

Kansas

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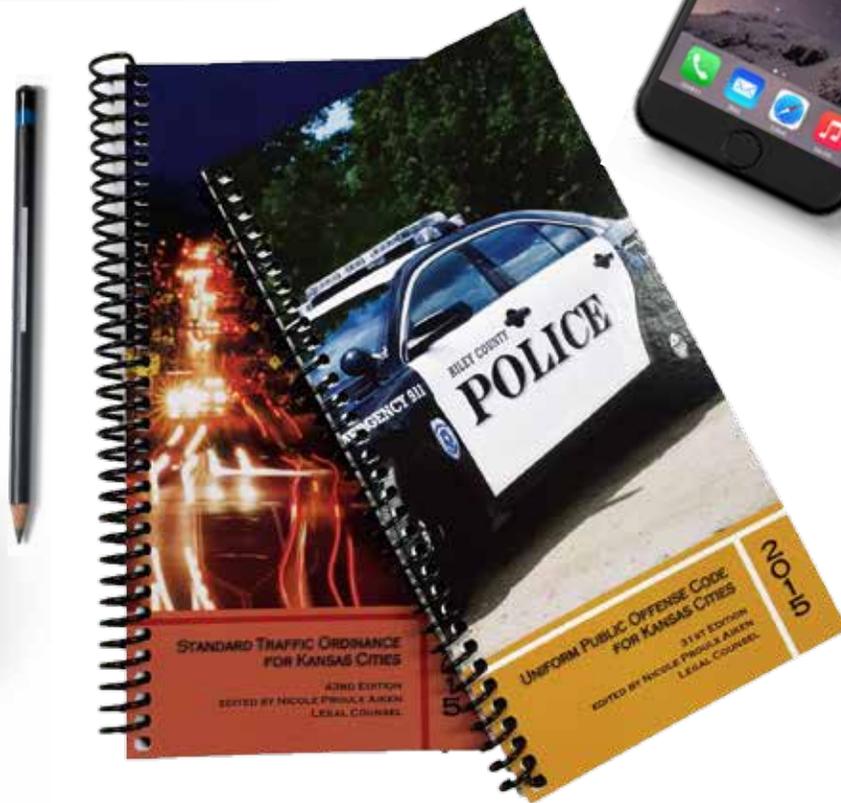


Transitioning to
November Elections

Olathe's "Healthy
Communities" Initiative

Business Perceptions of
Government Regulation





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For more information about the 2015 Standard Traffic Ordinance and 2015 Uniform Public Offense Code book, see page 213.

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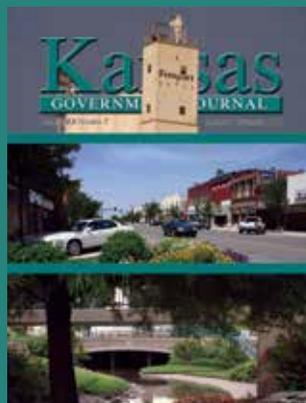
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About the Cover:

A combination of three photos of the overall winners of the League's Voter Turnout Contest. From top to bottom, the cities are: Freeport, Wellington, and Hutchinson. Photos were submitted by the cities.

Kansas

GOVERNMENT JOURNAL

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The mission of the League shall be to strengthen and advocate for the interests of Kansas municipalities to advance the general welfare and promote the quality of life of the people who live within our cities.

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2015 LKM Events Calendar

August

07 - MLA: KOMA/KORA, Kingman

08 - MLA: KOMA/KORA, Columbus

13 - Finance and Taxation Policy Committee, Topeka

18 - Public Officers and Employees Policy Committee, Topeka

19 - Utilities and Environment Policy Committee, Topeka

21 - MLA: KOMA/KORA, Fairway

25 - Legislative Policy Committee, Topeka

September

07 - LKM Holiday: Labor Day

11 - MLA: Economic Development, Hoisington

11 - MLA: Governing Body Meeting, Salina

12 - MLA: Economic Development, Sabetha

Obituaries

Teresa Kay Anderson, 46, died July 16, 2015.

Ms. Anderson was born December 7, 1968, in Shawnee Mission, Kansas, to William and Sharon (Huffman) Lee. She graduated from Gardner-Edgerton High School and then went on to receive a bachelor's degree from Mid-America Nazarene University. Teresa married John William Anderson on March 10, 1989, in Gardner. Teresa worked for Johnson County as the Archives and Records Manager. She enjoyed collecting antique dishes and kayaking locally.

Rex Stewart Darnall, Sr., died June 24, 2015.

Rex met his wife, Janet Tschudy, in 1941, and they were married for 41 years. They had three children, Susan, Stewart and Jeannette Darnall. His life-long career was as a builder. He was also a member of the Shawnee Mission Rotary, was the Mayor of Mission Hills, a council member for 18 years, and was a longtime member of Jolly Timers Outdoor Club. Mr. Darnall was an avid sportsman, and he enjoyed golfing, fishing, and hunting.

Howard T. Hammond, 85, died May 31, 2015.

Mr. Hammond married Lois M. Houdashelt on June 10, 1948, in Newton, Kansas. He graduated from Agenda High School 1948. Mr. Hammond worked for American Salt in Lyons, Kansas, for 40 plus years as a Territory Manager. He was a member of the Lutheran Church in Clay Center; a member of the Masonic Lodge; Moose Lodge; Elks Lodge; and served as mayor of Agenda for 12 years.

Director's Foreword

by Erik Sartorius



As this issue reaches you, I have just returned from attending the annual meetings for state league directors and deputy directors. These meetings provide a great opportunity to exchange ideas and gather solutions to common challenges. This year, we met in Detroit, a city that has certainly seen its share of issues the

past few decades. While its population is not on scale with cities in Kansas, it was interesting to gain an understanding of how the city and its public and private partners are working to turn around that community.

Right on the heels of my return from Detroit, our first policy committee meetings have been held. It isn't too late to join a committee for this year. Please contact Anna DeBusk at adebusk@lkm.org or 785-354-9565 to sign up. Registration forms and committee descriptions can be found at www.lkm.org.

Most cities are on the cusp of wrapping up their budget process for the year. The policies driving your budgets and the employee follow-through to implement those policies and programs, however, continue throughout the year.

How do you know you are providing the right mixture of infrastructure, programs, and services? The best way, of course, is to ask the consumers of these elements - your residents and businesses. At a minimum, you should be in frequent contact with your residents and businesses gathering anecdotal information about the city's services and overall operations. Depending on the size of your city, you may engage in formal surveying of residents and businesses.

As you engage your residents, are there some services you are providing that are seen as unnecessary? Some programs that you hear are ineffective? Probably. Are those perceptions from the public correct? This is the question which requires additional sleuthing.

Most of us narrowly look at the world and form our opinions based on our own immediate needs and experiences. Direct users of a program or service may see it as vital, while constituents that do not directly benefit may see it as a frill. Telling your residents what the city is doing is also an important way to inform those residents

who are not direct beneficiaries of certain infrastructure or programs. How you share information concerning city programs is important, and next month I will spend some time discussing the concept of storytelling in government.

In addition to asking your constituents about your city's service and performance, considering overall best practices in city operations can also be instructive. For this issue of the *Kansas Government Journal*, we have an adaptation of an article I read a few months ago. Wichita State University partnered with the Kansas Policy Institute, a free-market think tank organization based in Wichita. They engaged the business community in the Wichita area to understand common areas of frustration with state and local government regulation.

Hearing what one may be doing "wrong" is rarely enjoyable, but taking a moment to really listen can drive significant improvement in your organization. I know many in local government look at KPI with varying degrees of consternation, but accept my challenge to read what Nancy Snyder and WSU learned in their engagement of that area's business community.

I feel that I have already given you a lengthy "to do" list in this month's column, but I have one more request of you before I wrap up. Please submit to us nominations for the E.A. Mosher Excellence in Local Government Award. Nominees should be elected local government officials who have had a significant impact on the quality of life of their cities, contributing to promoting intergovernmental relations in their area, and be involved with the League. (See full nominee requirements at [lkm.org/excellence/.](http://lkm.org/excellence/))

I know many of your cities have been submitting your service award orders to Anna DeBusk in our office. What you may have missed in our June magazine is that this year Anna isn't only processing these awards, but she is receiving one! Anna is celebrating 40 years with the League this year. It is an amazing accomplishment, and one that we have enjoyed celebrating with her. Look for her at the conference in October, and please take a spare second to offer your own "congratulations" in person.

Please let me know if you have any questions or comments – I'd love to hear from you: esartorius@lkm.org or (785)354-9565.

Best Practices

by Michael Koss

Transitioning to November Elections

This year, the Kansas Legislature passed HB 2104 (the Act), which moved city elections from April of odd-years to November of odd-years. Because the Act is a compromise version of multiple bills, it contains numerous ambiguities and contradictions. This article provides guidance on what cities should do to comply with the Act and to adjust for the timing changes.

Timing, Terms, and Primary Elections

Three subsections of the Act authorize cities to continue using numerous combinations of staggered or non-staggered terms:

- L. 2015, ch. 88, sec. 7(c) requires that cities establish by ordinance the terms of office of their elected officials;
- L. 2015, ch. 88, sec. 9(c)(2) allows governing bodies to establish by ordinance terms of two, three, or four years; and
- L. 2015, ch. 88, sec. 7(h) allows cities to hold elections in November of even-numbered years for the purposes of staggering elections or to establish three-year terms of office.

Whatever election cycles a city establishes, terms of office must now begin on the second Monday in January following the certification of the election.¹ Previous language from K.S.A. 25-2120 stated that these terms began at the “first regular meeting of the governing body following certification of the election results.” If your city has incorporated this statutory language into an ordinance, that ordinance should be changed to reflect the new commencement date. Since commencement is now tied to a specific date rather than a meeting, it may also be appropriate for cities to amend their regular meeting ordinance. Creating an additional regular meeting on the second Monday in January following certification of an election would allow all newly elected officials to take their oaths of office on the day that their terms begin. Alternatively, cities could call a special meeting on that date, specifically for newly elected officials to take their seats.

Many cities of the second and third class have chartered out of K.S.A. 14-201, K.S.A. 14-1204, K.S.A. 15-201, and K.S.A. 15-1302 to change the length or stagger the terms of their governing body.² Cities do not need to change these charter ordinances unless they specifically reference an April election. If the charter ordinance does reference April, the city should amend it to reflect the November election date. Cities of the first class should also amend their ordinances to reflect this change. For cities that do not have any ordinance or charter ordinance establishing the terms of office for their governing body members, the Act requires the city to adopt an ordinance establishing terms.³ The League has developed several

model ordinances for this purpose, which you can view at <http://www.lkm.org/resources/ordinances/elections>.

Some cities have passed charter ordinances exempting themselves from the provisions of K.S.A. 25-2107 in order to hold elections in April of even-years, and/or exempted themselves from K.S.A. Supp. 25-2108a to avoid holding a primary election. Because K.S.A. 25-2101, *et seq.* has been made uniform by the Act, it is the League’s opinion that these charter ordinances are now repealed.⁴ For cities that have held elections in April of even-years, the League recommends that they pass an ordinance establishing a new election cycle using either odd-year or even-year November elections. For cities that had exempted themselves from the statutory primary election rules, they now must comply with K.S.A. 25-2108a. For cities with odd-year elections, that have also adopted ordinances incorporating the old April odd-year election language in K.S.A. 25-2107, these ordinances should be amended to reflect the changes to the statute.

