

## CHAPTER I. ADMINISTRATION

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### ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of De Soto, Kansas," and may be so cited. The Code may also be cited as the "De Soto City Code." (Code 1998)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City shall mean the City of De Soto, Kansas.
  - (b) Code shall mean "The Code of the City of De Soto, Kansas."
  - (c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
  - (d) County means the County of Johnson in the State of Kansas.
  - (e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
  - (f) Gender. Words importing the masculine gender include the feminine and neuter.
  - (g) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the council as provided in this code.
  - (h) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
  - (i) Month shall mean a calendar month.
  - (j) Number. Words used in the singular include the plural and words used in the plural include the singular.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(y) Year means a calendar year, except where otherwise provided.

(Code 1998)

1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1998)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1998)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any

section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or redacted. (Code 1998)

- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 1998)
- 1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section \_\_\_\_\_ of the code of the City of De Soto is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of De Soto is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) \_\_\_\_\_ of the code of the City of De Soto is hereby repealed." (Code 1998)
- 1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 1998)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1998)
- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in one of the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1998)
- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1998)
- 1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 1998)

- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive. (K.S.A. 12-120:121; Code 1998)
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of De Soto to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 1998)
- 1-115. SCOPE OF APPLICATION. Unless another penalty is provided herein, any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1998)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
  - (b) Imprisonment in jail for not more than 179 days; or,
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 1998)
- 1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1998)

## **ARTICLE 2. GOVERNING BODY**

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and five city councilmembers to be elected as set out in Chapter 6 of this code. (C.O. No. 3, Sec. 2; Code 1998)
- 1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city. (K.S.A. 12-103; Code 1998)
- 1-203. SAME; MEETINGS. (a) Regular meetings of the governing body shall be held on the 1<sup>st</sup> and 3<sup>rd</sup> Thursday of each month at 7:30 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices no meeting shall be held unless otherwise determined by the governing body.

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

(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.

(K.S.A. 15-106; C.O. No. 10, Code 1998)

1-204. SAME; QUORUM. In all cases, it shall require four of the councilmembers to constitute a quorum to do business; but a smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as the city council, by ordinance, may have previously prescribed.. (K.S.A. 15-106; C.O. No. 10; Code 1998)

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

(a) Have the superintending control of all officers and affairs of the city;

(b) Take care that the ordinances of the city are complied with;

(c) Sign the commissions and appointments of all officers elected or appointed;

(d) Endorse the approval of the governing body on all official bonds;

(e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;

(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;

(g) Sign all orders and drafts drawn upon the city treasury for money.

(K.S.A. 15-301:311; Code 1998)

1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. The president when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. 15-301:311; Code 1998)

1-207. VACANCIES IN GOVERNING BODY; HOW FILLED. In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the councilman becoming mayor.

In case of a vacancy in the council occurring by reason of resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining councilmember, shall appoint some suitable elector to fill the vacancy until the next election for that office. In case any person elected as a councilman neglects or refuses to qualify within 30 days after his election, he shall be deemed to have refused to accept such office and a vacancy shall exist, and thereupon the mayor may, with the consent of the remaining councilmember appoint some suitable elector to fill said vacancy. (C.O. No. 3, Sec. 3)

1-208. COMPENSATION. Members of the governing body shall receive compensation as follows:

- Mayor — \$400/minimum to \$800/maximum per month
- Councilmembers — \$50/month
- Administrator — \$2,500/minimum to \$5,000/maximum per month
- Treasurer — \$50/minimum to \$75/maximum per month
- Attorney-retainer — \$2,000/month (additional services per contract)
- Judge — \$250/month
- Fire Chief — \$300/minimum to \$1,200/maximum per year
- Volunteer Firemen — \$7.50 per fire and per meeting
- First Responders — \$10 per response

(Ord. 1035, Sec. 1)

1-209. EXPENSES. Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as budgeted for the following:

- (a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or governing body.
- (b) Reimbursement for actual food and lodging expenses upon the performance of duties assigned by the mayor and/or governing body, provided such expenses shall be documented by proper receipts.

