. Streamline the processing of required KDOT design review and approvals, such as access permits and similar approvals, when KDOT finds that the application clearly evidences that the approval being sought is consistent with the Corridor Management Plan.
7. Cooperate with the City in identifying existing access points along K-7 and in proactively closing those points, where doing so, will implement the access management goals of the Corridor Management Plan.
8. Perform maintenance of K-7 rights-of-way in locations currently maintained by KDOT and perform maintenance of lands acquired and held for additional rights-of-way where reasonable access from K-7 is available.
9. Join with the City, where appropriate, to submit joint applications to the MARC for funds, such as Surface Transportation Funds, for projects of regional significance identified in the Corridor Management Plan.
10. Work toward an increase in funding for the existing Corridor Management Program, which is used to fund projects in corridors that are designated in the district plan and with respect to which a binding master plan has been developed and the communities along the K-7 Corridor have entered into a cooperative understanding with KDOT, and work toward the inclusion in the program of selection criteria that will benefit communities that have made good faith efforts to participate in the implementation of the Corridor Management Plan.

11. Wherever reasonably possible, and when consistent with then governing funding criteria, provide priority funding for projects that conform to the Corridor Management Plan and that will be located in or benefit a city or county that has made good faith efforts to participate in the implementation of the Corridor Management Plan.
12. Give extra consideration to requests for funding from KDOT for projects that will be located in or benefit a city or county that has made good faith efforts to participate in the implementation of the Corridor Management Plan.
13. Support funding requests to federal, state, regional or local entities for projects that are identified in and consistent with the Corridor Management Plan, including support for applications to the MARC and the Congressional delegation.
14. Whenever reasonably possible, streamline the processing of funding requests to the state for projects that are identified in and consistent with the Corridor Management Plan.
15. Work cooperatively with the City on development and other issues in the K-7 Corridor.

J. **City Participation.**

The City agrees to undertake a cooperative effort to implement the Corridor Management Plan by:

1. considering the adoption of the portion of the Corridor Management Plan and the K-7 Footprint Map covering areas lying within the City's planning area as a part of the City's Comprehensive Plan and relevant area plans and redevelopment plans;
2. considering amending the City's Comprehensive Plan, any area plans and major street and utility plans for consistency between the Corridor Management Plan and the K-7 Footprint Map and other portions of those plans;
3. considering posting a copy of the amended Comprehensive Plan on the City's website or at other locations and take all other actions deemed appropriate to keep interested parties informed of the Corridor Management Plan;
4. wherever reasonably practicable, considering providing KDOT with appropriate notice of any hearing on an amendment to the City's

Comprehensive Plan and on any development application that could be reasonably expected to have the potential to significantly impact the K-7 Corridor, as well as with advance copies of the amendment and the related staff report.

5. after consultation with the Secretary of Transportation, the City Engineer and with the planning commission, considering passage of an ordinance, pursuant to K.S.A. 12-765, establishing reasonable building or setback lines along the K-7 Corridor within its corporate boundaries, which ordinance shall prohibit the location of any new buildings within the established lines on property within its plat approval jurisdiction, which ordinance shall also incorporate by reference an official map;
6. considering the adoption of zoning and subdivision regulation amendments, such as an overlay district, to manage the development and use of property lying within the K-7 Footprint Map in a manner that is consistent with the Corridor Management Plan;
7. avoiding locating or approving development applications for the location of public parks, recreation areas or wildlife and waterfowl refuges, also known as 4(f) uses (See 49 USC Section 303) within the areas shown on the Corridor Management Plan as rights-of-way for the K-7 local street network;
8. considering amending all development applications to require that applicants indicate when the property that is the subject of the application is within the area covered by the K-7 Footprint Map;
9. considering the consistency with the Corridor Management Plan in acting on all subdivision or zoning applications and building permits;
10. considering giving KDOT's designated Committee representative notice (at least consistent with that given adjacent landowners) of applications for development approvals that could be reasonably expected to have a significant corridor-wide impact on the K-7 Corridor;
11. considering cooperating with other communities and KDOT along the K-7 Corridor in the creation of corridor-wide financing strategies for K-7 improvements and city connectors and local road projects in the K-7 Corridor;
12. considering cooperating with KDOT in identify existing access points along K-7 and in closing those points, where doing so, will implement the access management goals of the Corridor Management Plan;

13. considering requiring, wherever feasible, that all development projects that are proposed for lands within the area covered by the K-7 Footprint Map, and which are awarded state or local economic incentives, to utilize a reasonable portion of the monies realized from those incentives to construct K-7 improvements and related improvements to the local road network, as shown in the Corridor Management Plan;
14. considering the adoption of an economic incentives policy that encourages use of economic incentives to implement the Corridor Management Plan;
15. considering, at locations designated on the Corridor Management Plan, as a condition of the approval of a development permit, that property owners dedicate land (in an amount equal to that which is roughly proportionate to the need for land generated by the proposed development) for the construction of K-7 improvements, K-7 access improvements, and local street network improvements shown on the Corridor Management Plan;
16. considering offering density bonuses and/or additional incentives, such as transfer of development rights, to development to facilitate implementation of the Corridor Management Plan;
17. considering, as a condition of development approval, that development within the K-7 Corridor pay its fair share of the costs of constructing or construct that portion of the local street network improvements and K-7 interchange improvements that is required by the traffic generated by that development;
18. conferring with KDOT respecting development applications that propose access points on any portion of the local street network included in the Corridor Management Plan, if that access is not consistent with the Corridor Management Plan;
19. considering that development, as a condition of the approval of a development permit, grant an easement to an adjoining landowner or take such other actions as are appropriate to manage access, when doing so will assist in achieving Corridor Management Plan access management objectives;
20. considering the placement of utilities at locations that are consistent with the Corridor Management Plan such that they will not need relocation upon construction of the K-7 improvements;
21. considering providing KDOT with prompt notice of any property that becomes available for purchase within the areas shown as right-of-way for