The Act authorizes cities to hold partisan elections after passing an ordinary ordinance. However, the Hatch Act prohibits federal employees and active duty military officers from running for partisan offices. Changing to partisan elections would also impact a city’s primary election process. Any city considering holding partisan elections is encouraged to call the League to discuss these issues.

Transitions

Once a city establishes terms, it needs to consider how current office-holders will transition their terms to the new election cycle. The Act only contains one section controlling term transitions. L. 2015, ch. 88, sec. 7(a) states that terms that would have ended in April 2017 will now end in January 2018, when the officials elected in the November 2017 general election take office.⁵ The Act does not address the transition for city officials whose terms end in April 2016, 2018, or 2019. It is the League’s opinion that, because all filing deadline and primary election statutes accommodating spring elections have been amended or repealed, cities that previously held even-year elections do not have the authority to hold a final April general election in 2016. The League is considering introducing legislation next session that will extend officials’ terms that end in April 2016, 2018, or 2019, until the January of the following year when those elected in the November general election take office. However, it’s not certain that that legislation will pass, and even if it does, it may not be in time to deal with those officials whose terms would have ended in April 2016.

Because a legislative solution is uncertain, it may be advisable for cities with terms ending in April 2016 to use the authority in L. 2015, ch. 88, sec. 7(c) to pass an ordinance extending those terms to January 2017 (if the city wants to stay on the even-year cycle) or January 2018 (if the city wants to move those terms to the odd-year cycle).⁶ This extension should be included in the same ordinance that establishes or amends the terms of office of the elected officials.

Cities could also choose to do nothing, and the current office-holders would continue in office until the next election for that office.⁷ *Murray v. Payne*, 137 Kan. 685 (1933), explains that, where the legislature has changed municipal terms of office so that there is an interim period between when one term was to end and the new term is to begin, the current office-holders continue in office until the newly-elected officials take office. Therefore, if no action is taken regarding the extension of terms for elected officials whose terms were to end in April 2016, those officials will continue in office until the term commences for the next person elected to that position (the commencement date would be determined by the city's ordinance). The same rule applies to officials whose terms end in 2018 or 2019 – an ordinance can be passed extending their terms, or the city can do nothing, and the officials will continue in office until the term commences for the next person elected to that office.

Some officials have expressed concern that action taken by officials during these interim transition periods will not be binding, which could expose cities to potential litigation from parties seeking to invalidate governing body actions during this period. Luckily, the Kansas Supreme Court has already addressed this issue. In *Hale v. Bischoff*, 53 Kan. 301 (1894), the Court stated that, “[a]n officer whose official term has expired, but who remains in possession of the office, having full control thereof and exercising the functions of the same, is an officer de facto, and all of his acts, within the limits of his official power, are valid as respects the public and third persons.” Therefore, cities should not worry that action taken during these interim periods could be invalidated by subsequent litigation.

Appointments and Statement Of Substantial Interests Deadlines

Several city officials have pointed out that the new term commencement dates no longer correspond to appointment dates for city officers. However, only mayor-council cities of the third class are required to make appointments during a specific month. K.S.A. 15-204 states that appointments for these cities are to be made “at the first regular meeting in May of each year...” For cities that have chartered out of this statute, it may be advisable to amend the charter ordinance so that the appointment date is the first regular meeting in February (or whatever month the council chooses). For mayor-council cities of the third class that have not chartered out of K.S.A. 15-204, or do not plan on doing so, appointments should continue to take place at the first regular meeting in May. The League is considering introducing legislation to amend this statute so the appointment month corresponds to the new commencement day for elected officials.

For mayor-council cities of the second class, and commission cities of the second and third class, state statutes do not designate a specific month for appointments; they only designate that the terms of appointed officers be for one year.⁸ However, since those appointments likely have taken place during meetings in April or May in the past (depending on the city's ordinance), without action, new officials who take office in January would now have to wait three to four months to vote on renewing the city appointee's one-year terms. Any cities that have not chartered out of these statutes may want to consider amending their ordinances so that appointments take place at a regular meeting in February (or whatever month works best for the city). Once that change is made, the end of the current appointee's one-year terms in April or May can simply be ignored, so those officials continue in office as “holdovers” until the next, newly-established February appointment meeting. Cities of the first class that have not chartered out of K.S.A. 13-527 must establish terms of city officers by ordinance, so they may need to consider a similar ordinance amendment and transition process.

Another statute that was not changed to correspond to the new election cycle is K.S.A. 75-4302a, which requires that statements of substantial interests be filed:

- By an individual appointed on or before April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of that year.
- By an individual appointed after April 30 of any year to fill a vacancy in an elective office of a governmental subdivision, within 15 days after the appointment.
- By any individual holding an elective office of a governmental subdivision, between April 15 and April 30, inclusive, of any year if, during the preceding calendar year, any change occurred in the individual's substantial interests.

These dates continue in effect even though they no longer correspond with municipal election dates. The League is considering legislation to amend the dates in this statute.

Filing Deadlines and Requirements

The Act also contains numerous changes to candidate filing requirements. Unfortunately, it has contradictory language regarding the new candidate filing deadline. Read together, L. 2015, ch. 88, sec. 15(b) and L. 2015, ch. 88, sec. 15(c) seem to indicate that, for cities meeting the primary election thresholds in K.S.A. 25-2108a, the candidate filing deadline is June 1, and for cities not meeting the thresholds, the filing deadline is September 1. However, L. 2015, ch. 88, sec. 52 of the Act states that the filing deadline for all city candidates is June 1.⁹ The League believes the intent was for L. 2015, ch. 88, sec. 52 to apply only to cities required to have a primary election under K.S.A. Supp. 25-2108a. We are seeking

clarification on this issue from the secretary of state, pursuant to his authority under L. 2015, ch. 88, sec. 15(d) and L. 2015, ch. 88, sec. 15(g). However, until that occurs, or there is legislation resolving the conflict, cities should operate under the assumption that the filing deadline for all city candidates is June 1.

The Act also changed rules for the notification of vacant offices, candidate filing fees, where candidates must file for office, and nomination petitions. City clerks must now inform the county election officer of all city offices to be voted on at the next election not later than May 1 of every year that the city has an election.¹⁰ Also, the filing fee for city office is now \$20 for all sizes of cities.¹¹ Additionally, candidates may no longer file through the city clerk's office - all candidate filings must take place at the county election office.¹² Finally, cities must establish by ordinance the number of qualified electors of the city that must sign a nomination petition.¹³ The League has developed a model ordinance to meet this requirement.¹⁴ Because of the increased filing fee for cities of the second and third class, the League encourages cities to create a low threshold for nomination petitions, so that potential candidates have an inexpensive means of filing for city office.

City Manager Form of Government

To move elections to November for all cities, the legislature repealed what was commonly known as the City Manager Plan Act (the CMPA), which over sixty Kansas cities had used to adopt the city manager form of government. City managers and city attorney's across the state expressed alarm at the repeal of these statutes, and the potential to use ordinary ordinances to overturn voter-approved adoptions of the CMPA for those city governments. The League responded by introducing an amendment recodifying the core parts of the CMPA, and retaining the continued operation of the CMPA for those cities that had adopted it. In L. 2015, ch. 88, sec. 8(a), the League amendment establishes that cities shall continue to operate under current forms of government adopted via an election (which is how cities were required to adopt the CMPA). In L. 2015, ch. 88, sec. 9(a), our amendment makes a city's ability to adopt a new form of government with an ordinance subject to the recodified version of the CMPA, which continues to require an election for adoption. Finally, L. 2015, ch. 88, sec.'s 10 through 12 contain the new language of the uniform CMPA, including provisions requiring that its abandonment can only occur via an election. For these reasons, it is the League's opinion that cities that have adopted the city manager form of government by election now operate under the provisions in L. 2015, ch. 88, sec.'s 10 through 12. If a city desires, it may affirm this fact by stating as much in an ordinary ordinance. The League has developed a model ordinance for this purpose.¹⁵

The savings clause in L. 2015, ch. 88, sec. 8 for existing forms of government also applies to all existing charter ordinances related to a city's form of government. Therefore, it is the League's opinion that cities that have adopted the CMPA via election, but have chartered out of some of its provisions, continue to operate under L. 2015,

ch. 88, sec.'s 10 through 12, and those sections are supplemented by the city's charter ordinances relating to its form of government.

Filling Governing Body Vacancies

The Act also creates new rules for filling governing body vacancies. The intent of L. 2015, ch. 88, sec.'s 71 through 73 is to require cities to hold special elections to fill vacancies in the governing body if those vacancies are not filled within sixty days. However, these sections conflict with a number of current statutes, and there are numerous ways to interpret their effect. L. 2015, ch. 88, sec. 71 requires vacancies in the governing body be filled by a majority vote of its remaining members if a city does not have a policy to fill governing body vacancies. This directly conflicts with K.S.A. 15-201, which requires that mayors in mayor-council cities of the third class fill vacancies with the consent of the council. The League has identified two different ways to interpret L. 2015, ch. 88, sec.'s 71 through 73:

- Treat these sections as a separate, standalone vacancy-filling process, which would allow cities to choose to use them OR ignore them and use the city's own vacancy-filling process or the statutory process for its respective class and form of city. If the city chose the latter interpretation, it could ignore the special election requirement for vacancies not filled within sixty days; OR
- Read L. 2015, ch. 88, sec.'s 71 through 73 together with existing vacancy-filling statutes. Under this interpretation, cities may fill their vacancies using their own procedure for filling vacancies (or, if none, a majority of the remaining governing body members), and if the vacancy isn't filled after sixty days, a special election must be held to fill it.

The League anticipates that L. 2015, ch. 88, sec.'s 71 through 73 will be codified in a non-uniform article of the statute books, and we encourage cities to consider chartering out of their requirements.

Conclusion

Ending 154 years of spring elections will be a cumbersome process for many cities, but the legislature has created several mechanisms to deal with the move to November. We hope this article provides useful guidance for your city's transition, but if you have any questions, please do not hesitate to contact the League or your city attorney.

 *Michael Koss is Legal Counsel & Member Services for the League of Kansas Municipalities. He can be reached at mkoss@lkm.org or (785) 354-9565. He would like to thank the League staff and city officials who contributed to the creation of this article.*

**You can view the sources for this article on the next page.*

Actions required of cities by the Act

- If an ordinance, charter ordinance, or city code section states that the commencement date of terms of office for elected officials is the “first regular meeting of the governing body following certification of the election results,” it should be changed to “the second Monday in January following certification of odd-year elections” (or even-year elections, if the city chooses to have an even-year cycle).
- Any ordinances, charter ordinances, or city code sections that reference an April election should be amended to reflect the new November election day.
- For cities that do not have any ordinance or charter ordinance establishing the terms of office for their governing body members, the Act requires the city to adopt an ordinance establishing their terms.
- Cities that have held elections in April of even-years should pass an ordinance establishing a new odd-year November or even-year November election cycle.
- City clerks should update their annual calendars to reflect the new May 1 deadline for notifying county election officers of all city offices to be voted on at the next election every year that the city has an election.
- Cities must establish by ordinance the number of qualified electors of the city which must sign a nomination petition.

