

**\*\* AGENDA \*\***

**City Commission Study Session Luncheon**

**Wednesday, December 12, 2012**

**\*Conference Room 1AB\***

**516 Mechanic Street**

**9:00 a.m.**

1. Review Proposed 2011 International Electrical Code Updates
2. Discuss Amending CID Policy Regarding Requiring PUD's
3. TSC Recommendation Regarding Eliminating Parking on 13<sup>th</sup> From Merchant to 250 Feet West
4. Review Revised Downtown Sidewalk Enhancement Policy
5. Review Draft 2013 Legislative Agenda
6. Discuss Amendments to City's Water Conservation Plan

***NOON***

***Joint Luncheon w/ Convention & Tourism Bureau  
Library Conference Room***

***Tentative Agenda for the December 19th City Commission Meeting***

- ◆ Minutes
- ◆ Bills List/Payroll
- ◆ November Budget Report
- ◆ Approve Easement Agreement for Monitoring Wells West of Las Casitas Park
- ◆ Approve Easement Agreements for Far West Sewer Project
- ◆ Proclamation Honoring the ESU Football Team for Winning the 2012 Kanza Bowl
- ◆ Award Proposal for Tree Trimming Services
- ◆ Award Bid for Repairs to Lift Station 14
- ◆ Award Bid for Screener/Trammel
- ◆ Award Bid for Construction of Equipment Building at Transfer Station
- ◆ Award Bid for Hwy. 50 and Industrial Intersection Project
- ◆ Lease Agreement for Engineering Printer
- ◆ Amended Contract With Emporia Recreation Commission to Operate the Jones Aquatic Center
- ◆ Contract With Coca-Cola Bottling of Emporia
- ◆ Contract With Emporia Public Library for Maintenance Services
- ◆ Resolution Approving Revised Sexual Harassment Policy
- ◆ Public Hearing Regarding Amendments to the 2012 Budget
- ◆ Ordinance Amending 2012 Budget
- ◆ Appointments to Boards
  - Natural Resources Advisory Board (1 opening remaining)
  - William Allen White Community Partnership

- Fire Code Board of Appeals
- Building Trades Board
- Board of Zoning Appeals (1 opening remaining)
- Emporia Enterprises
- ◆ Report From City Manager on City Activities
- ◆ Other Business/Public Comment –

To: Matt Zimmerman, City Manager  
From: Martin Peres, Chief Building Inspector *MP*  
CC: Jack Taylor, Fire Chief  
Date: 12/5/2012  
Re: Updating the Electrical Code

The item that will be coming up before the City Commission will consist of updating the city's electrical code.

Currently the City of Emporia is under the 2005 Edition of the National Electric Code (NEC), also referred to and known as the (International Electrical Code), as well as NFPA 70 (National Fire Protection Association). The electrical code is a nationally recognized code and is used throughout the country.

To explain briefly, approximately a year ago, an Electrical Code Review Committee was formed and was given direction to begin the review process of the electrical code. The Building Trades Board, at their regular meeting on November 28, 2011, developed a code review committee that consisted of appointed members Randy Burris, of R & L Electric, Jim Francis, of Francis Electric, Rocky Price, with USD #253 and Joe Endres, formerly a Building Trades Board member. Also Building Trades Board Members Dan Schumann, Al Ziesmer, Mark Runge, Kevin Hanlin and Tom Soetaert were also appointed to serve on the committee along with the City Inspectors.

The Electrical Code Committee met on several occasions and reviewed the changes to both the 2008 and 2011 editions of the NEC. Obviously, it would be

impossible, if not impractical to attempt to identify all the changes to the above mentioned editions. However, the Code Review Committee, the Building Trades Board members and City Staff felt that the most significant or major changes to the code related to the residential provisions.