K-7 in the Corridor Management Plan upon learning of the availability;
and

22. considering informing the City's Board of Zoning Appeals of the importance of the Corridor Management Plan and consideration of the Corridor Management Plan when deciding whether the grant of a requested variance will be opposed to the general spirit and intent of the City's development regulations.
- K. **Term.** The initial term of this MOU shall be for a period of five (5) years commencing from the date stated in the introductory clause hereof, provided however, that at the conclusion of the initial term, this MOU shall automatically renew for an additional term of five (5) years, unless terminated in accordance with Paragraph O of this MOU.
- L. **Modification.** Any amendment or modification to this MOU shall be in writing and executed by the Parties.
- M. **Authority.** The Parties represent and warrant that they have authority to execute this MOU.
- N. **Notices.**
1. Every notice or other communication required or contemplated by this MOU must be in writing and sent by one of the following methods:
 - (a) personal delivery, in which case delivery will be deemed to occur the day of delivery;
 - (b) United States Postal Service, first class mail, postage prepaid; or
 - (c) facsimile transmission.
 2. In each case, a notice or other communication sent to a party must be directed to the address for that party set forth below, or to another address designated by that party by written notice:

If to KDOT, to:

Kansas Dept. of Transportation
Attn: David Gurss
Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, KS 66603-3754
Fax: (785) 296-0287 0963
E-mail: dgurss@ksdot.org

If to City, to:

City of Leavenworth, Kansas

Attn: City Manager

Address: 100 N. 5th St., Leavenworth, KS 66048

Fax: 913-682-3874

E-mail: mscheidt@firstcity.org

- O. **Termination.** This MOU may be terminated by either of the Parties without cause by providing written notice to the other party at least thirty (30) days in advance. KDOT will notify all jurisdictions with land covered by the K-7 Footprint Map, MARC, and other federal/state agencies should either Party terminate the MOU.
- P. **Entire Understanding.** This MOU (and any attached exhibits) contain the entire understanding of the Parties in regard to the subject matter. No acknowledgment or commitment by either party not contained in this MOU shall have any effect unless it is in writing and signed by the Parties.
- Q. **Governing Law.** This MOU is governed by the laws of the state of Kansas without giving effect to the principles of conflict of laws.
- R. **Severability.** If any provision of this MOU is held to be unlawful by any court of competent jurisdiction, then all other provisions of this MOU will remain effective; provided that, if any of the provisions on the participation of the Parties is held to be unlawful, then the other party shall have the right to terminate this MOU in accordance with the provisions of Paragraph O, hereof. If any provision of this MOU is held to be unlawful only in part or degree, it will remain effective to the extent not held unlawful.

The undersigned are executing this MOU on the date stated in the introductory clause.

CITY OF LEAVENWORTH, KANSAS

By: Laura James Gasbar
Laura James Gasbar Mayor

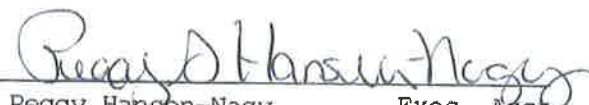
ATTEST:

R M Becker
Deputy, City Clerk

**KANSAS DEPARTMENT OF
TRANSPORTATION**

By: 
Debra L. Miller, Secretary

ATTEST:


Peggy Hansen-Nagy, Exec. Asst.

Pursuant to KSA 12-2904
APPROVED AS TO FORM AND AS IN COMPATIBLE WITH THE LAWS OF THE STATE.

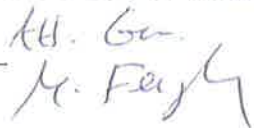

Office of the Attorney General

EXHIBIT A - K-7 FOOTPRINT MAP



K-7 MOU
CITY OF LEAVENWORTH, KANSAS

S U P P L E M E N T A L A G R E E M E N T N o . 1

This Agreement, made and entered into effective the date signed by the Secretary or designee, is by and between the **Secretary of Transportation**, Kansas Department of Transportation (KDOT) (the "Secretary") and the **City of Leavenworth, Kansas** ("City"), collectively, the "Parties."

RECITALS:

- A. The Parties entered into an Agreement dated February 28th, 2007 for the purpose of a cooperative effort regarding the planning of the K-7 corridor (the "Original Agreement").
- B. The Parties mutually desire to supplement the Original Agreement to extend the term of the Original Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. On page 11 of the Original Agreement, paragraph K, be replaced in its entirety to read as follows:

K. **Term.** The initial terms of this MOU shall be for a period of five (5) years commencing from February 28th, 2007. Thereafter, the MOU will renew for successive five (5) year periods, unless either party terminates this MOU in accordance with Paragraph O of the MOU.

THIS SUPPLEMENTAL AGREEMENT shall not be construed to alter, modify, or void the terms, provisions or conditions of the Original Agreement, incorporated herein by reference, except as herein specifically provided.

IN WITNESS WHEREOF, the Parties have caused this Supplemental Agreement to be signed by their duly authorized officers.

ATTEST:

THE CITY OF LEAVENWORTH, KANSAS

CITY CLERK (Date)

MAYOR

Kansas Department of Transportation
Secretary of Transportation

(SEAL)

By: _____
Catherine M. Patrick, P.E. (Date)
State Transportation Engineer

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE TO
AMEND CHAPTER 54, HEALTH AND SANITATION
SEC 54-134 FOOD SERVICE SCHOOL/FOOD HANDLER PERMIT
OF THE CODE OF ORDINANCES**

NOVEMBER 27, 2018


Carla K. Williamson, CMC City Clerk


Paul Kramer, City Manager

ISSUE:

Consider amending Sec 54-134, Food Service School/Food Handler Permit.