Actions that cities may take to help transition to November elections

- To allow elected officials to take office on the day their terms begin, cities should consider amending their regular meeting ordinance so that there is a regular meeting held on the second Monday in January following certification of odd-year elections (or even-year elections, if the city chooses to have an even-year cycle).
- Since charter ordinances exempting cities from the primary election rules in K.S.A. Supp. 25-2108a are now ineffective, to reduce confusion, the city should consider repealing those charter ordinances.
- For mayor-council cities of the third class that have chartered out of K.S.A. 15-204, it may be advisable to amend the charter ordinance so that the appointment date is the first regular meeting in February (or whatever month the council chooses).
- Mayor-council cities of the second class, commission cities of the second and third class, and cities of the first class that have not chartered out of K.S.A. 13-527, should consider amending their ordinances so that officer appointments take place at a regular meeting in February (or whatever month works best for the city). Once that change is made, the end of all current appointee’s one-year terms in April or May can simply be ignored, and the officials can continue in office as “holdovers” until the next, newly-established appointment meeting.
- For cities with terms ending in April 2016, it may be advisable to use the authority in New Section 7(c) to pass an ordinance extending those terms to January 2017 (if the city wants to stay on the even-year cycle) or January 2018 (if the city wants to move those terms to the odd-year cycle). The same can be done for officials whose terms end in April of 2018 or 2019.
- Cities may affirm that they continue to operate under the city manager form of government by passing an ordinance stating as much.
- Depending on where L. 2015, ch. 88, sec.’s 71 through 73 are placed in the statute book, cities should consider chartering out of their requirements.

Potential legislative and regulatory actions by the League

- Potential amendment to K.S.A. 15-204 so that the appointment of city officers occurs closer to the time when elected officials take office.
- Potential amendment to the statement of substantial interest filing deadlines in K.S.A. 75-4302a.
- Potential creation of term extensions for officials whose terms are to end in April of 2016, 2018, or 2019, until January of the following year when those elected in the November general election take office.
- The League will seek clarification from the Secretary of State regarding the apparent conflict between L. 2015, ch. 88, sec. 15(c) and L. 2015, ch. 88, sec. 52.

Find sample documents to help with your city’s transition at <http://www.lkm.org/resources/ordinances/elections>

- Sample ordinances establishing terms of office, and sample ordinances and resolutions extending terms of office.
- A sample ordinance establishing the number of qualified electors of the city which must sign a nomination petition.
- Sample ordinance affirming that a city continues to operate under the city manager form of government.

Sources

1. L. 2015, ch. 88, sec. 57.
2. For example, to lengthen terms from two to four years, with three council members elected in one year and two council members and the mayor elected two years later.
3. L. 2015, ch. 88, sec. 7(c).
4. *See generally Bigs v. City of Wichita*, 271 Kan. 455 (2001) (discussing the Legislature’s ability to make a nonuniform state law uniform by amending the nonuniform provision, and that any charter ordinances opting out of those statute are repealed).
5. *See generally Murray v. Payne*, 137 Kan. 685 (1933) (discussing the Legislature’s power to require incumbent city officials holding four-year terms of office to continue in office until the next city election).
6. *See generally Molinari v. Bloomberg*, 564 F.3d 587 (2d Cir. 2009) (discussing the authority of municipalities to extend the terms of sitting elected officials).
7. *But see Wilson v. Clark*, 63 Kan. 505 (1901) (indicating that cities may have Home Rule authority to declare offices with interim terms as vacant).
8. *See* K.S.A. 14-201, K.S.A. 14-1501 and K.S.A. 15-1601.
9. A similar reference is made in L. 2015, ch. 88, sec. 7(d), but its reference to K.S.A. 25-202 appears to be a drafting error.
10. L. 2015, ch. 88, sec. 56.
11. L. 2015, ch. 88, sec. 7(f); L. 2015, ch. 88, sec. 29(i).
12. L. 2015, ch. 88, sec. 53(a).
13. L. 2015, ch. 88, sec. 53(b).
14. <http://www.lkm.org/resources/ordinances/elections>
15. <http://www.lkm.org/resources/ordinances/elections>

City of Leawood Adds *LEAWOOF* to Park System

by Christine Claxton



Photos provided by Christine Claxton.

On October 1 of 2014, the City of Leawood opened its first Dog Park, *LEAWOOF*. The 5+ acre facility is located at the far eastern edge of City Park, which also includes the Aquatic Center, soccer fields, tennis courts, shelters, public art, and a playground.

Located in a pristine meadow just off the Indian Creek Trail, *LEAWOOF* includes separate areas for both large (over 25 pounds) and small dogs. There are three covered bench seating areas and a water fountain for both dogs and humans surrounded by trees. Future additions include two more benches and dog agility stations funded by private donors to the Leawood Foundation.

“The dog park has been a tremendous success,” says Chris Claxton, Director of Parks and Recreation for the City of Leawood. “Since the park opened, we have been averaging nearly five hundred dog visits per day; and it is such a wonderful addition for Leawood residents and their pets.” The land was donated by Hallbrook Office, LLC, so no public monies were spent for land acquisition. In

addition, the parks maintenance department was able to do much of the work getting the park ready, including clearing dead or diseased trees, removing invasive plants, trenching in the water line, seeding the open areas, and building the perimeter fence, which saved the City thousands of dollars. “This was definitely a community effort from the land donation to the fundraising efforts that are still in progress,” said Claxton. “We want to make sure those who visit *LEAWOOF* have the best experience possible.”

A special event just for the dogs is planned for the fall of this year. The park is open daily (weather permitting) from sunrise to sunset. For a complete list of rules and regulations, and to get information about future plans and events, please visit the City’s website at <http://www.leawood.org/Parks/dogpark.aspx>

 *Christine Claxton is the Director for the Leawood Parks & Recreation Department. Christine can be reached at chrisc@leawood.org or (913)663-9151.*



Business Perceptions of the Impact of Kansas State and Local Government Regulation

by Nancy McCarthy Snyder PhD, Principal Investigator, with assistance from Mark Bowman, Misty Bruckner, and Paula Downs, Facilitators

In 2014, the Kansas Policy Institute contracted with the Hugo Wall School (HWS) of Public Affairs at Wichita State University to collect and analyze information about the perceptions and attitudes of businesses in metropolitan Wichita toward state and local government regulation. The purpose of the project was to identify specific regulations that impede or support business activity in order to inform policy makers about possible changes.

Methodology

The study involved data collection on existing state and local government regulations in metro Wichita, interviews with key informants in the business and regulatory communities, and focus groups with business owners and managers.

Background

Most academic literature on the impact of regulation has focused on federal regulation or on specific industries. There is very little research that focuses on state and local government regulation generally. Theoretically, business regulations can generate either positive or negative effects on local business establishment and economic development. On the plus side, government regulation can serve public interest, protect property rights, prohibit illegal or unfair competition, and encourage efficient use of resources through appropriate zoning. On the negative side, regulations may become an impediment to economic development, especially for small businesses and minority entrepreneurs given that some

compliance costs or license applications can be prohibitive. Licensing requirements and other regulations can also pose barriers to entry and reduce competition. Another negative consequence of regulation is known as “regulatory capture,” a situation in which regulators become so closely aligned with the regulated industry that they serve industry interests at the expense of public interest. Empirical evidence on regulatory capture is limited, however.

The Mercatus Center at George Mason University compiles a list of business regulations in each of the 50 states and annually ranks them on their regulatory environments. In its most recent report (2014), Kansas ranks 10th among the 50 states in the level of business regulations. (Rank 1 is considered the least level of regulation and rank 50 is considered the highest regulation level.) Mercatus specifically states that Kansas’s local zoning is the least officious in the nation, labor laws are light (there is a right-to-work law, no minimum wage, and reasonable workers’ compensation laws), cable franchising is in place, occupational licensing is low (but nurse practitioners are not allowed to practice independently), there is no certificate-of-need (CON) law, property/casualty insurance regulations are moderate, and the court system is much better than average. (Mercatus, 2014)

For the last three years, Thumbtack, in partnership with the Ewing Marion Kauffman Foundation, has produced a Small Business Friendliness Survey (Thumbtack, 2014) to assess state and local business environments. States are graded on the basis of overall business friendliness, ease of starting a business, ease of hiring, training and networking programs, and various regulations including

health and safety, employment, taxes, licensing, environment, and zoning. For 2014, Kansas received a grade of B. The state got very high marks for the friendliness of its licensing laws, zoning, labor laws, and general regulatory environment.

Findings

The purpose of this research project was to collect information on business perceptions of the regulatory environment in the Wichita metropolitan area and to identify specific regulations that might be changed to improve business operations. The findings reflect the views of key stakeholders and focus group participants. The following is a summary of broad issues and common themes that were identified.

- Focus on the end rather than the means. Most participants indicated support for the intent of most regulations, e.g. the agricultural participants expressed strong support to keep groundwater free of contamination. However, there was frustration with the restrictive methods and failure to consider alternative implementation ideas.
- Stakeholders input. An overriding theme in all focus groups was the need to involve stakeholders in the development of the regulations. There was strong consensus that regulations would be more successful in accomplishing their intentions if stakeholders were allowed to contribute industry knowledge and technical expertise.
- Assistance for compliance. Most participants indicated the need for assistance to meet regulatory requirements. Compliance is particularly difficult for small businesses and start-up firms that lack the experience and resources to navigate the system.
- The volume of information can be overwhelming. Compliance is made more difficult by the amount and complexity of the regulations. Finding ways to simplify the regulations, reduce redundancy, and eliminate conflicting rules could improve outcomes.
- Unpublished guidelines. Participants complained that there were too many “unwritten rules,” particularly at the state level. These lead to uncertainty, inconsistency and frustration.
- Continual review and engagement. Stakeholders believed that compliance and successful implementation of the intent of the regulations could be improved with a continual review process and stakeholder involvement. Currently, there is no way to address issues or improve the regulatory process. Developing a system of review and stakeholder engagement would improve the purpose of the regulations.



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- Time is money. All research participants indicated the need to simplify the regulatory process to reduce the amount of time stakeholders spend on compliance issues. Some suggestions include: improve the written communication, reduce the number of compliance forms, streamline the inspection process and schedule, and identify resources and alternatives. Anything that can be done to reduce the amount of time on regulatory issues means more time stakeholders can focus on running their business. The old adage of “time is money” was a constant theme.
- Build relationships. There were several examples of the need for regulators and stakeholders to build relationships. Participants could identify times regulators worked with stakeholders to address the intent of the regulations, as well as examples where regulators approached the job with an adversarial mindset. Identifying ways to build relationships to ensure the purpose of the regulation is at the center of decisions is important for future success.
- Land development restrictions. Building codes are considered appropriate, but land development restrictions such as zoning, drainage, and grading, are unpopular with real estate developers. Plan reviews at the Metropolitan Area Planning Department can be slow and expensive, which can hinder weather-related timelines.
- It’s the regulator, not the regulation. A dominant theme from interviews and focus groups was that while regulations may be appropriate and reasonable, inconsistent interpretation and enforcement lead to uncertainty. Participants noted a “guilty until proven innocent” mindset. There is a need for better training for inspectors with on-going periodic review of decisions to insure consistency. Leadership that creates a culture within regulatory agencies that emphasizes collaboration and public good while de-emphasizing punitive attitudes should be encouraged.
- Government should practice what it preaches. A number of participants commented that government does not hold itself to the same standard that it imposes on private enterprise. Examples include noxious weed enforcement, public fountain maintenance, site lighting, and mowing.