(Code 1998)

1-210. RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

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

Rule 2. Special Meetings. Special meetings may be held at any time upon a call signed by a majority of the governing body, in accordance with section 1-203 of code. A notice of such special meeting, stating the time, place, and object of the meeting, directed to the councilmember shall be communicated by the city clerk.

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

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

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. Except for votes on ordinances, for those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 7. Passing of Ordinances. No ordinance, unless required by law, will be read or requested by the council. Prior to voting on ordinances, any amendment may be offered and considered by the governing body. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the vote will be taken. The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof. Provided, that all ordinances and amendments must conform to section 1-109 of the code. (K.S.A. 12-3002, 12-3004)

Rule 8. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 9. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 1998)

1-212. CODE OF ETHICS. (a) Declaration of Policy - The proper operation of our government requires that public officials and employees be independent, impartial and responsible to the people; that governmental decisions and policy be made in the proper channels and that the public have confidence in the integrity of its government. In recognition of those goals, there is hereby established a Code of Ethics for all officials and employees, whether elected or appointed, paid or unpaid. The purpose of this code is to establish ethical standards by setting forth those acts or actions that are incompatible with the best interests of the city.

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

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

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

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

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

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

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

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

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

(2) Disclosure of Confidential Information - No elected or appointive city official or employee, shall, without proper legal authorization, disclose or use confidential information concerning the property, government or affairs of the city.

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

(4) Representing Private Interest Before City Agencies or Courts - No elected or appointed city official or employee shall appear in behalf of private interest before any agency of this city.  
(Code 1998)

### **ARTICLE 3. OFFICERS AND EMPLOYEES**

- 1-301. APPOINTMENT. The mayor, with the consent of the council, may appoint, at the first regular meeting of the governing body in May of each year, the following city officers, to-wit: A city administrator, a municipal judge of the municipal court, a clerk, a treasurer, a marshal-chief of police, policemen, street commissioner, and such other officers as deemed necessary; and may retain a licensed professional engineer to act in the capacity of city engineer for specifically defined duties. The duties in pay of the various officers provided for in this section shall be regulated by ordinance except as herein provided. A majority of all the members of the city council may remove any such officer; or, for good cause, the mayor may remove any such officer, with the consent of the council. (C.O. No. 5, Sec. 2)
- 1-302. EMPLOYEES. Except as provided in Charter Ordinance No. 5 and subject to the limitations imposed by any other ordinance of the city, the city administrator shall be responsible for the hiring and continued employment of all city employees. All department heads shall make regular reports to the city administrator and shall be ready at all times to furnish him or her with such information as he or she may required. (C.O. No. 5; Code 1998)
- 1-303. REMOVAL. (a) A majority of all the members of the city council may remove any appointed officer; or for good cause, the mayor may remove any such officer, with the consent of the council.  
(b) No officer or employee shall be removed for any reason until he or she has been given notice and afforded the opportunity for a hearing.  
(K.S.A. 15-204; C.O. No. 5, Sec. 2; Code 1998)
- 1-304. VACANCY IN OFFICE. The officers elected pursuant to statute or appointed under this ordinance shall be qualified electors of said city, except the city may appoint nonresidents as city administrator, city attorney, municipal judge, and as law enforcement officers when deemed necessary, including the appointment of nonresidents who also serve (in less than fulltime capacity) as city administrator, city attorney, municipal judge or law enforcement officers of another municipality or public agency; provided, that nothing herein shall authorize the appointment of nonresidents of this state. The city attorney shall be a qualified elector of the county in which said city is located or of an adjoining county. The removal from such city of any officer elected pursuant to statute or appointed under this charter ordinance, who is required to be a qualified elector thereof, shall occasion a vacancy in such office. All vacancies in office, except in the offices of mayor and councilmembers, may be filled until the next regular time for appointment by the governing body. Every appointment to office, and the date thereof, shall be entered on the journal of the proceedings of the council. (C.O. No. 5, Sec. 3)

1-305. CITY ADMINISTRATOR. (a) Qualifications. The person appointed to the office of city administrator shall become a resident of the city within a reasonable time following appointment but in any event, must reside within the city limits within 12 months of his or her appointment. Such person shall possess the general qualifications prescribed by the governing body.