BACKGROUND:

The City currently provides food handling safety classes conducted by the City Health Officer the first Wednesday of each month at Fire Station No. 1. The Cost to the participant is \$10.00. The City also contracts with an on-line provider (StateFoodSafety.com). StateFoodSafety.com provides food handling safety classes for the City. Participants access the website and pay the fee directly to the provider. At the end of the training, the provider issues a permit on behalf of the City. The cost to the participant is \$20.00 of which the provider keeps \$10.00 and \$10.00 is sent to the City.

Over the past couple of years, the number of “in-class” participants compared to the number of participants that use the on-line class has significantly decreased.

In 2017 there were 64 participants in the in-class school conducted by the City Health Officer compared to 167 participants who took the on-line class.

In 2018 there have been 27 participants in the in-class school conducted by the City Health Officer compared to 222 participants who have taken the on-line class.

Staff recommends discontinuation of the monthly classes conducted by the City Health Officer and offer these classes on a case by cases basis for special circumstances. Anyone needing to take the class will be instructed to use the city’s on-line provider.

Because the Code of Ordinances states that “Such school shall be scheduled and conducted by the city health officer”, this section of the ordinance will need to be amended.

Below is the proposed change to Sec. 54-134:

Sec. 54-134. - Food service school/food handler permit.

~~Such school shall be scheduled and conducted by the city health officer. Permittees may~~ *Each employee or person engaged in the handling and or preparation of food and or beverage shall* attend online food handler training from the city's online food handler training provider. Attendance of similar training courses held in other cities may be accepted if equal requirements and completion is evidenced by official documents. Upon ~~payment of fee, completion of such school or~~ evidence of training by another means approved by the city health officer or city clerk, a food handler permit shall be issued by the office of the city clerk.

- (1) Upon request to and approval from the city health officer, such school may be offered and conducted by the city health officer from time to time for special circumstances.
- (1) ~~Temporary permits. A 30-day temporary food handler permit allowing an individual to be employed in a food or drink establishment, ice cream truck, mobile food truck, or any other such operation that require a food handler license until such time as a food service training school is conducted.~~
- (2) ~~Fees. All persons attending food service school shall pay a fee to the city clerk in the amount as set out in appendix F prior to attendance.~~
 - (a) All persons attending online food handler training from the city's online food handler training provider shall pay the fee for such training directly to the online provider.
 - (b) All persons attending a requested and approved school conducted by the city health officer shall pay a fee to the city clerk in the amount set out in appendix F prior to attendance.
 - (c) All persons issued a duplicate permit or a permit upon evidence of training by another means approved by the health officer or city clerk shall pay a fee to the city clerk in the amount set out in appendix F.

ACTION:

Place on first consideration Ordinance amending Sec. 54-134.

ATTACHMENTS:

- Draft Ordinance to amend Sec 54-134

(Summary Publish in the Leavenworth Times on _____, 2018)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS, CHAPTER 54, HEALTH AND SANITATION, ARTICLE III, FOOD, SEC. 54-134, FOOD SERVICE SCHOOL/FOOD HANDLER PERMIT, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTION AMENDED.

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

Section 1. That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 54, Health And Sanitation, Article III, Food, Sec. 54-134, Food Service School/Food Handler Permit, is hereby deleted in its entirety and amended to read as follows:

Sec. 54-134. - Food service school/food handler permit.

Each employee or person engaged in the handling and or preparation of food and or beverage shall attend online food handler training from the city's online food handler training provider. Attendance of similar training courses held in other cities may be accepted if equal requirements and completion is evidenced by official documents. Upon evidence of training by other means approved by the city health officer or city clerk, a food handler permit shall be issued by the office of the city clerk.

- (1) Upon request to and approval from the city health officer, such school may be offered and conducted by the city health officer from time to time for special circumstances.
- (2) Fees.
 - (a) All persons attending online food handler training from the city's online food handler training provider shall pay the fee for such training directly to the online provider.
 - (b) All persons attending a requested and approved school conducted by the city health officer shall pay a fee to the city clerk in the amount set out in appendix F prior to attendance.
 - (c) All persons issued a duplicate permit or a permit upon evidence of training by another means approved by the health officer or city clerk shall pay a fee to the city clerk in the amount set out in appendix F.

Section 2. REPEAL. Chapter 54, Health And Sanitation, Article III, Food, Sec. 54-134, Food Service School/Food Handler Permit, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after the later of (a) the date of its publication in the official city newspaper, or (b) December 31, 2018.

PASSED and APPROVED by the Governing Body on this ____th day of _____
2018.

Mark Preisinger, Mayor

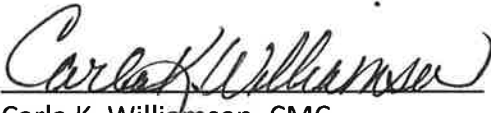
{Seal}


ATTEST:

Carla K. Williamson, CMC, City Clerk

**POLICY REPORT
FIRST CONSIDERATION ORDINANCE TO
AMEND CHAPTER 26, BUSINESSES
ARTICLE III MASSAGE THERAPY
OF THE CODE OF ORDINANCES**

NOVEMBER 27, 2018


Carla K. Williamson, CMC
City Clerk


Paul Kramer
City Manager

ISSUE:

Review and consider an ordinance amending Chapter 26 Article III of the City Code of Ordinances related to Massage Therapy.

BACKGROUND:

At the October 2, 2018 Study Session staff presented for review the need for amendments to Chapter 26 Article III of the Code of Ordinances for the City of Leavenworth. At the October 23, 2018 Regular Meeting the City Commission began discussions regarding amendments to the ordinance to assist staff in preparing an ordinance for first consideration. There was a motion and unanimous vote by the Commission to table the item for a study session. On November 14, 2018, a Study Session was held to continue the discussion on changes to the ordinance.