The most common targets of business frustration with regulation are federal, particularly the Environmental Protection Agency, the Occupational Safety and Health Administration, Americans with Disabilities Act, and federal financial regulators. To the extent that state government is responsible for enforcing some federal regulations, it is advisable to review state interpretation of federal rules and make sure that policies are being appropriately and consistently enforced. This is particularly true for regulations applied to agriculture.

The most significant concerns of local businesses are stability and predictable costs. Businesses can adjust to any regulatory environment, but costs increase accordingly and uncertainty stifles investment and innovation. Businesses are particularly sensitive to the costs created by changing rules mid-project. Lead times on new regulations or interpretations of existing regulations should be reasonable and respectful of project timelines.

Given that Kansas ranks fairly high in ratings of business regulation, the most productive course of action for public policy appears to be establishment of formal avenues of conversation between regulated businesses and regulators. These conversations must take a form that goes beyond the traditional public hearing or public input on proposed regulation. The conversations might also expand to regional offices of federal regulatory agencies. It is possible that further investigation into state and local interpretations of federal regulations that businesses find particularly onerous might prove beneficial.

There will always be conflict between the interests of private businesses motivated to maximize profits and the public interest designed to promote competition and correct market failures to improve economic efficiency. Differences of opinion are a strength of a democratic system. The challenge is to create effective working relationships between public regulators and regulated businesses while avoiding the threat of regulatory capture. Public scrutiny is the most effective means to insure balance of competing interests and effective public policy.

 Nancy McCarthy Snyder, PhD, is the Director for the Wichita State University Hugo Wall School of Public Affairs. Nancy can be reached at nancy.mccarthy-snyder@wichita.edu.

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Endnotes

1. These include starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency.
2. Singapore, New Zealand, Hong Kong, Denmark, South Korea and Norway ranked 1-6.



Olathe's “Healthy Communities” Initiative

by Sarah Alig

In April of this year, the Alliance for Innovation recognized the City of Olathe for its “Healthy Communities” Initiative for “Outstanding Achievement in Innovation” at the annual Transforming Local Government Conference. This initiative is a collection of highly replicable programs that the City organizes or supports that seek to foster community engagement and increase awareness and involvement in a conversation about healthy eating, healthy living, and healthy activity. Olathe’s “Get Active” program, Community Gardens, and Communities That Care (CTC) Coalition bring together community members to address stakeholder concerns, which include unused green space, sedentary lifestyles, and access to drugs and alcohol.

What is the “Healthy Communities” Initiative?

The Initiative is comprised of three separate, flexible, and interactive programs that are designed to be very responsive to the changing and diverse needs of participants. First, the “**Get Active**” component uses a fun points system to encourage residents to attend community events, access online resources for healthy choices, and learn life-saving techniques such as CPR. “Get Active” has no mandatory registration component. Instead, all residents are welcome to participate and eligible to receive the benefits of each program without providing before-and-after assessments or personal information.

Although a few small gardens existed prior to 2013, the second component, the **Community Garden** collaborative effort, has created a network of community gardens throughout the city of Olathe. More than sixty gardeners visit their plots freely, without having to report usage or production. They consume what they produce and donate the surplus. The gardens produce approximately a ton of fresh food each year. Gardeners also meet regularly and host educational and social programs for the broader community. Program costs for Community Gardens include initial preparation

of the land. The only cost associated with Olathe CTC is staff time away from their daily work when they attend meetings and events and the costs associated with any of the projects/programs that are implemented. Olathe’s Special Alcohol Tax and a grant through the Kansas Department of Aging & Disability Services (KDADS) fund all costs. Members advocate for community gardens, share resources, and teach healthy eating practices.

Finally, the **Communities That Care Coalition**, conceived in 2008, is a group of community members working to address substance abuse in adolescents by inviting a wide variety of stakeholder groups to identify priorities and brainstorm solutions. Although CTC relies heavily on data from student surveys and regional studies in their goal-setting and decision-making processes, coalition members serve without an expectation of immediate gratification, and understand that their efforts contribute to a vision of long-term cultural shift in adolescent consumption.

Innovation and Collaboration

Participating citizens are the primary initiators and continue to be leaders and administrators of each of the three programs. Each program within the initiative is based off community conversation and is adaptive to stakeholder interest and need. The programs emerged as a result of community interest and a need for facilitation and consolidation of existing efforts. As a result of the City’s participation, stakeholder groups gain access to content experts, communication strategies, and relevant resources, such as training and materials.

As an illustration of this organic development, the first garden plot was established independently in the fall of 2003, and in 2013, the City of Olathe, Olathe Medical Center, K-State Extension, and members of the faith community entered into a Community Garden Partnership in order to optimize resource use and celebrate citizen engagement. Today, gardens exist on both public and

private land and users come from all over the City to plant in over sixty individual plots. By incorporating it into the “Healthy Communities” Initiative, the City has been able to support the expansion of the garden partnership and promote healthy lifestyles and collaborative behaviors among residents.

Challenges and Opportunities

The two most significant obstacles that “Healthy Communities” has faced are communication and measurement. In order to overcome communication challenges, initiative administrators embraced external communication devices, such as the Parks and Recreation Activity Guide, the City newsletter, ‘the Link,’ and press releases.

The question of measurement remains, and its resolution will shape the next phase of this initiative. As a result of the first phase, this initiative has expanded relationships and encouraged collaboration with the intent of embracing citizen engagement. As such, administrators have emphasized responsiveness as a priority over intervention measurement. In the future, tools such as registration requirements and outcome assessments will be helpful in measuring success in terms of both participation levels and program validity.

Because “Healthy Communities” is entirely driven by citizen interest and is so responsive to customer need, the City has been reluctant to implement the sorts of administrative obstacles that would be required to provide baseline data. In order to maintain responsiveness, encourage engagement, and enable involvement, these programs embrace an approach that is driven more by participation and interest than performance measurement. Although the three programs included under the umbrella of the “Healthy Communities” initiative focus on the three target areas of healthy eating, living, and activity, the true purpose of the initiative is to encourage citizen engagement. Accordingly, the best outcome is increased participation and positive feedback. For example, the initiative has responded to citizen interest by expanding community gardens in Olathe from one garden in 2003 to six in 2014. Each of the sixty available plots is in use, and there is a small waiting list for interested parties.

We celebrate this initiative for its success in maintaining community support, interest, and awareness, as demonstrated by ever-increasing rates of participation.

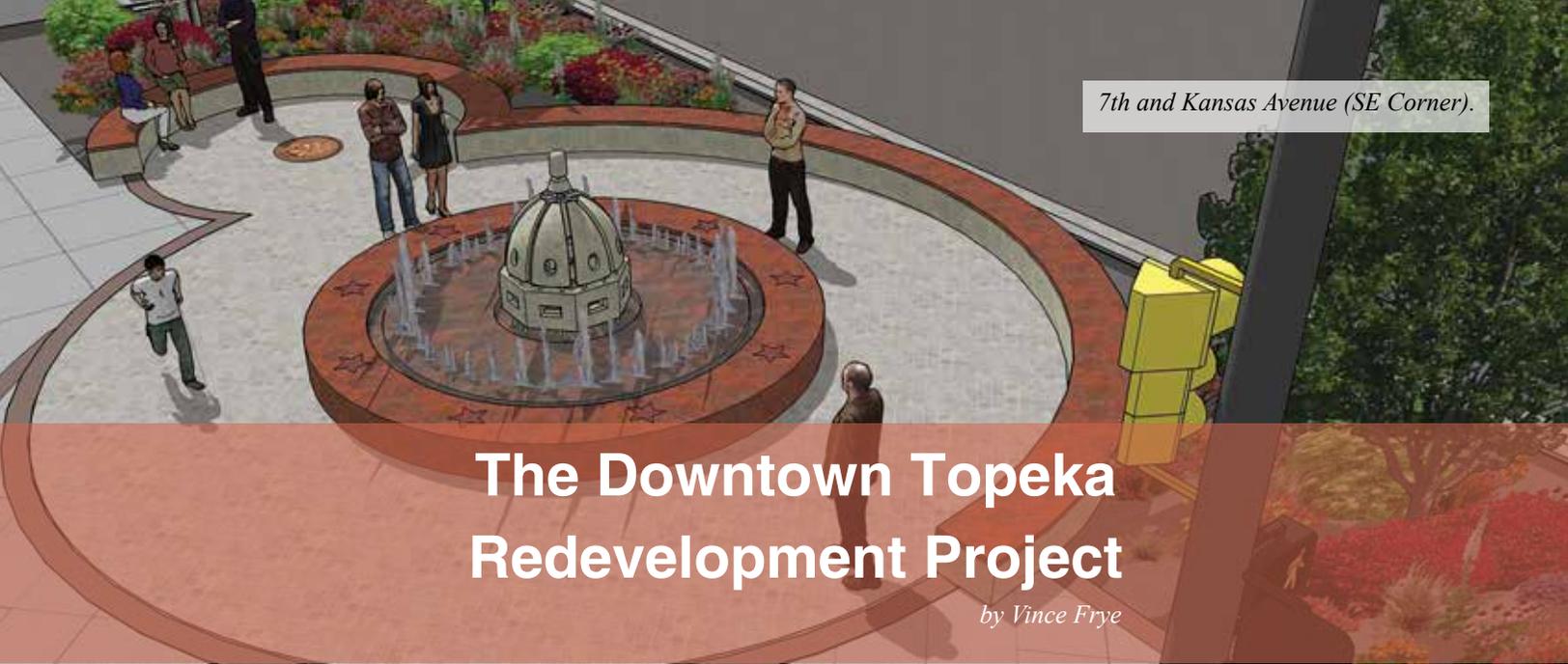
How “Healthy Communities” Can Help You

Each component of Olathe’s Healthy Communities three-part initiative is independent, inexpensive, and universally relevant. Because they operate independently of each other, they are potentially replicable within other jurisdictions which may choose one component or the other to best serve their communities. Although each component requires a high level of community ‘buy-in’ and collaborative participation, they are very straightforward and simple to operate. There would be little need for adaptation or modification beyond selection of partners and identification of need. Representatives from a diverse array of stakeholder groups participate in “Get Active,” community gardening, and the CTC coalition. Since each program associated with the “Healthy Communities” initiative emphasizes community engagement as a priority, there are few costs beyond staff time and program infrastructure, most of which are covered by grants and donations.