The most notable are as follows:

- **Article 210.12, Arc-Fault Circuit-Interrupter Protection (AFCI)**  
This provision has been expanded to include the use of AFCI's in other parts of a dwelling. Current code requires all 120 volt, single phase, 15- and 20- ampere branch circuits supplying outlets installed in dwelling unit bedrooms to be protected by AFCI's. Under the 2008 NEC, the use of AFCI's have been expanded by requiring them in all dwelling unit family rooms, dining rooms, living rooms, parlors, libraries, dens, sunrooms, recreation rooms, closets, hallways or similar rooms and areas including bedrooms. This specific provision was added in the 2008 edition. Arc-fault circuit interrupters have been proven that they are effective in detecting and clearing arcing conditions or events in wiring systems before fire damage or loss could occur, due to faulty wiring.
- **Article 406.12, Tamper-Resistant Receptacles in Dwelling Units**  
This provision was new in the 2008 edition and was moved to Article 406.12 in the 2011 edition. This new requirement states that all 15- and 20- ampere receptacles installed in outlets required under Article 210.52 for dwelling units are to be a listed tamper-resistant receptacle (child proof). The code analysis indicated that this new code requirement was due to well substantiated documentation from the U.S. Consumer Product Safety Commission's (CPSC) and the National Electronic Injury

Surveillance System (NEISS), which indicated an average of 2,400 children are injured each year by tampering with energized electrical receptacles. Such injuries occur when foreign objects (paper clips, keys and so forth) are inserted into energized electrical receptacles.

There are some exceptions to the tamper-resistant requirements. First, receptacles located more than 5 1/2 feet above the floor. Second, a single or duplex receptacle located within dedicated space for appliances. Also, receptacles serving dishwashers, refrigerators and washing machines, etc., are exempt. These receptacles are typically not accessible to small children. The 2011 NEC has also extended the tamper-resistant receptacles to be installed in child care facilities as well.

- **Article 210.52, Dwelling Unit Receptacle Outlets, (E) Outdoor Outlets, (3) Balconies, Decks and Porches**

This is a new provision in the 2008 NEC which requires at least one 125-volt, 15- and 20- ampere receptacle outlet is to be installed at all dwelling unit balconies, decks and porches that are accessible from the inside of the dwelling unit. A receptacle outlet will now be required to be installed at that outdoor area. This rule was inserted into the code to avoid extension cords and other cords from passing through doorways such as holiday lighting and small appliances.

These specific provisions have been mentioned, which obviously will have an affect on increased costs of electrical installations. However, such provisions pertain to and relate to life safety and protection of property. Changes to our local amendments pertain to mostly relocating certain amended articles to

correlate to the appropriate location in the 2011 NEC. These changes have been highlighted for easier recognition and identification.

The following information is an explanation of such changes to the local amendments pertaining to the 2011 NEC.

Article 215, Feeders, item (4), previously referenced 230.54. That has been changed to refer to Article 230.50 (B) (1).

The local amendment to Article 230.1, Scope, has simply been relocated to Article 230.2.

Article 230.24, Clearances, the article heading or title has been changed to correlate with the 2011 edition.

Article 230.72, Exception (1) has been relocated to Article 230.70, (Service Equipment-Disconnecting Means), while Exception (2) remains as an exception to Article 230.72.

Article 230.96, Temporary Services for Construction Sites has been omitted from Article 230 and inserted as an addition to Article 590.4 (C), Temporary Services for Construction Sites.

Article 408, Switchboards and Panelboards, Article 408.35 has been relocated to Article 408.54.

For Deletions, the only change is to Article 230.43, by the addition of deleting items 17, 18 and 19 respectively.

The Building Trades Board, at their regular meeting on September 24, 2012, made a motion and voted unanimously to recommend to the governing body the adoption of the 2011 National Electric Code (NEC) and the local amendments thereof, with an effective date of June 1, 2013. Therefore, the Building Trades Board is forwarding this item to the governing body for the review and consideration for adoption.

Please see the attached proposed ordinance.

## ARTICLE V. ELECTRICAL CODE

### DIVISION 1. GENERALLY

#### Section 1. General.

1. Electrical Wiring and Equipment. All electrical wiring and equipment that is installed repaired, altered, replaced or connected thereto in any building or structure, old or new, or upon any premise shall conform to the requirements of this article, the laws of the state, and approved standards of safety for persons or property.
2. Requirements. Requirements for the administration, permits and inspections, licenses and certifications, and enforcement of this article are to be found in Articles I, II, and III of these regulations.