Members from massage therapy establishments and massage therapists within the city attended the meeting to provide input.

The City Commission provided guidance by consensus on several items to incorporate or remove from the proposed amendments. The draft ordinance before the Commission reflects those discussion items.

After discussions with a third-party vendor who will perform background checks, it was suggested that a 7-year background check be conducted rather than a 10-year as most violations “fall off” after 7-years. That change have been made and is reflected in the proposed ordinance along with some slight language changes allowing us to do background checks as advised by the third-party vendor and the City Attorney.

The City Commission also agreed by consensus, to reduce the fee for a new Massage Establishment license to \$300 (current fee is \$350) and to reduce the fee for a renewal of a Massage Establishment license to \$150 (current fee is \$175). These fees will come back to the City Commission as an ordinance amending Appendix F, Schedule of Fees.

ACTION:

Place on first consideration the proposed ordinance amending Chapter 26, Article III of the City

Code of Ordinances related to Massage Therapy.

ATTACHMENTS:

- Draft Ordinance

(Summary Publish in the Leavenworth Times on _____, 2018)

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF LEAVENWORTH, KANSAS, CHAPTER 26, BUSINESSES, ARTICLE III, PROVIDING SUBSTITUTE PROVISIONS AND REPEALING THE SECTION AMENDED.

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

Section 1. That the Code of Ordinance of the City of Leavenworth, Kansas, Chapter 26, Businesses, Article III, is hereby deleted in its entirety and amended to read as follows:

ARTICLE III. MASSAGE THERAPY

DIVISION 1 – GENERALLY

Sec. 26-66 Definitions

- (a) *Accredited School:* Any school or institute of learning which is accredited by the State Board of Education or equivalent and approved by any state massage-specific license organization. For schools located in states that do not accredit or approve massage therapy programs, the City will consult national massage organizations such as the National Certification Board of Therapeutic Massage and Bodywork and the American Massage Therapy Association to determine if the school should be deemed accredited for purposes of this Article.
- (b) *Business Premises:* Those premises where a private or public commercial enterprise is conducted.
- (c) *Employee:* Refers to any person, other than massage therapists, who renders any service to a licensee under this Article, who receives compensation from the licensee or patron.
- (d) *Establishment Applicant:* Refers to each individual owner (if applying as an individual or a group or individuals), and to each stockholder/member who owns or holds ten percent (10%) or more of the equitable interests in any corporation, limited liability company, partnership, or other entity that applies in the name of such entity.
- (e) *Establishment Representative:* An employee, manager, independent contractor, agent, unpaid volunteer or anyone who works at or on behalf of a massage therapy establishment.
- (f) *Healing Arts Practitioner:* Refers to a person licensed under K.S.A. 65-2801, *et seq.* to practice the healing arts, including but not limited to the medicine and surgery, osteopathic medicine and surgery, or chiropractic.

- (g) *Home-Office Massage Business*: A massage business operated from a non-commercial location and used solely for scheduling appointments, billing, or other administrative purposes for an in-clients' office massage practice or an in-clients' home/hotel massage business. No massage therapy shall take place on the premises of the Home-Office Massage Business.
- (h) *In-clients' Office Massage*: Massage that is conducted on the business premises of a massage therapist's massage therapy client, and is limited to massage therapy applied only above the massage therapy client's waist. The patron must be fully clothed.
- (i) *In-clients' Home/Hotel Massage*: Massage therapy conducted at a massage client's home or residence, or in the guest rooms of hotels or bed and breakfast establishments, as provided in this Article.
- (j) *Massage Therapy or Massage*: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulation of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations commonly used in the practice. Massage as defined herein does not include the touching in any fashion of human genitalia.
- (k) *Massage Therapy Establishment (or Massage Establishment or Establishment)*: Any establishment where any person, firm, partnership, association, corporation, trust, or other type of entity or organization primarily engages in offering massage therapy services. An establishment may operate from a business premises or corporate location or in the establishment licensee's home subject to the requirements of this Article and the Development Regulations of the City.
- (l) *Massage Therapist*: Any person who, for any consideration whatsoever, engages in the practice of massage as herein defined.
- (m) *Patron or Client*: Any person who utilizes or receives the services of any establishment subject to the provisions of this Article and under such circumstances that it is reasonably expected that he or she will pay money or give any other consideration therefore.

Sec. 26-67 Reference to Chief of Police, City Clerk, City Health Officer.

Any reference in this Article to the Chief of Police, City Clerk or City Health Officer, shall include those persons, designees and any individuals designated by the City Manager.

Sec. 26-68 License Required/Fees.

Except as otherwise provided in the Article, no person, firm, partnership, association, corporation, trust, or other type of entity or organization, or individual shall operate a massage establishment, or perform massage therapy without having first obtained the required licenses/permits from the City Clerk. The fee for such licenses/permits shall be prescribed in Appendix F and are not prorated, refundable or transferable. Any application made, fees paid, and licenses obtained under

the provision of this Article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinance of the City. Such license shall be valid from January 1 to December 31 of each calendar year.

Sec. 26-69 Identification Cards.

All massage therapy establishment owners, establishment representatives, and massage therapists issued a license pursuant to the provisions of this Article shall, at all times when working in an establishment or providing any massage service regulated by the Article, have in their possession a valid identification card issued by the City to include the massage therapist's license number, physical description and photograph. Such identification cards shall be laminated to prevent alteration. All persons granted licenses under this Article shall at all times keep their licenses available for inspection upon request of any person who by law may inspect same. All licensees shall, when conducting massage therapy off their business premises, wear on their clothing in a conspicuous location their identification card.