This innovative initiative embraces community engagement and citizen leadership. Community members, not politicians or government officials, lead the conversation and take ownership in increasing awareness and involvement. “Healthy Communities” encourages private innovation and ownership in creating and maintaining a healthy community by connecting stakeholders to content experts and relevant resources.

 Sarah Alig is the former the Management Analyst Intern for the City of Olathe. The City can be reached at (913)971-8700.





The Downtown Topeka Redevelopment Project

by Vince Frye

Downtown Topeka is undergoing its biggest redevelopment project in decades. Kansas Avenue will look completely different with a newly designed street, as well as new dining, retail, and residential opportunities for the community and visitors to enjoy.

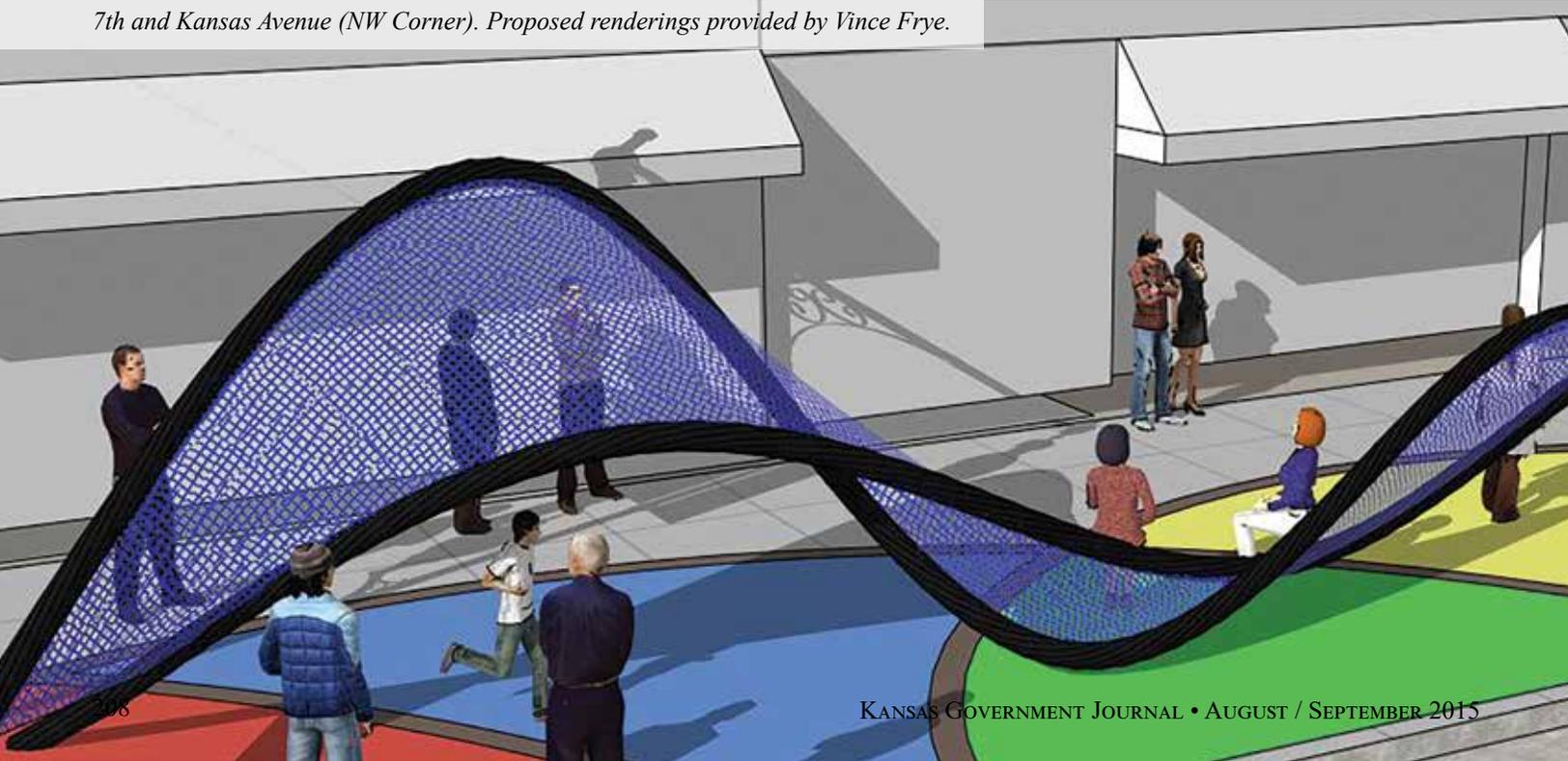
The multi-million dollar project is the result of Topeka’s 2008 visioning process. Thousands of citizens met over several months to discuss and prioritize the needs of the community. Out of those meetings, a revitalized downtown was selected as the top priority. Topekans attended charrettes and shared ideas on what downtown should include.

After several years of planning and revised designs, the Topeka city council approved funding in December of 2012 to replace the aging infrastructure on Kansas Avenue from Sixth to Tenth

Street. The last streetscape project for downtown was in 1987, leaving the current sidewalks, curbs, medians and streets in need of significant updating and repair. Beneath Kansas Avenue exist water, gas, and sewer lines estimated to be 75 to 100 years old. In the redevelopment plans, sidewalks will be widened and the street reduced from five lanes to three. New water and power lines, and storm sewers will create an updated infrastructure.

This decision by the City was truly significant in making the project a reality. However, the citizens had a desire for more than just new infrastructure. With the City’s approval, the private sector began a fundraising campaign to raise \$1.8 million for enhancements to the City’s project. Through the Downtown Topeka Foundation, a 501(c)3 entity administered by Downtown Topeka, Incorporated, a group of community leaders has successfully raised over \$2.9 million for the project.

7th and Kansas Avenue (NW Corner). Proposed renderings provided by Vince Frye.





700 Block (East Side).

Construction on this public/private partnership project began in May of 2014 with the infrastructure improvements starting on the east side of Kansas Avenue and finishing on the west side this September. The private sector enhancements will begin soon and the entire project should be complete by spring 2016.

Among the private sector enhancements are eight pocket parks, pavilions, mid-block arches, statues of famous Topeka citizens and a scattering of state symbols for children to seek out as they walk the avenue. Donors of \$200,000 or more received the right to design a pocket park representative of their company. As examples, Capitol Federal, BNSF Railroad, Hills Pet Nutrition, Security Benefit, Bartlett and West, Mars Chocolate, Westar Energy, and Fidelity State Bank have designed their pocket parks to include fountains, lighting, seating areas, landscaping, and performance venues.

During the last two years, sixteen buildings on Kansas Avenue have been purchased by local investors with plans to bring new dining and retail to downtown. Demand for lofts and apartments has exceeded availability, and buildings along Kansas Avenue are

being renovated for new residences. To encourage development, the City and Downtown Topeka, Incorporated, partnered to submit a nomination designating the area as a Historic District. The Kansas Historic Sites Board of Review has placed the district on the Register of Historic Kansas Places and has forwarded the nomination to the National Park Service for consideration on the National Register. If approved, qualifying properties can enjoy state and national historic tax credits to assist in their redevelopment.

Downtown has always been the governmental, financial and gathering place for the community. Over 25,000 people work daily in Downtown Topeka. 100,000 attend downtown events annually. 150,000 people are expected to visit our beautiful State Capitol each year. With the redevelopment project, made possible by the public/private partnership, the community's priority of a revitalized downtown will soon become a reality!

 *Vince Frye is the President/CEO for Downtown Topeka, Inc. Vince can be reached at vince@downtowntopekainc.com or (785)234-9336.*





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The Laws of Life

How to Thrive in an Ever-Changing World

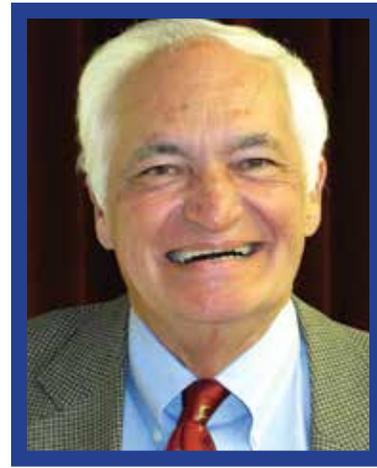
by Dr. Lowell Catlett

The best estimate of the rate of change occurring in the world today is that information is doubling approximately every 11 months. It seems that it gets increasingly difficult for humans to adapt to this rapid change, let alone, thrive and be successful. Yet, history has had periods of rapid change and humans have adapted and thrived - the key is to understand the basic driving forces of humans. These basic driving forces, i.e. the laws of life, manifest themselves in the communities that humans build. Thus, it is instructive of community leaders to understand these laws of individual human behavior to help evolve the communities of tomorrow.

Throughout much of recorded history, humans have spent most of their time just surviving - thus the old adage of “90% of life is just getting by.” However, most Americans (87%) do not live in poverty. Those that do live at or below poverty have to rely upon help from organizations and communities to help them survive. A caring and dynamic community knows that what is necessary to help changes over time - during the 1930s it was food and basic shelter, while today it is affordable housing and school lunch programs. The average person that lives at or below poverty today has more dishwashers, phones, washers, dryers and general appliances that make our lives better than the average American had just one generation ago. In an ever-changing world, great communities know they have to adapt to help those that are just getting by. Regardless of whether or not someone is below poverty or above, the basic laws are: humans need something to do, something to be, and something to love.

Something to Do

Just as breathing is governed by our autonomic nervous system, humans need pattern and constancy in their lives. They need, as is often said, “Something to get up for in the morning.” They need something to occupy their brains and to feel good about. Most people get this aspect of their lives in their work. Work provides the necessary rhythm that humans need. But work in and of itself doesn’t provide all that humans need if it is not satisfying. Most individuals that are happy in their work lives are those that are competent and that competence is evidenced in a job well done. If you are a competent welder but have been put into a management position, your job satisfaction may be very low until you learn how to be a competent manager and/or return to something you feel you are good at performing. Most job dissatisfaction is a result of individuals feeling that they are not competent to do the job well and/or are answering to someone that isn’t a good manager.



Most people develop a high level of competence in areas that they love. There is no substitute for loving something to overcome obstacles. If you love something you are constantly learning and trying new things. You are not put off by events or people that get in your way. And then you arrive at the magical 10,000 hours that is thought to be the level that highly competent people need to be at the top of their game. Numerous studies point out that it is far more important to put in 10,000 of practice/work than to have a “natural” talent. Hard work is the key to becoming highly competent. If you are a highly competent welder then you have generally put in 10,000 plus hours at your profession. If you are now no longer a welder, but a manager of welders, then it will take you about 10,000 hours as a manager to get to a high level of competence with the same dedication to education and learning that you used to be a top welder.

Constantly changing jobs and/or careers can provide something to do on a regular basis, but it can hamper your ability to develop competence. Having something to do is important, but doing the job well is equally important. Humans also have a preference for certainty over uncertainty, with caveats. We can accept and even desire uncertainty within our profession or job if we have the certainty of getting to go to the job. This is partly why being unemployed is stressful (loss of certainty) and why people will stay in a job even though they do not like it - there is certainty and that is preferable to satisfaction. Self-employed people can handle the uncertainty of erratic business as long as they have the certainty going to work on a regular basis.