(b) Term of Appointment. The mayor, with the advice and consent of the city council shall appoint an individual to the position of city administrator pursuant to Charter Ordinance No. 5. The initial term of the appointment, subject only to the probationary period of three months, shall be for one year. Subsequent appointments of the same individual shall be for terms of two years each.

(c) Duties. In addition to the overall responsibility for all city employees and day to day operations of all functions of city government, and such additional duties or functions as directed by the governing body from time to time, the city administrator shall be specifically responsible to perform all duties as defined and set forth in the job description determined by the governing body and maintained in city hall.

(d) Compensation. The city administrator shall receive such compensation as may be determined by ordinance of the governing body and such compensation shall be payable bi-weekly. The city administrator shall receive all employment benefits provided to other city employees as set forth in the Personnel Policy and Procedures Manual. The city administrator shall give such security bond to be paid for by the city to insure his or her full and faithful performance of the position which shall be in such amount as provided by ordinance.

(e) Work Directives. It shall be the general practice of the mayor and city council to issue all orders and directives to all city officers and departments and receive reports and communications therefrom through the office of the city administrator.

(f) Limitations. At no time shall the duties and/or powers of the city administrator superseded any action by the governing body.  
(Ord. 945, Secs. 1:6)

1-306. CITY CLERK. The city clerk shall:

(a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;

(b) Carry on all official correspondence of the city;

(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;

(d) Enter every appointment of office and the date thereof in the journal;

(e) Enter or place each ordinance of the city in the ordinance books after its passage;

(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.  
(Code 1998)

1-307. SAME; FISCAL RECORDS. The city clerk shall:

(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;

(b) Assist in preparing the annual budget;

(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;

- (d) Keep an accurate account of all bonds issued by the city;
  - (e) Keep a record of all special assessments.
- (Code 1998)

- 1-308. SAME; SEAL; OATHS. The city clerk shall:
- (a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;
  - (b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
  - (c) Keep suitable files of all such oaths required to be deposited in his or her office.
- (Code 1998)

- 1-309. CITY TREASURER. The city treasurer shall:
- (a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;
  - (b) Publish an annual financial statement;
  - (c) Deposit all public moneys and sign all checks of the city;
  - (d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;
  - (e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
- (K.S.A. 10-803; K.S.A. 12-1608; Code 1998)

- 1-310. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
- (a) Attend meetings of the city governing body when so directed to attend by the governing body;
  - (b) Advise the city governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
  - (c) When requested, give opinions in writing upon any such questions;
  - (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
  - (e) Approve all ordinances of the city as to form and legality;
  - (f) Attend planning commission and board of zoning appeals meetings;
  - (g) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
- (Code 1998)

- 1-311. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she at the direction of the city administrator, shall perform all duties regarding engineering services. (Code 1998)

- 1-312. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. (Code 1998)
- 1-313. CONFLICT OF INTEREST. (a) No city officer or employee shall be signatory upon, discuss in an official capacity, vote on any issue concerning or otherwise participate in his or her capacity as a public official or employee in the making of any contract with any person or business:
- (1) In which the officer or employee owns a legal or equitable interest exceeding \$5,000 or five percent, whichever is less, individually or collectively with his or her spouse; or
  - (2) From which the officer or employee receives, in the current or immediately preceding or succeeding calendar year, any salary, gratuity, other compensation or a contract for or promise or expectation of any such salary, gratuity or other compensation or remuneration having a dollar value of \$1,000 or more; or
  - (3) In which he or she shall hold the position of officer or director, irrespective of the amount of compensation received from or ownership held in the business.
- (b) The prohibitions contained in subsection (a) of this section shall not apply to the following:
- (1) Contracts let after competitive bidding has been solicited by published notice; and
  - (2) Contracts for property or services for which the price or rate is fixed by law.
- (K.S.A. 75-4301; Code 1998)