### DIVISION 2. TECHNICAL STANDARDS

#### Section 2. National Electrical Code. Adopted by reference.

For the purpose of establishing rules and regulations for the installation, alteration, repair and maintenance of electrical wiring and equipment within the city, the National Electrical Code (NFPA 70-2011), sponsored by the National Fire Protection Association, One Batterymarch Park, Quincy, Massachusetts 02169-7471, is hereby incorporated by reference in this article and shall be the technical standard controlling in the installation of all wiring and equipment within the corporate limits of the city.

#### Section 3. Amendments and deletions.

1. Amendments. The 2011 edition of the National Electrical Code is amended in the following respect:
  - a. **Article 215, Feeders** is amended in the following respect:
    - (1) **Article 215.2, Minimum Rating and Size, (A) Feeders Not More Than 600 Volts**, is amended by adding a new sub-item (5) to read as follows:
      - (5) **Encasement of Feeder conductors**. Feeder conductors for residential occupancies, except one and two family dwellings, that supply a panel, sub-panel, or switch board with overcurrent protection of 100 amperes or greater shall be encased as required by Article 230.50 (B) (1). Such



feeder conductors shall have overcurrent protection as required by Article 215.3.

*Note: MC cable shall be considered encased.*

- b. **Article 230, Services** is amended in the following respect:

**I. General**

**Article 230.2, Number of Services** is amended by adding the following paragraph:

A building or other structure served shall be supplied by only one (1) service. When considering an area, lot, or other property designed or zoned as single-family residential use, all structures including accessory buildings shall be considered as being one (1) building.

- (2) **Article 230.24, Clearances, (B) Vertical Clearance for Overhead Service Conductors** is amended to read as follows:

**(B) Vertical Clearance for Overhead Service Conductors.** Overhead service-drop conductors, where not in excess of 600 volts, nominal, shall have the following minimum clearance from final grade:

- (1) 3.0 m (10 ft.) - at the electric service entrance to buildings, also at the lowest point of the drip loop of the building electric entrance, and above areas or sidewalks accessible only to pedestrians, measured from final grade or other accessible surface only for service-drop cables supported on and cabled together with a grounded bare messenger where the voltage does not exceed 150 volts to ground.
- (2) 3.7 m (12 ft.) - for those areas over residential property and sidewalks accessible only to pedestrians where the voltage does not exceed 300 volts to ground.
- (3) 4.5 m (15 ft.) - for those areas over residential driveways where the voltage is limited to 300 volts to ground.

- (4) 5.5 m (18 ft.) - over public streets, alleys, roads, parking areas subject to truck traffic, driveways on other than residential property, and other land traversed by vehicles such as cultivated, grazing, forest, and orchard.

*Exception: For commercial areas not subject to truck traffic, a reduced clearance to 4.5 m (15 ft.) may be allowed, providing approval has first been obtained from the local utility provider.*

- (3) **Article 230.54, Overhead Service Locations**, is amended by adding new sub-item (H) to read as follows:

**(H) Encasement of the Service Conductors from the Service Head to Service Equipment**

- (1) **Protection.** Service conductors shall be encased in no less than one and one-quarter (1 1/4) inch rigid metal conduit, intermediate metal conduit, rigid nonmetallic conduit, or electrical metallic tubing, from the service head to the meter and shall be protected as in Article 230.50 from the meter socket to the point of attachment to the service equipment.

*Exception: Through the roof installations supporting roof risers shall be a minimum two (2) inch galvanized rigid steel conduit, and shall be installed according to the local utility provider's 'Overhead Service Support Mast Assembly And Service Entrance Details'.*

**(4) VI. Service Equipment - Disconnecting Means**

**Article 230.70, General, (A) Location**, is amended by adding the following exception.

*Exception: In basements and similar locations, the service disconnecting means shall be located no more than forty-eight (48) inches from the point of entry of the service conductors*

- (5) **Article 230.72, Grouping of Disconnects, (C) Access to Occupants**, is amended by adding the following exception:

*Exception 2: In multi-occupancy buildings, each tenant space shall be provided with direct access to their service disconnect. If said disconnect is located outside of the tenant space then such disconnect shall be capable of being locked in the open position.*

- c. **Article 240, Overcurrent Protection** is amended by adding Article 240.84 to read as follows:

**240.84. Circuit Breaker Size.** The circuit breaker shall be full modular size and shape to occupy one (1) full space of the panel board. Piggyback and pancake-type or any circuit breaker that can be used to increase the number of circuits of which a panel board is designed shall not be installed in new construction.