Hundreds, if not thousands, of books are written yearly about this very issue of good management and job satisfaction, yet the law that governs most of this aspect of people’s lives is simple - people need something to do that has rhythm (the opposite of uncertainty) and competence. It is imperative that communities foster this aspect of people’s lives by aiding and helping in business development. Likewise, for individuals that are retired - they still need something to do, thus they can be a great source of labor for projects and community activities. Many if not most of these retirees would be willing to work part-time and or volunteer their services if there was a structure or organization within the community that concentrated on their needs.

Something to Be

Humans have gazed at the heavens their entire existence on this planet and instinctively recognized that, even without the breakthroughs of modern astronomy, we are indeed a very minor portion of the universe. And, when the geological record is examined, humans occupy a very small part of the age of this planet called Earth. Thus, the compelling need by humans to belong to something that is larger than an individual life.

History is filled with examples of people doing grand things. Thomas Jefferson had his tombstone inscribed with, “Author of the Declaration of Independence, the Statute of Virginia for Religious Freedom and the Father of the University of Virginia.” He wanted to be remembered for ideas and concepts and things he felt would last. He chose not to be remembered for the positions he held – Secretary of State, Vice-President and President. George Washington freed his slaves upon his death thinking (wrongly) that it would set the example for other slave owners. Abraham Lincoln wrote to Horace Greeley in 1862 a month before he issued the Emancipation Proclamation, “If I could save the Union without freeing any slave I would do it, and if I could save it by freeing all slaves I would do it, and if I could save it by freeing some and leaving others alone I would also do that.” But Lincoln was dead set on saving the Union. We have a country because Abraham Lincoln was determined to win the Civil War at all costs. Yet, finding something larger than oneself does not have to be as grandiose as Jefferson,

Washington or Lincoln. It is getting your children educated to the best of your ability, rescuing a homeless animal, or serving others in a soup kitchen – the simple things that can be done every day.

Much of philanthropy, volunteer work, and service club activity are driven by this base desire in humans. To be sure, some people give to be recognized and feed their egos and many join service clubs to meet business prospects, but at the heart of most of these activities is a root desire by humans to do something beyond themselves. This law can be most helpful to communities that understand humans want to help in causes and events that help them foster a larger sense of helpfulness. Just as with the law of something to do, the law of something to be can be a valuable asset to a community if they have in place a method of helping individuals channel their willingness to help.

Something to Love

It is often said that humans need to be loved, and certainly being loved is preferred to not being loved, as we have a desire to be liked. Yet, the stronger feeling in humans is the desire *to* love. Humans want to project their love on to others. If the love is reciprocated, then we have the best of all worlds, but human desire is first and foremost *to* love. If you doubt it, think for a moment about the loss of someone close to you. Do you say, “She loved me,” or do you say, “I loved her?” No doubt it is the latter, as our greatest loss is not that we lost someone who loved us, but rather we lost the object of our love. We generally think that this involves only other humans,

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but the history of humans proves it pertains to others as well. Some project their desire to love to their religious deities, others to animals, and some even to concepts such as Mother Earth, nature or other concepts of belief.

When an individual projects their love to another and the other likewise projects their love back, we say that they “fall in love.” This can be an enduring love that lasts a lifetime that grows and only ends when life ends. Baby Boomers are now witnessing this with their parents. When one parent dies, often the other surviving spouse has an overwhelming feeling of sadness as they have lost the object of their love. Some, if they are mentally and physically fit, will find someone else to love, yet others will decay, mentally hastening their death. Some turn, often for the first time, to religion, while others will get a cat. Regardless, it is imperative that we understand that as humans we have a strong desire to love - something or someone.

A Final Word

There is a classification in the mental health community for individuals that lack the ability to have empathy or feel emotion called APD (antisocial personality disorder). Research shows that approximately two percent of the population has some form of APD. These individuals will probably not be living by the simple laws of something to do, be and to love, as they make up a large portion of individuals that have been convicted of crimes. Yet, for

the remaining 98 percent of the population, these simple laws have validity. People generally want to be doing something versus being idle, they want to feel part of something they can be proud of, and they want to feel something in the world is worth loving. Great, caring communities take on the responsibility of assuring that their citizens can practice these simple laws because the result is that the community will become even greater.

 *Dr. Lowell Catlett, is a Regents Professor in Agricultural Economics and Agricultural Business and Extension Economics and the Dean of the College of Agricultural, Consumer and Environmental Sciences at New Mexico State University.*



Dr. Catlett is the keynote speaker at this year's Annual Conference, October 10-12 in Topeka.

To hear more from Dr. Catlett, plan to attend the conference! More information is available at lkm.org/conference/

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Legal Forum

by Nicole Proulx Aiken

2015 Standard Traffic Ordinance and Uniform Public Offense Code Changes

The 2015 editions of the *Standard Traffic Ordinance* (STO) and the *Uniform Public Offense Code* (UPOC) are available for cities to order. (Find the order form online at www.lkm.org) This article discusses the legislative changes to both publications and some changes made by the editor.

STO

The legislature passed five bills – SB 73, SB 252, HB 2043, HB 2044, and HB 2013 – affecting the STO this year.

- **SB 73** amends the definitions of all-terrain vehicle, recreational off-highway vehicle, and work-site utility vehicle to bring the definitions up-to-date with current manufactured vehicles.
- **SB 252** amends the definition of toxic vapors to include “other halogenated hydrocarbons.” The legislature added this language to ensure substances similar to Freon that do not bear the Freon brand name are included in the definition.
- **HB 2043** amends some statute citations in section 30.1 (Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties) and section 30.2.1 (Refusal to Submit to Alcohol or Drug Test). No substantive changes were made to these sections.
- **HB 2044** establishes a definition for autocycle and amends the definition of motorcycle to include autocycles. The bill also amends section 138 (Riding on Motorcycles) and section 142 (Equipment for Motorcycle Operator or Rider), exempting individuals riding in autocycles from the requirements in these sections. The bill also amends section 182 (Child Passenger Safety Restraining System) and section 182.1 (Seat Belts) requiring children under the age of 14 to be properly restrained in an autocycle and requiring all passengers age 14 and older to wear seat belts in autocycles.
- **HB 2013** amends Section 198 (Vehicle License; Illegal Tag). This section now exempts individuals from prosecution for failing to display a registration decal up to and including the tenth day following the registration’s expiration if they can provide a receipt showing payment of the current 12-month registration period.

UPOC

Six bills – SB 45, SB 252, HB 2048, HB 2055, HB 2124, and HB 2155 – amending the UPOC passed this year.

- **SB 45** amends section 10.1 (Criminal Use of Weapons) to allow individuals to possess a concealed handgun on school property if they are not otherwise prohibited by federal or state law. The

bill also amends section 10.1.1 (Criminal Carrying of a Weapon) to make it unlawful for anyone under the age of 21 to knowingly carry a concealed firearm except when on the person’s land, or in the person’s residence or business.

- **SB 252** (see description in STO section).
- **HB 2048** prohibits cities from enacting or enforcing any ordinance related to the Scrap Metal Theft Reduction Act. Therefore, section 6.24 (Unlawfully Selling Scrap Metal) and section 6.25 (Unlawfully Buying Scrap Metal) have been deleted. The bill also amends section 6.2 (Intent; Permanently Deprive) expanding what is considered prima facie evidence of intent to deprive an owner or lessor of property. The bill also adds a new subsection concerning prima facie evidence for the theft of scrap metal. Please note that while cities can no longer prosecute the unlawful selling or buying of scrap metal, it is the League’s opinion that cities may still prosecute the theft of scrap metal, as long as the scrap metal’s value is less than \$1,000.
- **HB 2055** expands section 3.2 (Battery Against a Law Enforcement Officer) to include battery against a judge, attorney, community corrections officer, or court services officer while they are in the performance of their duty.
- **HB 2124** amends section 10.24 (Smoking Prohibited) to allow smoking in a separately-ventilated area of a medical or clinical research facility for clinical research activities.
- **HB 2155** amends section 11.8 (Gambling) and legalizes fantasy sports leagues.

Editor’s Changes

In addition to the changes described above, the definitions sections of both publications have significantly changed. Many definitions have been added, deleted, and amended. A full list of these changes may be found on page 173 of the STO and page 134 of the UPOC. Also, for the first time this year, the League will provide a red-line copy of the STO and UPOC upon request to all members who purchase a publication. To request a red-line copy, e-mail Anna DeBusk at adebusk@lkm.org.

As always, it is important for city officials and staff to review every section that has changed in the STO and UPOC. Please feel free to contact me or another League attorney with any questions. We are happy to help.

 *Nicole Proulx Aiken is Legal Counsel for the League of Kansas Municipalities. She can be reached at naiken@lkm.org or (785) 354-9565.*

Winners of the League's

For this April's municipal elections, the League hosted a statewide contest to recognize the cities with the highest percentage of voter turnout in their county. In the map below, you can view the winning city in each county. Each of these cities wins a free registration to a League webinar of their choice. If you are interested in viewing turnout data for your city and county, please email mkoss@lkm.org.