#### **ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS**

- 1-401. PERSONNEL RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Personnel Policies and Procedures Manual." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of De Soto" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. The policy may be modified from time to time by resolution of the governing body. (Code 1998)

#### **ARTICLE 5. OATHS AND BONDS**

- 1-501. OATH. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:
- "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and

faithfully discharge the duties of \_\_\_\_\_ (here enter name of office or position). So help me God." (K.S.A. 54-106, 75-4308; Code 1998)

1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 1998)

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

- (1) City treasurer - \$10,000;
- (2) City clerk - \$50,000;
- (3) Clerk of municipal court - \$50,000;
- (4) Assistant city clerk - \$50,000;
- (5) Administrative Secretary - \$50,000.

(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate. (Ord. 2, Secs. 1:2; Code 1998)

1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1998)

1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1998)

1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1998)

## **ARTICLE 6. OPEN RECORDS**

1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.

(b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.

(K.S.A. 45-216; Code 1998)

1-602. RECORD CUSTODIANS. The city clerk shall preserve and protect all public records from damage, disorganization and theft and shall assist, in a timely and efficient manner, any person making request for access to any open public record. (Code 1998)

- 1-603. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 1998)
- 1-604. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. (Code 1998)
- 1-605. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 1998)
- 1-606. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
  - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
  - (c) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
  - (d) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
  - (e) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
- (Code 1998)
- 1-607. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.
- (Code 1998)
- 1-608. DUTIES OF CUSTODIANS. All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry

out the procedures adopted by this city for inspecting and copying open public records.  
(Code 1998)

1-609.           REQUESTS TO BE DIRECTED TO CITY CLERK. All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the city clerk. (Code 1998)

1-610.           FEE ADMINISTRATION. The city clerk shall transmit all record fee moneys collected to the city treasurer not less than monthly. (Code 1998)

## ARTICLE 7. INVESTMENT OF IDLE FUNDS

1-701. PURPOSE AND GOALS. It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:

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

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

(Code 1998)

1-702. INVESTMENT OF IDLE FUNDS. Temporarily idle moneys of the city not currently needed, may in accordance with the procedure hereafter described be invested:

(a) In temporary notes or no-fund warrants issued by such investing governmental unit;

(b) In time deposit, open accounts or certificates of deposit with maturities of not more than two years:

(1) In commercial banks which have offices located in such investing governmental unit; or

(2) If the office of no commercial bank is located in such investing governmental unit, then in commercial banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(c) In time certificates of deposit with maturities of not more than two years:

(1) With state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit; or

(2) If the office of no state or federally chartered savings and loan association or federally chartered savings bank is located in such governmental unit, then with state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located;

(d) In repurchase agreements with:

(1) Commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices located in such investing governmental unit, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If the office of no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank is located in such investing governmental unit; or

(B) If no commercial bank, state or federally chartered savings and loan association or federally chartered savings bank has an office located in such investing governmental unit is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such

repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the county or counties in which all or part of such investing governmental unit is located; or

(3) If no bank, state or federally chartered savings and loan association or federally chartered savings bank which has its office in such county or counties is willing to enter into such an agreement with the investing governmental unit at an interest rate equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto, then such repurchase agreements may be entered into with commercial banks, state or federally chartered savings and loan associations or federally chartered savings banks which have offices in the State of Kansas;