- d. **Article 250, Grounding and Bonding**, is amended in the following respects:

**Article 250.50, Grounding Electrode System**, is amended by adding the following paragraph to read as follows:

- (1) For existing buildings, the grounding electrodes shall be installed as specified in 250.52(A)(1) and 250.52(A)(5).

**Article 250.52, Grounding Electrodes, (A) Electrodes Permitted for Grounding, (5) Rod and Pipe Electrodes**, is amended by adding sub-item (c) to read as follows:

- (2) (c) The driven electrode shall be readily identifiable and located in sight of the meter socket.

- e. **Article 408 - Switchboards and Panelboards** is amended by adding a new paragraph to Article 408.54 to read as follows:

**408.54. Maximum Number of Overcurrent Devices.** The panelboard shall be of a size large enough to allow the installation of all circuit overcurrent devices required for the present installation and at least two (2) additional spaces for two hundred twenty (220) volt two-pole circuit overcurrent devices for future use.

- f. **Chapter 5, Special Occupancies**, is amended by inserting the following statement directly beneath the title:

SPECIAL OCCUPANCIES.

The fixed wiring method shall be metal raceways in the following cases:

- (1) All commercial and industrial zoning districts, except for mobile homes authorized by the zoning regulations as a temporary use, and residential uses as defined by the Building Code.
- (2) Places of assembly, as per the Building Code.
- (3) Non-residential uses in any residential district.

*Exception: Non-metallic raceways may be used where combustible construction is allowed under the current adopted Building Code.*

**(4) Article 590, Temporary Installations**

**Article 590.4, General**, is amended by adding the following paragraph to read as follows:

**590.4 (C) Temporary Services for Construction Sites.**

Temporary services may be granted at construction sites prior to installation of service equipment in its permanent location as long as the installation of such temporary service shall comply with all the provisions of this code and as per the local utility provider's requirements.

2. Deletions. The 2011 edition of the National Electric Code is hereby deleted in the following respects:

a. **Article 230.43, Wiring Methods for 600 Volts, Nominal, or Less**, is amended by deleting the following categories:

- (1) Open wiring on insulators;
- (2) Type IGS cable;
- (6) Electrical nonmetallic tubing (ENT);
- (7) Service-entrance cables;
- (13) Type MC cable;
- (14) Mineral-insulated, metal-sheathed cable;
- (15) Flexible metal conduit not over 1.8 m (6 ft.) long or liquidtight flexible metal conduit not over 1.8 m (6 ft.) long between raceways, or between raceway and service equipment, with equipment bonding jumper routed with the flexible metal conduit or the liquidtight flexible metal conduit according to the provisions of 250.102(A), (B), (C) and (E)
- (16) Liquid-tight flexible nonmetallic conduit
- (17) High density polyethylene conduit (HDPE)

(18) Nonmetallic underground conduit with conductors (NUCC)

(19) Reinforced thermosetting resin conduit (RTRC)

- b. **Article 230.51, Mounting Supports, and Table 230.51 (C) Supports,** are deleted in its entirety.
- c. **Article 518.4, Wiring Methods, (B) Nonrated Construction,** is amended by deleting the following item: Nonmetallic-sheathed cable.
- d. **Article 520.5, Wiring Methods, (C) Nonrated Construction,** is amended by deleting the following item: Nonmetallic-sheathed cable.

**Section 4. Wiring not to interfere with fire department or fire escapes.**


No electrical wiring and equipment shall be installed over any street, alley, sidewalk or building in the city in such a manner that it may substantially interfere with the work of the fire department in the use of ladders or other fire-fighting apparatus, or which obstructs or renders hazardous the use of fire escape.