Sec. 26-70 Restriction of Business to Premises.

- (a) All massage therapy provided for under this Article shall be conducted on the business premises of a licensed massage therapy establishment; provided, that in-clients' office massage and in-clients' home/hotel massage may be conducted under the following conditions:
 - (1) If done at the direction of a licensed healing arts practitioner;
 - (2) If done at the written request of a person, who shall have provided the name and address of the requesting person and the date and time of the service. When in-clients' office massage or in-clients' home/hotel massage is offered, whether by telephone, in person or in writing, the person offering such service must state clearly that he or she is a licensed massage therapist or that the service will be performed by a licensed massage therapist, and that prior to any service being provided the person requesting the service will be required to sign a form requesting the service. All such written requests shall be kept by the licensed massage therapy establishment or the licensed massage therapist, as the case may be, for a period of one (1) year and shall be produced for inspection when requested by the Chief of Police, City Clerk or City Health Inspector.
 - (3) In-clients' office massage and in-clients' home/hotel massage shall not be conducted between the hours of 12:00 a.m. and 6:00 a.m.
- (b) Licensed massage therapy establishments shall be operated only from commercial business premises, or as a Home Occupation by Special Use Permit as allowed in the Development Regulations of the City upon review and recommendation of the Planning Commission and approved by the Governing Body.
- (c) A Home-Office Massage business shall be allowed to operate in or from residential property without a Special Use Permit with the restriction that no massage therapy shall

take place on the premises. A Massage Therapy Business License shall be required. No inspections are required for Home Office massage businesses.

- (d) In-clients' home/hotel massage is only permitted in the guest rooms of hotels and bed and breakfast establishments upon written approval of the hotel and bed and breakfast owner(s) and/or manager(s).

Sec. 26-71 Exceptions.

The provisions of this Article shall not apply to hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts, persons licensed to practice as a registered professional nurse under the laws of the State of Kansas, persons licensed to practice as a physical therapist under the laws of the State of Kansas, or persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment, nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate or registration issued by the State of Kansas.

Sec. 26-72 - 26-85 Reserved.

DIVISION 2 - MASSAGE THERAPY ESTABLISHMENTS

Sec. 26-86 License Required.

No person, firm, partnership, association, corporation, trust, or other type of entity or organization shall operate a massage establishment, as defined herein, whether from business premises or as a Home Occupation, without first having obtained a business license therefor, issued by the City Clerk of this City. It is unlawful to conduct such a business unless the license issued is current, unrevoked and not suspended. A separate license shall be required for each and every separate place of business/massage establishment conducted by any one licensee. Such license shall be valid from January 1 to December 31 of each calendar year.

Sec. 26-87 Application for Massage Therapy Establishment License; Fees.

Every application for a business license to maintain, operate or conduct any establishment covered by this Article shall file an application with the City Clerk and pay (i) an annual fee, as prescribed in Appendix F, which shall not be prorated, refundable or transferable, and (ii) an annual renewal fee as prescribed in Appendix F, which shall not be prorated, refundable or transferable.

The application for a license to operate any such establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities, and the name, address, and telephone number of each applicant.

In addition, any applicant for a business license shall furnish the following information:

- (a) Written proof that the applicants and any establishment representatives are at least 18 years old.

- (b) Copy of a valid government issued identification card.
- (c) Fingerprints provided for new applications and applications that have lapsed for one (1) year or more. Not required for annual renewals.
- (d) The business, occupation or employment locations and contact information for each applicant and establishment representative for the three (3) years immediately prior to the date of application.
- (e) The massage therapy business license history of applicant and establishment representatives; whether such person, in previously operating in the City or another city or State under an establishment or therapist license, has had such license revoked or suspended, the reason therefore, and the business activity or occupation subsequent to such suspension or revocation.
- (f) Any criminal convictions, except minor traffic violations, fully disclosing the jurisdiction in which convicted and the offense for which convicted and circumstances thereof.
- (g) In the case of establishment applicants who intend to also provide massage therapy themselves, the applicants must also apply for and receive a massage therapist license as provided in this Article.
- (h) Authorization for the City, its agents and employees to obtain consumer reports, credit checks, or such other background checks as may be permitted under applicable law, at any time after receipt of such authorization.
- (i) Applicants for renewal of an existing license need only provide that information or documentation necessary to insure up-to-date renewal application processing.

Sec. 26-88 Massage Therapy Establishment License Application Processing.

Upon receipt of a complete application for a massage therapy establishment license, the City Clerk and or Chief of Police shall initiate a background check. In addition, the City Clerk shall transmit a copy of the application to the City Health Officer, as applicable. It shall be the duty of the City Clerk and/or Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license. It shall be the duty of the City Health Officer to determine whether the establishment premises meets the requirement of this Article. The City Clerk shall verify that all zoning requirements are met. All standards for premises set forth in Sec. 26-89 must be met prior to the first day the establishment opens for business. The City Health Officer shall report the results of his/her investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports regarding the background check, and approval by the City Health Officer, the City Clerk shall issue the applicable license. All license applications shall be approved or disapproved within 45 days from the date filed with the City Clerk's office.

Sec. 26-89 Inspection Necessary

No business shall be conducted on licensed premises until an inspection by the City Health Officer reveals that the establishment complies with each of the following minimum requirements:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt or refuse. All equipment used in the business's operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths and sheets shall not be used for more than one patron. Heavy white paper may be substituted for sheets provided that such paper is changed for every patron. No service or practice shall be carried on within any cubicle, room, booth, or any area within any permitted establishment, which is fitted with a door that can be locked.
- (b) Toilet facilities shall be provided in convenient locations. When five (5) or more massage establishment employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided.
- (c) Lavatories or washbasins provided with both hot and cold water shall be installed in either the toilet room or a vestibule. Lavatories or washbasins shall be provided with soap in a dispenser and with sanitary towels.
- (d) At least one water fountain, water cooler, or bottled water shall be provided but shall not be located in toilet rooms or bathrooms.