(e) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with the following, which is doing business within the State of Kansas, any state or national bank, state or federally chartered savings and loan association, or federally chartered savings bank; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer which is registered in compliance with the requirements of section 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 17-1254, and amendments thereto;

(f) The municipal investment pool fund;

(g) The investments authorized and in accordance with the conditions prescribed in section 2 of the municipal investment pool fund act;

(h) The trust departments of commercial banks which have offices located in such investing governmental unit or with trust companies which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with commercial banks which have offices located in the county or counties in which such investing governmental unit is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Investments of public moneys under this paragraph shall be limited to those investments authorized under subsection (b) of section 1 of the municipal investment pool fund act.

(i) The investments authorized in paragraphs (e), (f), (g) or (h) of this section shall be utilized only if the appropriate eligible commercial banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such bank has an office which is located within such governmental unit, or the appropriate eligible state or federally chartered savings and loan associations or federally chartered savings banks, which have offices located in the investing governmental unit or in the county or counties in which all or a part of such investing governmental unit is located if no such state or federally chartered savings and loan association or federally chartered savings bank has an office which is located within such governmental unit, cannot or will not make the investments authorized in paragraphs (b) or (c) of this section available to the investing governmental unit at interest rates equal to or greater than the investment rate, as defined in subsection (l) of K.S.A. 75-4201, and amendments thereto.

(K.S.A. 12-1675, as amended; Code 1998)

1-703. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period

of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Ord. 372, Sec. 2; Code 1998)

1-704. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city administrator and mayor and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers. (Code 1998)

1-705. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in section 1-703, it becomes necessary to transfer or sell any securities of such funds, the officers specified in section 1-704 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city in accordance with policies and procedures adopted by the governing body. (Code 1998)

1-706. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 1998)

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

## **ARTICLE 8. MUNICIPAL RESERVE EQUIPMENT FUND**

1-801. EQUIPMENT FUND ESTABLISHED. In accordance with K.S.A. 12-1,117, there is hereby established a municipal equipment reserve fund, which shall be used by the city to finance the acquisition of equipment necessary for the performance of all functions of the city. For the purpose of this article, the word equipment shall mean machinery, vehicles, field equipment and other equipment or personal property including, but not limited to, computer hardware and software which is for municipal purposes and has an estimated acquisition cost or replacement cost in excess of \$1,500 and a useful life of not less than three years. (Ord. 846, Sec. 1)

1-802. POLICY OBJECTIVE. The equipment reserve fund shall be used as a financing mechanism to secure the planned an orderly acquisition and replacement of equipment necessary for the efficient and effective operation of the city. The governing body will

annually approve an allocation of current revenues in that year's budget sufficient to (a) finance the acquisition of new equipment in the following year, and (b) finance anticipated future equipment acquisitions and replacements by setting aside an annual reserve amount. (Ord. 846, Sec. 2)

1-803. PLAN OF OPERATION. (a) The city clerk, or other individual designated by the city administrator, shall prepare a plan of operation for the implementation of this article and for the achievement of the policy objectives of the governing body.

(b) In the year 1992, the city clerk, or other individual designated by the city administrator shall include in the proposed budget for 1993 an amount sufficient to cover necessary 1993 equipment acquisition costs.

(c) Beginning in 1993, and annually thereafter, the city clerk, or other individual designated by the city administrator, shall submit, concurrent with the proposed annual budget, a proposed equipment acquisition program for each of the following three years.

The proposed budget shall include an amount sufficient to finance proposed equipment acquisitions for the following year, plus an amount to be reserved as set forth in the annually revised and extended equipment acquisition program.

(Ord. 846, Sec. 3)

#### **ARTICLE 9. PURCHASE AND SALES POLICY**

1-901. PURCHASE AND SALES; RULES AND REGULATIONS. There is hereby incorporated by reference for the purpose of establishing the document entitled "Policy for Purchases and Sales of Property." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of De Soto" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Ord. 913, Secs. 1:15)