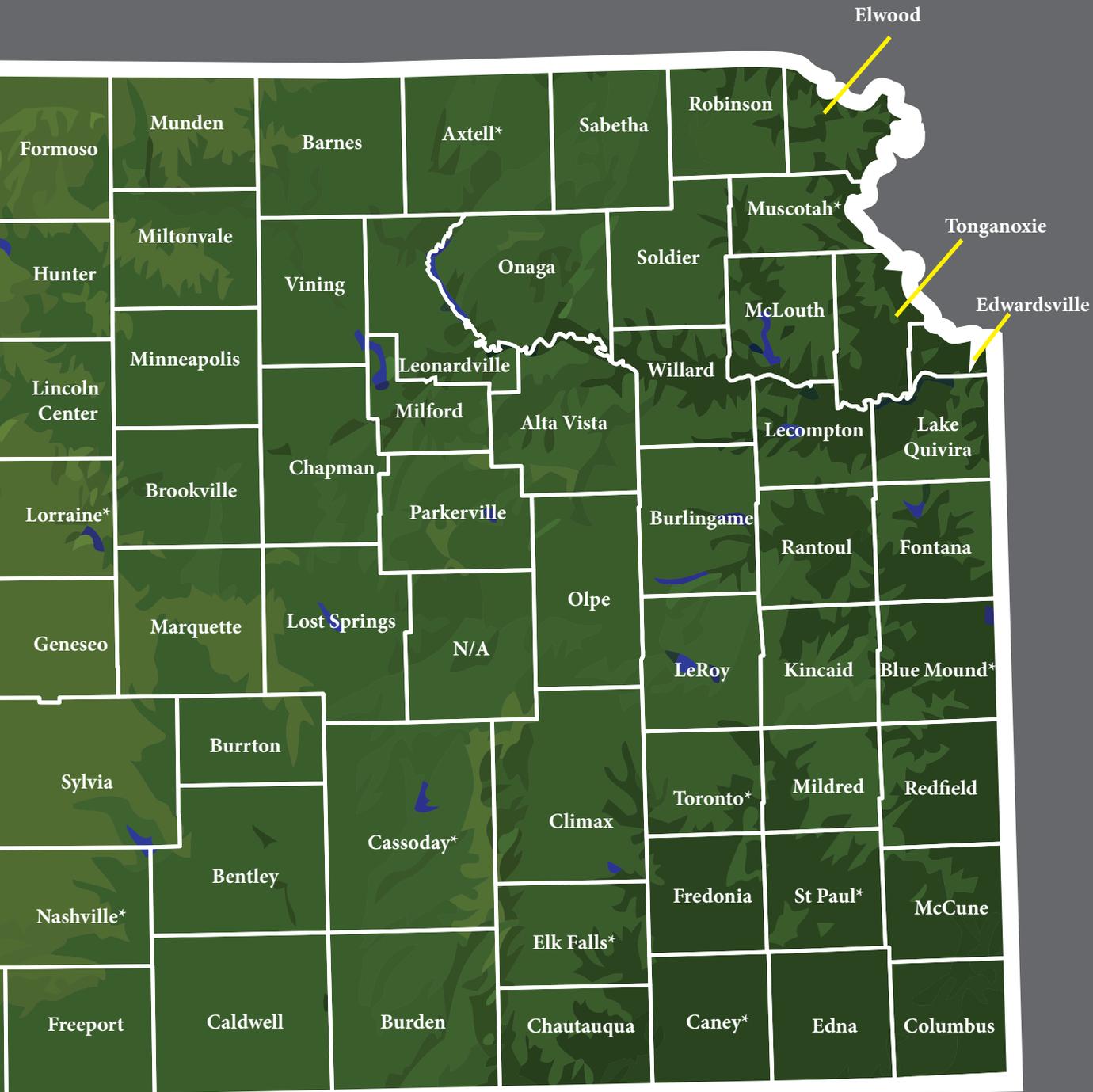


*To estimate turnout in these cities, we took the total number of residents voting, divided by the estimated number of registered voters in the city. The estimated number of registered voters in the city was calculated by applying the countywide registration rate to the city population.

**Some of the data from these jurisdictions may include small parts of adjoining townships, or exclude small portions of the city limits.

s Voter Turnout Contest

On the cover of this issue are the three overall winners from the 0-5,000, 5,000-20,000, and 20,000+ population categories: Freeport, Wellington, and Hutchinson (respectively). League staff would like to thank all of the cities that made efforts to increase their voter turnout last April, along with all of our great county clerks for making the contest possible.





**Mayor
Larry Wolgast**

City of Topeka
LKM Vice President

What is your position and what are your typical duties?

As Mayor of the City of Topeka, I am responsible for providing leadership and marshalling public interest in and support for municipal activity. This includes recommending to the council measures and legislation; encouraging programs for the economic, social and cultural development of the City; representing the City; and serving as ceremonial head.

What do you think is the primary role of municipal government?

The role of the city is to provide the basic services: public safety and appropriate infrastructure. In addition, the city is responsible for providing the quality of life that its citizens expect and will support.

What is your favorite thing about Kansas?

While working for the State of Kansas, I visited many communities in every region of Kansas. I truly respect and see the beauty in the varying areas of our state; the green hills and trees of Southeast Kansas, the wheat fields and pastures of Central Kansas; the rolling hills and open skies of the High Plains.

Please share a little personal information about yourself.

My dad was a city councilman in Alta Vista for twelve years while I was growing up.

What is your favorite thing about your community?

Topeka is an extremely diverse city that provides color and texture that is celebrated throughout the year with festivals, parades, and neighborhood events.

What made you want to join city government?

It is exciting to serve the community and to help transform the city to what we want it to be.

Is this your first time on a statewide board?

No, I previously served on a statewide healthcare philanthropy board. It is an honor to serve with outstanding individuals from across the State of Kansas on the League Governing Body.



**Mayor
Kim Thomas**

City of Stockton
LKM Governing Body Member

What is your position and what are your typical duties?

I'm the mayor of a commission type government. My main duty is to conduct meetings and be an advocate for the city.

What is your favorite thing about Kansas?

The different seasons and landscapes.

Please share a little personal information about yourself

My career, has been spent in telephone communication and funeral industry. I'm retired, a grandmother of nine. I enjoy music, including playing piano, flute, and violin. I enjoy all sports.

What is your favorite thing about your community?

My favorite thing is the people. The way the community works together to get things done.

What made you want to join city government?

A co-worker talked me into running. I've always been interested in government. I think it is a very important duty to be involved in your community.

Is this your first time on a statewide board?

No, I have served on several boards: KMA, KMU, KMEA, and HAK.



Mike Koss
LKM Staff

What is your position and what do you do?

I am Legal Counsel and Member Services Manager for the League. My duties include answering legal calls, providing trainings, writing articles for and editing the KGJ, lobbying on municipal issues (mostly utilities, telecom, and elections), serving as liaison for a couple of the League's affiliate organizations, and providing personnel services to our members.

What is your favorite thing about Kansas?

The people. I'm also a big fan of our summer thunderstorms (when they don't cause damage!), rafting down the Kansas River, and game day at Bill Snyder Family Stadium.

A little bit of information about you.

I grew up on a farm outside of Haddam, Kansas (pop. 101). I received my undergraduate degree from K-State and my law degree from KU. I've interned for Representative (now Senator) Jerry Moran and the legal department of Sprint Nextel. I got lucky and married my wife Ann in 2013, and we currently reside in Lawrence.

Have you always lived in Kansas?

Yes, other than some brief stints in college, I've only lived in Haddam, Manhattan, Lawrence, Easton, and Topeka.

What is your favorite scenic part of Kansas?

It's hard to beat the view rafting down the Kansas River in the summer.

How long have you been with the League?

About 3 ½ years.

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Classified Advertising

Building Inspector/Zoning Administrator

The City of Russell is accepting applications for the position of Building Inspector/Zoning Administrator. This position is responsible for inspections on building, housing, plumbing and electrical; floodplain administration; ICC code compliance; municipal planning and zoning; land uses and development; revitalization programs and assist with grant proposals. Investigates and makes reports on apparent violations of the applicable codes and regulations. Oversees the cities GIS, GPS, and CAD systems.

Applicants must possess a high school diploma or GED. Certification by the Internal Conference of Building Officials is desirable. Additional education including, continuing credits in building inspections, planning and zoning and computer-aided-drafting is preferred. Applicant hired must be a resident of Russell County within 6 months of employment.

Pre-employment drug screening and background check is required. To view a full job description, please visit www.russellcity.org. Individuals should mail/fax/email their application to: The City of Russell • Attn: Human Resources • PO Box 112 • Russell, KS 67665 • Fax: 785.483.4397 • Email: hr@russellcity.org. EEO/ADA. Applications will begin to be reviewed on September 1, 2015. Position open until filled.

City Administrator

The City of Dighton, KS. is accepting applications for the position of City Administrator. Dighton has a population of 1,023, 7 full time employees, and a budget of \$4.5 million. Dighton is the county seat of Lane County and is located 90 miles west of Great Bend on Hwy 96 & approximately 54 miles northeast of Garden City, in southwest Kansas.

The City of Dighton operates under a Mayor-Council form of government. The governing body is composed of five council members and a mayor, all elected at-large, and provides electricity, water, and wastewater services, as well as streets, parks, & swimming pool. The City Administrator oversees the daily operations of the municipality and manages all departments with guidance from the governing body.

The governing body is looking for an

open, ethical leader who understands municipal budgeting, possesses strong personnel management skills, grant writing experience, inspection experience and willing to become actively engaged within the community. Applicants should have a bachelor's degree with 4 years of local government experience, as well as they must be able to obtain or already hold a Class 2 water & wastewater certification.

Competitive benefits; salary negotiated based on qualifications and experience. Interested candidates should submit a cover letter, resume, and three work-related references to City Administrator Search, City of Dighton, PO Box 848, Dighton, KS 67839-0848 or you may email the requested documents to cityclrk@st-tel.net. Position remains open until filled.

City Engineer

The City of Overland Park (180,000), the second largest city in the state of Kansas and the Kansas City metropolitan area, is seeking a City Engineer in the Public Works Department. The successful candidate will lead the Engineering Division and be a collaborative and engaging leader in the organization. Responsibilities: Provides direction for all projects, programs and services of the Engineering Division, including all public street, storm drainage, bridge and miscellaneous projects; engineering studies and reports; and will coach, teach and mentor staff. Serves as principal advisor to the Director on all division issues and additional areas related to engineering as required. Requirements: Bachelor's degree in civil engineering or a related engineering field of study. Registration as a professional civil engineer in the State of Kansas or possession of a State of Kansas professional engineer registration within six months of hiring. Master's degree in civil engineering, public administration, or business is preferred. Ten years of progressively responsible professional civil engineering and construction experience and five years of progressively responsible executive level management or supervisory experience. No city residency requirement. Must successfully pass a background check, drug screen, and physical. Work Hours: As required by position. \$7,613-\$9,516/month. Open until filled. Competitive benefits package. Apply online, attach a resume, cover letter and view your online

application at www.opkansas.org. If unable to apply online, visit the Human Resources Office between 1 p-4 p, Mon.-Fri.

City of Overland Park
Human Resources Dept.
8500 Santa Fe Dr.
Overland Park, KS 66212
EO/M/F/D/V

City Engineer

The City of Great Bend is seeking applications for a City Engineer. The City Engineer will be responsible for determining and coordinating all municipal engineering projects including plan development, plan review, construction design, surveying and inspection. Also responsible for administering the departmental budget.

Requirements include graduation from a four-year college or university with a Bachelor's degree in civil engineering and a minimum of four years of progressive civil engineering experience. A Masters degree and/or public sector experience is preferred. Position requires a registered Professional Civil Engineer in the State of Kansas.

This is a stable, full-time position that offers an excellent benefit package including health/dental insurance, life insurance, retirement plan, paid vacation, sick leave, holidays and more. Salary is commensurate with education and experience. More information about the City of Great Bend and an application can be found at www.greatbendks.net. EOE. Position will remain open until filled.

Please apply online or contact: Terry Hoff; Director of Human Resources; City of Great Bend; 1209 Williams; Great Bend, KS 67530; 620-793-4111; terryhoff@greatbendks.net.

Community Development Director

The City of Valley Center is currently searching for a dynamic, highly-skilled Community Development Director to lead the community into a great future! The City of Valley Center offers a very competitive benefit package, to include pension, full health and dental; optional benefits such as short-term disability, supplement insurance, vacation and sick leave. The first round of interviews will begin the week of June 15th-19th.

COMMUNITY DEVELOPMENT
DIRECTOR POSITION SUMMARY

Under the administrative supervision of

the City Administrator, the Community Development Director performs administrative duties and provides leadership in the areas of land use regulations, floodplain management, code enforcement, issuing of building and zoning permits, economic development, planning vision, and physical growth of the City of Valley Center. This position works with numerous committees, boards and groups, and works closely with the City Administrator. This employee possesses excellent communication, public relation, organizational, and supervisory skills.

COMMUNITY DEVELOPMENT DIRECTOR POSITION QUALIFICATIONS

Education: College degree in Community Planning or related field is required.

Experience: Five years of planning and development experience and education is required. The employee is expected, to have acquired the necessary information and skills to perform the job reasonably well within six months of employment.