The City Health Inspector shall certify that the proposed business establishment complies with all of the requirements of this Section and shall give or send such certification to the City Clerk and Chief of Police. Provided, however, that nothing contained herein shall be construed to eliminate other requirements of statutes or ordinances that relates to the maintenance of premises, not to preclude authorized inspection thereof.

Sec. 26-90 Issuance of Massage Therapy Establishment License.

After the filing of an application in the proper form, the City Clerk shall examine the application and after such examination, shall approve the issuance of the license for a massage therapy establishment, unless the City Clerk finds that:

- (a) The establishment operations, as proposed by the applicant, if permitted, would not comply with all applicable laws to include, but not limited to, the City's building, zoning and health regulations;
- (b) Each individual owner applicant (if applying as an individual or a group or individuals), or each stockholder/member who owns or holds ten percent (10%) or more of the equitable interests in any applicant that is a corporation, limited liability company, partnership, or other entity that applies in the name of such entity, or any establishment representative principally in charge of the operation of the business, has been convicted of, or received a diversion on:
 - (1) A person felony, as defined by Kansas law;

- (2) A non-person felony, as defined by Kansas law, in the seven (7) years immediately preceding the date of the application;
 - (3) Any felony or misdemeanor offense involving sexual misconduct;
 - (4) Obscenity;
 - (5) Prostitution or Promoting prostitution or equivalent charge;
 - (6) Solicitation of a lewd or unlawful act, as either a felony or misdemeanor;
 - (7) Pandering or other sexually related offenses;
 - (8) Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the seven (7) years preceding the date of the application.
- (c) The applicant made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
 - (d) The applicant or establishment representative has had a massage therapy establishment license, massage therapy license, or other similar permit or license denied, revoked, suspended or has voluntarily surrendered the permit or license in lieu of revocation or suspension for any of the above causes by the City or any other city, State, or local agency within seven (7) years prior to the date of the application;
 - (e) Any establishment applicant or establishment representative has previously been issued a license for an adult entertainment business or escort service or has been employed by any such business;
 - (f) Each individual owner applicant (if applying as an individual or a group or individuals), or each stockholder/member who owns or holds ten percent (10%) or more of the equitable interests in any applicant that is a corporation, limited liability company, partnership, or other entity that applies in the name of such entity, or any establishment representative principally in charge of the operation of the business, has not attained the age of 18 years; and
 - (g) The manager, establishment representative, or other person principally in charge of the operation of the business would be ineligible to receive any license under the provisions of this Article.

The license shall state that it is not transferable or refundable. The license shall be kept posted in an open and conspicuous place on the premises of the licensee. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval.

Sec. 26-91 Inspection, Immediate Right of Entry.

The Police Department and City Health Inspector may from time to time make an inspection of each licensed establishment in the City, to include those locations where an establishment conducts its business and areas where a therapist performs massage therapy, to determine that the provisions of this Article are complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee, manager or representative to fail to allow such inspection officer immediate access to the premises or to hinder such officer in any manner. Provided further, that any failure on the part of any licensee, manager or representative to grant immediate access to such inspector shall be grounds for the revocation or suspension of any massage establishment license or massage therapy license.

Sec. 26-92 Operation Regulations.

The operation of any massage therapy establishment, to include the provision of service by massage therapists, shall be subject to the following regulations:

- (a) *Hours.* Such business shall be closed and operations shall cease between the hours of 12:00 a.m. and 6:00 a.m. each day; provided the hours of operation for in-clients' office massage may be extended for in-office therapy conducted on premises with established evening and night shifts.
- (b) *Alcoholic beverages.* No alcoholic beverage or cereal malt beverages, nor the consumption thereof, shall be allowed, permitted or suffered to be done in or upon any premises licensed under the provisions of this Article or during in-clients' office massage therapy. This restriction shall not apply to establishments operating as Home Occupations under the Development Regulations; provided, that no alcohol is permitted in that portion of such premises where massage therapy occurs. As used in this Section, "that portion" shall mean physical, visual and audible separation by permanently installed walls and doors between the area where massage therapy occurs and the area where alcoholic beverages or cereal malt beverages are stored or consumed.
- (c) *Conduct of premises.* All licensees licensed under the provisions of this Article shall at all times be responsible for the conduct of business on their licensed premises and for any act or conduct of his or her employees which constitutes a violation of the provisions of this Article. Any violation of the City, State, or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license or may be grounds for suspension or revocation of same.
- (d) Every portion of a licensed establishment to include appliances and personnel shall be kept clean and operated in a sanitary condition.
- (e) All licensed employees and massage therapists must be modestly attired. Diaphanous or transparent clothing is prohibited. Clothing must, at all times, cover the chest of the licensee, employees and/or massage therapists.
- (f) The private parts of patrons must be covered by towels, cloths or undergarments when in the presence of an employee or massage therapist. Any contact with a patron's genital area is prohibited.

- (g) All licensed establishments, when applicable, shall provide clean, laundered sheets and towels in sufficient quantity and such items shall be laundered after each use thereof and stored in a sanitary manner.
- (h) Wet and dry heat rooms, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs or individual soak areas shall be thoroughly cleaned after each use.
- (i) Table showers are strictly prohibited.
- (j) No individual shall reside, inhabit or otherwise sleep overnight at an establishment with the exception of the licensee who operates an establishment in his/her home or residence as a permitted Home Occupation, but shall not reside, inhabit or sleep in the portion of the home or residence devoted to the practice of massage therapy.