**Section 5 -- Section 11. Reserved.**

# Interoffice Memorandum

**TO:** City Commission

**CC:** Kent Heermann  
John Mallon

**FROM:** Matt Zimmerman  
City Manager 

**DATE:** December 7, 2012

**SUBJECT:** Amending CID Policy Requiring PUD's

The City Commission adopted the Community Improvement District (CID) policy in December, 2009. The State adopted legislation allowing municipalities to create CID Districts earlier that year. CID Districts serve the dual benefits of allowing new redevelopment or redevelopment to receive the same incentives as are permitted in Tax Increment Financing (TIF) and Transportation Development Districts (TDD) plus a portion of CID proceeds can be used for private improvements. TIF and TDD districts only allow the proceeds to be used for public improvements. A copy of the CID policy is attached.

Section 7 of the policy provides that developments using CID proceeds are "expected to meet the 'highest development standards' as outlined by the City's adopted development policies". It goes on to state that "all CID projects will be required to utilize a Planned Unit Development Overlay District and will include strict architectural, site, and landscape design requirements. As well, the CID Development Agreement, development review process, and zoning ordinances, will establish land use controls, allowed uses and materials, traffic improvements, environmental preservation areas and other design criteria to ensure the development will achieve the highest development standards possible". The reason the City Commission insisted on putting Section 7 in the policy is that, if public tax dollars are going to be used to incentivize a project, thereby lowering the developer's overall costs, and some of the money may be used for private improvements, the City should be able to require a higher level of review and approval of the project. For example, the City might require a brick façade rather than split block or metal seam.

The City has received the required pre-application for a CID from the Lowther North developers. As part of their application, they are requesting that the City waive the PUD requirement. The developers have already created detailed interior and exterior designs that would meet the City's PUD submittal requirements and adopting a PUD would require the developers to go through the entire public hearing process before the Planning Commission if they wanted to make minor changes to the approved PUD plan.

The Site Plan Committee can approve any minor changes to the approved site plan more quickly while ensuring the overall design and aesthetics are kept intact. Staff recommends that the policy be amended to state that the City Commission may waive the PUD requirement on a case-by-case basis. This would maintain the intent and overall requirement for a PUD if CID financing is sought, but would allow the City some flexibility for unique cases, such as Lowther North where there is a limit to the ability (and desire) to change the exterior façade and yards surrounding the building. Staff does not believe amending the policy to remove the PUD requirement is in the best interests of the community since public tax dollars would, in most cases, be used to incentivize a development and the community should have some say in how those dollars are used to ensure the project benefits the community.

In order to amend the policy, the Commission would need to adopt a new resolution. A public hearing is not required. However, the City asked the RDA to develop the initial policy, so I believe it would be appropriate to send it to the RDA for comment on the proposed amendment before final consideration. If the Commission approves staff's proposal at the December 12 study session, the RDA is prepared to review the policy at its December 14 meeting. If the RDA acts on the proposal, it can be brought to the January 2 meeting for consideration of adoption.

RESOLUTION NO. 3449

**A RESOLUTION ESTABLISHING CITY OF EMPORIA, KANSAS  
POLICIES AND PROCEDURES FOR COMMUNITY IMPROVEMENT  
DISTRICT FINANCED PROJECTS.**

**WHEREAS**, the City of Emporia, Kansas (the "City") recognizes a need to stimulate economic growth and development of new commercial enterprise to provide employment, services, and tax revenues for the benefit of the City; and

**WHEREAS**, the City recognizes the need to provide and promote cultural, recreational and other amenities that enhance the quality of life for City residents; and

**WHEREAS**, the City recognizes that stimulation of balanced development in the City is a joint responsibility of the private and public sectors, working together creating a positive environment to aid private and public development and expansion in the City without requiring existing taxpayers, business, householders, wage earners and others to aggressively subsidize such new growth; and

**WHEREAS**, the economic development and related goals of the City include, but are not limited to, economic diversification, broadening of the property tax base, stimulation of private investment, enhancement and support of new development, remediation of blight and economic obsolescence, creation of new high quality jobs, increased per capita income, improvement of infrastructure, improvement of quality of life for City residents, and promotion of affordable housing; and

**WHEREAS**, to assist in meeting economic development and other public goals, the City is authorized by the Kansas Community Improvement District Act (K.S.A. 12-6a26 through 12-6a36) to create community improvement districts to finance projects for economic development and all other public purposes for which the City may spend public funds; and