A thorough knowledge of local government structure and functions, especially in the area of land use regulations such as zoning, subdivision, floodplain regulations; nuisance regulations, minimum building codes, financing principles and practices, and physical planning and development principles are required. Experience in grant preparation is desirable. A general knowledge of construction practices and methods is helpful. Excellent oral and written communication skills are essential.

A combination of education and experience will be considered. Beginning salary- \$53,000- 68,000 DOQ

Human Resources Director

The City of Lenexa, Kansas, located in the Kansas City metropolitan area with a population of 50,000, is seeking a new Human Resources Director.

The Human Resources Director will help lead the organization by enhancing performance in all departments. A priority for the City is to create and implement a long-term approach for professional development and training that fosters and reinforces the City's values. Additionally, it will be important for the new Director to model and emphasize a philosophy that ensures that the composition of City staff reflect the evolving culture and diversity of

the community.

Bachelor's Degree required. Should have 10 years of personnel administration experience, with at least 5 years of experience in a supervisory capacity. Preference will be given to candidates with a Master's Degree and an IPMA-HR Certified Professional designation. The salary range for this position is \$97,500 to \$158,000 annually DOE/Q.

View a complete position profile and apply online at:

<http://bit.ly/SGRCurrentSearches>

For more information on this position, contact:

Gary Holland, Senior Vice President
Strategic Government Resources

GaryHolland@GovernmentResource.com

Police Chief

The City of Herington, KS is accepting applications and resumes for the position of Police Chief. Ten years of progressively responsible law enforcement experience, including five years at a command level is required. A Bachelor's degree in Police Science or Criminal Justice is preferred. KLETC certification and a valid KDL is necessary. Resumes and applications will be accepted until September 11, 2015. A full job description, application form, and information about the City of Herington can be found at www.cityofherington.com. Please submit resume and application by mail, to P.O. Box 31, Herington, KS 67449.

Prosecutor

The City of Overland Park has a full-time position available for an Attorney to prosecute municipal court cases and perform related duties as assigned. Responsibilities: Prosecution of misdemeanor criminal cases, traffic, property maintenance, zoning and code violations, DUI, and other cases as assigned are required areas of emphasis. Requirements: Juris Doctor Degree from an accredited law school. Membership in the State Bar of Kansas as well as admission to the US District Court of Appeals, 10th Circuit and US District Court for Kansas. One to three years legal work in governmental law, criminal prosecution or trial practice, or an equivalent level of experience. No City residency requirement. Must successfully pass a background check, drug screen, and physical. 8-5, M-F. \$5,007-\$6,258/mo.

Apply online, attach a resume, cover letter and view your online application at www.opkansas.org. If unable to apply online, visit the HR Office between 1 p.m. – 4 p.m., M-F.

City of Overland Park
Human Resources Dept.
8500 Santa Fe Dr.
Overland Park, KS 66212
EO/M/F/D/V

Public Works Director

The City of Shawnee, Kansas (population 64,680) is seeking a Public Works Director. The position is vacant due to retirement; the former Director served the City for 30 years. The Public Works Department includes 42 full time employees and a management team staff of Deputy Public Works Director, Assistant Public Works Director, Stormwater Manager and Field Operations Manager. This team, in partnership with the Development Services Department staff, has been pursuing APWA Accreditation with the site visit scheduled for late October. The Public Works Department has a 2016 budget of \$9,301,2745. The City's 2016 General Fund Budget is \$47,767,930. The total budgeted investment for Public Works operations and infrastructure improvements for 2016 is \$21,676,354. The Department is responsible for ensuring that all infrastructure of the City is maintained in a safe and attractive manner and that maintenance is accomplished in the most efficient and cost effective way possible. This responsibility encompasses the City's 780 lane miles of streets, 172 miles of stormwater pipes, 62 signalized intersections, eight large public buildings, and a fleet of 99 vehicles and equipment. The successful candidate will hold a Bachelor's Degree from an accredited college or university with major course work in engineering, construction, public administration, or a closely related field. A Master's Degree is preferred. A minimum of ten (10) years of increasingly responsible experience in a public works position is required with five (5) years of progressively responsible experience in executive management of a public organization. The hiring salary for the position is \$110,000 - \$130,000 dependent upon qualifications and experience. Outstanding benefits. More information about this opportunity can be found at:

<http://tinyurl.com/q5tbtol>

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Rossville Tall Corn Festival

August 7 - 9

Friday evening - Corn spitting contest, Corn on the Cob eating contest, Tall Corn contest and Talent Show. Saturday - Grand parade, Food & crafter/vendors in the City Park, kid's activities Saturday night on Main Street - Street Dance with the band Close Enough - Music starts @ 8:00pm - \$10.00 Sunday - Lawn & Garden tractor pull @ 1:00pm, Splash Bash
(785) 224-3480 | www.rossvillekansas.us

Bel Aire

Hot Dawg's Pool Party

August 10th

The end of summer is fast approaching and Bel Aire would like to invite all the dogs and their owners to the 3rd Annual Hot Dawg's Pool Party from 6-8pm at the Central Park Community Pool.
(316) 744-2451

South Haven 100th Annual Fair

August 2-22

Carnival rides, 1 mile & 5K run, livestock show, judging events, classic car show, live music, button drawing, and more! Check out the South Haven Fair Association Facebook page for more info.
(620) 892-5292 | <https://www.facebook.com/pages/South-Haven-Fair-Association/1456470564606121?fref=ts>

Potwin Watermelon Festival

August 22

Friday and Saturday - softball tournament. Saturday - kids games, vendors, entertainment. Vendors are setup by 8:30 am, goes all day.
(620) 752-3422

Derby BBQ

September 12, 9 a.m. to 3:30 a.m.

The Derby BBQ Festival is a Kansas City Barbeque Society sanctioned event that includes \$7,500 in prizes. Proceeds from the Derby BBQ Festival benefit the Airman & Family Readiness Center at McConnell Air Force Base.

www.DerbyBBQ.com

See and submit City Events at LKM.org/events.

2015 Meriden Festival & Street Dance

September 12

Noon - 11:00pm parade, car show, carnival, obstacle course, jousting pit, watermelon feed, weststepper & cheerleader performance, bbq dinner & dance with DJ.
(785) 484-3450 | meridenks.com

Merriam Turkey Creek Car and Motorcycle Show

September 12, 2015

Held annually on the second Saturday in September, the show features all classes of cars, trucks and motorcycles. Enjoy prizes, music, great local food vendors and 250+ entries on display.
(913) 322-5550 | <http://www.merriam.org/index.aspx?nid=459>

Edwardsville's 100th Birthday Celebration

September 19th

Edwardsville will celebrate its 100th Birthday on September 19th from 10:30 - 2:00 pm at the City Park (1200 Blake Street). The celebration will start with a trail dedication and official opening of the city's new walking trail. There will be food and fun that you won't want to miss. The local Kiwanis Club will be cooking hamburgers and hot dogs. We will have a small train ride, balloon artists, a face painter, and fun old-fashioned games for the kids to play. Contact City Hall for more details.
(913) 441-3707 x10 | www.edwardsvilleks.org

Lucas Lid Off Film Festival

September 25th-27th

The Grassroots Art Center along with Peter max Lawrence present the newly

established three day "Lip Off Film Festival." The event will feature several in and out-of-state "grassroots" films, with each festival day programming featuring two 90 minute film program that will be followed by a filmmaker panel and a Q&A period for the audience to engage. There will be an opening and closing reception as well as special screening and art exhibitions around town with details to be announced soon. The majority of programs will take place at the Lucas Community Theater. Keeping with an intention of local accessibility, the admission will be \$10 per-day or \$25 for the three day festival. Donations are welcome. For registration forms and more information, check out www.grassrootsart.net and click on the Lid Off icon on home page.

www.grassrootsart.net

Colwich Heritage Festival

September 26, 2015

A day filled with parade, games, food, and entertainment.

(316) 796-0416

Abilene 5 Star Art Festival

September 25-27

Annual arts festival held in downtown Abilene, Kansas, bringing together a community of artists and audiences. Located in Historic Downtown Abilene.
(758) 263-2233 x1 | www.abilenekansas.org

Medicine Lodge Peace Treaty Pageant

September 25th-27th

The Peace Treaty Pageant commemorates the Great Peace Council of 1887 between the US Government and the five Plains Tribes: Apache, Arapaho, Cheyenne, Comanche and Kiowa Indians. The weekend festivities include a Pow Wow in the Indian Village, Traders and Crafters, Parades, Craft Show, Carnival and much more.

www.peacetreaty.org

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• **Risk Management** — A team of loss-control specialties conducts free, annual, on-site safety inspections and provides a variety of risk-management services.

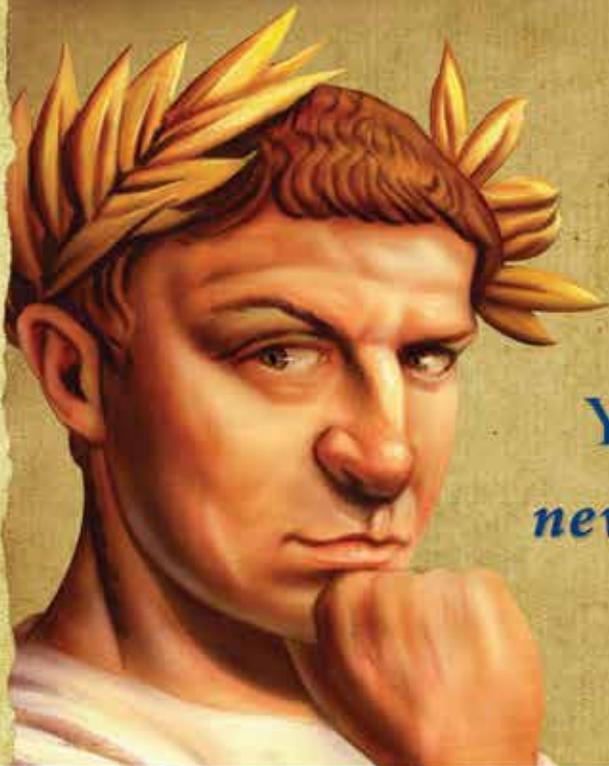
• **Claims Management** — “Dedicated” claims adjustment, with one individual handling all claims, resulting in efficient and effective claims processing.

• **Safety Publications** — *City Safe*, a quarterly publication, helps train employees in workplace safety. *CompControl*, a quarterly newsletter, is filled with up-to-date workers' comp information, safety tips, pool news, and more.

• **Annual Contribution Discounts** — Members earn discounts based on safety records and participation in KMIT safety programs.

KMIT is a workers' compensation program endorsed by the League of Kansas Municipalities

For more information, contact:
(785) 272-2608 • dosenbaugh@cox.net



“ STOP BEING
paranoid, Julius.
YOUR FRIENDS WILL
never stab you in the back. ”

{ *Marcus Junius Brutus, 44 B.C.* }

It matters who you listen to.


GILMORE BELL

GILMORE & BELL, P.C.

BOND COUNSEL

The choice of a lawyer is an important decision and should not be based solely on advertisements.