Sec. 26-93 Supervision.

A licensee shall have the establishment premises supervised at all times when open for business. The establishment licensee or a person employed as a massage therapist shall personally supervise the business and shall not violate or permit others to violate any applicable provision of this Article. The violation of any such provision by any establishment representative shall constitute a violation by the employee.

Sec. 26-94 Employee and Patron Register.

- (a) All establishments, commercial, in-home and home-office, licensed under the provisions of this Article shall keep and maintain on their premises a current register of all their establishment representatives and list such representatives' names, addresses and license numbers. Such register shall be open to inspection at all reasonable times by the City Health Officer or member of the Police Department.
- (b) Every person who engages in or conducts a licensed establishment shall keep a daily register of services provided and all patrons, with names, addresses, and hours of arrival and, if applicable, the rooms or cubicles assigned. Said daily register shall, at all times during business hours, be subject to inspection by City officials and by the Police Department and shall be kept on file for one (1) year.

Sec. 26-95 Persons Under Age 18 Prohibited Services.

No licensee shall perform or permit any massage therapy to be provided to a person under the age of 18, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian authorized such therapy in writing.

Sec. 26-96 Advertising.

No establishment granted a license under provision of this Article shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of a

human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in Sec. 26-66, or that employees or massage therapists are dressed in a manner other than described in Sec. 26-92.

Sec. 26-97 Application of Existing Businesses.

The operators of any existing massage therapy establishment must comply with all provisions of this Article, subject to the education and experience requirements set for the in Sec. 26-131.

Sec. 21-98 Revocation or Suspension of Business License.

- (a) Any business license issued for a massage therapy establishment may be suspended or revoked by the City Clerk or Chief of Police for a violation of any of the provisions of this Article or the licensee or any establishment representative was convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee or an establishment representative refused to permit, or hindered any City representative to conduct any investigation or inspection provided for this Article.

- (b) Written notice shall be sent to the person entitled to notice as stated in the business license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the City Manager to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the business license, if a licensee or any of its establishment representatives:
 - (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof;
 - (2) Supplies false information to the permit administrator or Police on the application for license or licensure renewal;
 - (3) Allows the use of his or her establishment by an unlicensed person;
 - (4) Violates any zoning, building or fire prevention ordinance;
 - (5) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy;
 - (6) Has been convicted, to include a massage therapist, of any offense found in Sec. 26-98 and Sec. 26-133 herein and the licensee has actual or constructive knowledge of the violation or conviction;
 - (7) Conducts any illegal activities or allows them to be conducted by anyone else;
 - (8) Has an arrest record for any sexual offense or violation;
 - (9) Has fraudulently obtained a license pursuant to the provisions of this ordinance;

- (10) Has ceased to meet any of the requirements for issuance of a massage therapy license or massage therapy establishment license;
 - (11) Refused to permit any duly authorized police officer or City Health Officer to inspect the premises or operations of the licensee;
 - (12) Fails to comply with all applicable laws and regulatory provisions herein.
- (c) *Business Closed and Posted.* Upon suspension or revocation of the business license, the business shall cease to operate and the Chief of Police or City Clerk shall post the business as closed.

Sec. 26-99 Appeal.

Upon receipt of a written request delivered to the City Clerk, an appeal of the denial, suspension or revocation shall be heard by the City Manager within thirty (30) days of the suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The City Manager shall make a final determination as to denial, suspension or revocation.

Sec. 26-100 - 26-130 Reserved.

DIVISION 3 – MASSAGE THERAPISTS

Sec. 26-131 Massage Therapist License Required Categories, Educational Requirement, Renewal & Restrictions.

No person shall perform massage therapy, in-client's home massage or in-clients' office massage therapy within the City, unless he or she has a valid massage therapist license issued by the City pursuant to the provision of this Article. It is unlawful to perform such services unless the license issued is current, unrevoked and not suspended. Such license is not transferable or refundable and shall be valid from January 1 to December 31 of each calendar year.

The massage therapist license and educational requirement shall be as follows:

- (a) Successful completion of a course of instruction of not less than 500 hours, in theory, method or practice of massage from one or more accredited schools. All practical and/or modality instruction must be completed as in-class/hands-on instruction, while theory instruction may be completed online.
- (b) Proof of completion of education and training requirements must be by certified transcripts. The educational training requirements required by the Article may be received from more than one school. One (1) hour of instruction is defined as fifty minutes of actual instructional time.
- (c) Individuals licensed with the City as a Massage Therapist and holding a 2018 massage license may renew that license notwithstanding an inability or failure to satisfy the minimum education requirements set forth above in Sec. 26-131(a), and continue to renew

such license as long as there are no lapses in active licensure and the individual continues to satisfy all other requirements of this Article.

Sec. 26-132 Application for Massage Therapist License, Fees.

- (a) Any person who desires to perform or provide massage therapy in-client's home massage; in-clients' office massage therapy; or to perform any massage services in a massage therapy establishment, as defined therein, shall file a written application with the City Clerk and pay a fee as prescribed in Appendix F, which shall not be prorated, refundable or transferable and an annual renewal fee as prescribed in Appendix F. A massage therapy license shall be valid from January 1 to December 31 of each calendar year.
- (b) Only one massage therapy license shall be required for a massage therapist regardless of the number of location types where he/she intends to practice – in an establishment, in-clients' office and/or in-clients' home.
- (c) A Massage therapist shall notify the City of any change in employment within thirty (30) calendar days of the change to include a change in the therapist's employer or the addition or reduction of licensed establishments in which he or she performs massage therapy.
- (d) Massage therapists who themselves, individually, own and operate a licensed massage establishment, and apply for a personal massage therapist license of any type, are exempt from paying the separate massage therapist license fee.
- (e) The application for a massage therapist license shall contain the following:
 - (1) Name, address and telephone number.
 - (2) Three (3) portrait photographs at least two (2) inches by two (2) inches.
 - (3) Copy of a valid government issued identification card.
 - (4) Applicant's weight, height, color of hair and eyes.
 - (5) Fingerprints provided for new applications and applications that have lapsed for one (1) year or more. Not required for annual renewals.
 - (6) Written evidence that the applicant is at least 18 years old.
 - (7) Business, occupation or employment of the applicant for the three (3) years immediately prior to the date of application.
 - (8) Disclosure of any criminal convictions or diversions, except minor traffic violations, and fully disclose the jurisdiction in which convicted or diverted and the offense for which convicted or diverted.