**WHEREAS**, the City finds it in the best interest of the public to establish policies and guidelines for the consideration of proposals that may be presented to the City by private developers and others requesting community improvement district financing assistance ("CID"); and

**WHEREAS**, by adopting this policy the City has determined that the use of CID should be reserved for projects which further an important and clearly definable public interest of the City and which will provide a net benefit to the City and its residents compared to costs; and

**WHEREAS**, by adopting this policy the City intends to set forth a flexible framework for evaluating requests for CID assistance; and



**WHEREAS**, the use of CID can encourage the development of projects the City finds and determines are desirable, cost effective and in the public interest; and,

**WHEREAS**, all prospective CID projects must be carefully evaluated by the City to ascertain the character of tax revenues generated by the proposed district and the impact of CID assistance on other taxing jurisdictions in the Emporia community and on existing businesses and taxpayers; and

**WHEREAS**, the City desires to use CID assistance for those projects which demonstrate the highest public benefit by eliminating blight, financing desirable public improvements, strengthening the employment and economic base, increasing property values, reducing poverty, creating economic stability, upgrading older neighborhoods, facilitating economic self sufficiency, improving quality of life, and implementing other goals of the City; and

**WHEREAS**, the City Commission has designated the Regional Development Association of East Central Kansas ("RDA") to expand their role in the economic development efforts of the City by assuming the promotional and administrative responsibility of these policies and procedures; and

**WHEREAS**, approved CID financed projects should be those that promote redevelopment in existing areas of the City or that attract unique or significant new commercial or other development in the City or otherwise further goals described in this preamble.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF EMPORIA, KANSAS AS FOLLOWS:**

**SECTION ONE: ADOPTION OF POLICIES AND PROCEDURES; RDA.** The Community Improvement District Financing Application Procedures and Application Form (submitted with this Resolution) are approved and the City Manager is authorized and directed to implement the procedures and policies set forth in this Resolution and in the Application Procedures and Application Form, and to make such additional changes and clarifications as the City Manager deems advisable and in the best interest of the City.

Each CID application submitted to the City will be evaluated on its own merits, and an evaluation of the proposal will be performed by the RDA and the City Manager, other city staff or consultants appointed by the City Manager, which shall include representatives of the Chamber of Commerce, the City's Financial Advisor, the City's Bond Counsel and appropriate representatives of neighborhoods potentially affected by a CID application.

**SECTION TWO: POLICY STATEMENT ON CID ASSISTANCE.**

1. It is the policy of the City to consider creation of community improvement districts for projects qualified under state law and the policies of the City. An applicant for CID financing must comply with all applicable state laws and City requirements relating to the project, both before and after the community development district is created.

2. It is the policy of the City to consider the judicious use of CID financing assistance for projects that demonstrate a measurable public benefit through constructing public improvements supporting developments that will achieve one of the City's development goals, including, but not limited to:

- (a) Eliminating blight, renewing or restoring areas that may become blighted;
  - (b) Provide for construction of transportation or other infrastructure that is beyond what the City requires or would otherwise build;
  - (c) Attract retail development which will benefit the City, or attract unique commercial, industrial or housing development that will enhance the economic climate of the City and/or enhance quality of life for City residents;
  - (d) Provide for construction or improvement of parks, lawns, trees and other landscape improvements or other cultural or recreational amenities that will enhance quality of life for City residents;
  - (e) Provide for the development of affordable housing,
  - (f) Promote projects of community wide importance;
- and
- (g) Provide services within a community development district that will enhance the foregoing purposes, as permitted by the community improvement district act.

An application for a CID project in the City must demonstrate how it will contribute to these goals.

3. It is the policy of the City to exercise care and to thoroughly evaluate each proposed CID project to ensure that benefits expected to accrue from approval of CID financing for a project justify the City's participation in such assistance.

4. The City will charge an application fee and an administrative fee for CID financing projects as later described in this resolution.

**SECTION THREE: CID POLICY GUIDELINES.** The following criteria are to be used by the RDA, the City Commission and consultants to evaluate requests for CID financing:

1. *Policy Goals.* An application for CID financing must demonstrate that it promotes one of the City's policy goals, particularly those stated in the preceding section of this Resolution.