- (9) Authorization for the City, its agents and employees to obtain consumer reports, credit checks, or such other background checks as may be permitted under applicable law, at any time after receipt of such authorization.
- (10) Proof of the education and experience requirements set forth in Sec. 26-131.
- (11) History of the applicant, whether such person, in operation in Kansas or another state under an establishment license, a therapist license or under another name had such license revoked or suspended and the reason therefor.

Sec. 26-133 Application Process and Issuance of Massage Therapist License and Identification Card.

Upon receipt of a complete application for a massage therapist license, the City Clerk and or Chief of Police shall initiate a background check. The City Clerk shall issue a massage therapist license and identification card within 21 days following application unless there are findings that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on:
 - (1) A person felony, as defined by Kansas Law;
 - (2) A non-person felony, as defined by Kansas Law, in the seven (7) years immediately preceding the date of the application;
 - (3) Any felony or misdemeanor offense involving sexual misconduct;
 - (4) Obscenity;
 - (5) Prostitution or Promoting prostitution or equivalent charge;
 - (6) Solicitation of a lewd or unlawful act, as either a felony or misdemeanor;
 - (7) Pandering or other sexually related offense;
 - (8) Any violation of the law applicable to massage therapy arising out of the individual's prior massage establishment(s) or individual massage therapist license(s) in the seven (7) years preceding the date of the application.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- (c) The applicant had a massage establishment or therapist permit or license denied, revoked, suspended, or involuntarily surrendered the permit or license in lieu of revocation or suspension by the City or any other state or local agency within seven (7) years prior to the date of application.
- (d) The applicant was issued a license for an adult entertainment business or escort service or was employed by any such establishment within seven (7) years prior to the date of application.

- (e) The applicant has not attained the age of 18 years.
- (f) The correct license fee has not been tendered to the City, and in the case of a check or bank draft, not honored with payment upon presentation;
- (g) That the applicant has not successfully completed the education standards required under the provisions of this Article.

The license and identification card shall state that they are not transferable or refundable. The license and identification card shall be displayed and/or made available in Sec. 26-69. If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Appeals shall be in accordance with Sec. 26-135.

Sec. 26-134 Revocation of Massage Therapist License.

- (a) Any massage therapist license may be suspended or revoked by the City Clerk or Chief of Police (i) for a violation of any of the provisions of this Article, (ii) if the licensee or any establishment representative was convicted of any offense which would make him or her ineligible to receive a license, or (iii) if the licensee or an establishment representative refused to permit, or hindered any authorized City inspector or representative to conduct any investigation or inspection provided for in this Article.
- (b) Written notice shall be sent to the person entitled to notice as stated in the massage therapist license and at the location specified in the license for notice. This notice shall state the specific basis for suspension or revocation and shall notify the licensee of the licensee's right to a hearing before the City Manager to appeal the suspension or revocation. Any of the following shall establish a sufficient basis for suspension or revocation of the massage therapist license, if a licensee:
 - (1) Is convicted of any offense which is a felony, the record of conviction being conclusive evidence thereof;
 - (2) Supplies false information to the permit administrator or Police on the application for licensure or licensure renewal;
 - (3) Uses fraudulent, false, misleading or deceptive advertising to describe, promote or advertise any type of business activity or service which is expressly not massage therapy or has otherwise fraudulently engaged in massage therapy;
 - (4) Is convicted of any offense found in this Article;
 - (5) Conducts any illegal activities;
 - (6) Has an arrest record for any sexual offense or violation;
 - (7) Has fraudulently obtained a license pursuant to provision of this Article;

- (8) Has ceased to meet any of the requirements for issuance of a massage therapy license;
 - (9) Refuses to permit any duly authorized police officer or City Health Officer to inspect the records of the operations of the licensee;
 - (10) Fails to comply with all applicable laws and regulatory provisions herein.
- (c) Upon suspension or revocation of the massage therapist license, the massage therapist shall cease to operate in the City of Leavenworth.

Sec. 26-135 Appeal.

Upon receipt of a written request delivered to the City Clerk, an appeal of the denial, suspension or revocation of a massage therapist license shall be heard by the City Manager within thirty (30) days after the denial, suspension or revocation. The licensee may submit evidence at the hearing which is relevant and material to the specific basis for suspension or revocation. The City Manager shall make a final determination as to suspension or revocation.

Sec. 26-136 Severability.

In the event that any portion or section of this Article is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, the decision shall in no manner affect the remaining portions or sections of this Article, which shall remain in full force and effect.

Sec. 26-137 - 26-175 Reserved.

Section 2. REPEAL. Chapter 26, Businesses, Article III, Massage Therapy, of the Code of Ordinances of the City of Leavenworth, Kansas, in existence as of and prior to the adoption of this ordinance, are hereby repealed.

Section 3: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after the date of its publication in the official city newspaper.

PASSED and APPROVED by the Governing Body on this ____th day of _____
2018.

Mark Preisinger, Mayor

{Seal}

ATTEST:

Carla K. Williamson, CMC, City Clerk