2. *Pay As You Go Financing.* An application for CID financing may request "pay as you go" financing which provides for reimbursement to the

developer of CID project costs paid in advance by the developer. If such financing is requested, the application should identify the sources of revenue anticipated to fund such reimbursement, which shall be limited to special assessments and/or a community improvement district retailers' sales tax levied in the district.

3. *Special Obligation Bonds.* All applications for CID financing requesting issuance of the city's special obligation bonds or notes must demonstrate that the special assessments and/or community improvement district retailers' sales tax to be collected in the district will be sufficient to provide a debt coverage factor of at least 1.25 times the projected debt service on any CID special obligation bonds or notes. Debt service coverage greater than 1.25 times may be necessary to market any CID notes or bonds that are sold to the public. CID special obligation bonds or notes to be purchased by the developer of the project or by a financial institution may not require 1.25 times debt service coverage.

4. *Full Faith and Credit General Obligation Bonds.* In general, the City does not favor issuance of its full faith and credit general obligation bonds to pay costs of a CID project. The City will consider issuance of its full faith and credit general obligation bonds to pay all or a portion of project costs related to a CID project that has significant economic and/or cultural impact throughout the City or that proposes substantial redevelopment in an area the City Commission determines is blighted or in need of substantial upgrade.

5. *Amount and Term of Assistance.* The total amount of CID financing assistance and its term will be determined based on the economic or other payoff expectations of the project and its significance to the community. A 15-year or less payoff period is favored in the absence of unusual factors. Longer terms for CID financing (but not exceeding 22 years) may be considered if the proposed project is concerned with the redevelopment of blighted areas or areas that have deteriorated and may become blighted or is a project of community-wide significance.

6. *Financial Feasibility.* Each CID assistance request must include evidence acceptable to the City that the applicant:

(a) Has the financial ability to complete and operate the entire project.

(b) Will be liable for, or contribute equity or private financing of at least twenty percent (20%) of the total cost of the project or provide security for the completion of the project. Projects with equity or private financing contributions in excess of twenty percent (20%) will be viewed more favorably.

(c) Will provide a performance bond or other security acceptable to the City for completion of 100% of the public improvements included within a CID project, unless otherwise provided by a development agreement for the project.

7. *Development Agreement.* The City will require satisfactory assurance that the project will be completed in a timely manner and in accordance with a Community Development District Development Agreement between the City and the developers of the project.

8. *Preferred Projects.* CID financing requests for the redevelopment of blighted areas or areas that have deteriorated and may become blighted in the City, applications for projects with significant city wide economic, cultural or quality of life impact and applications for development of new or expanded industrial, manufacturing, office, and retail projects will be viewed more favorably than projects for service commercial use (commercial uses that mainly provide a service rather than the sale of products). CID projects that create jobs with wages that exceed the community average will be favored. The City will give additional consideration to projects with a total capital investment in excess of ten million dollars (\$10,000,000) and those projects the City determines will stimulate other local economic development or otherwise improve the quality of life of its citizens.

9. *Retail or Service Projects.* CID financing requests for retail and for service commercial projects will be more favorably considered if the project is one where a substantial part of its total products and/or services are either exported from the Emporia area or the project will add jobs in the City and sell or provide products and services now acquired by Emporia citizens outside the City. Additional considerations should include whether the project has the ability to support or stimulate new retail development in the City.

10. *Redevelopment.* CID financing assistance requests for the redevelopment of existing residential neighborhoods, commercial and industrial areas will be viewed favorably. Projects to stabilize existing residential neighborhoods, commercial, and industrial areas that have or will likely experience deterioration will be favored.

11. *Applications.* All CID applications must comply with the requirements of the Kansas statutes governing CID financing and the Application Procedures and Application Form approved by this resolution.

12. *Information Describing the Project and Financing.* All CID financing applications shall present the following preliminary information to the RDA:

(a) A complete and detailed description of the project to be financed with CID financial assistance along with a description of the type of the major tenants or residents to be located in the CID district and the status of the developer's negotiations with such tenants or residents, if applicable;

(b) The estimated total cost of the project;

(c) The proposed method of financing the entire project, including the portion of the project not financed with CID assistance;

(d) A map and legal description of the proposed community improvement district or area to be developed;

(e) The proposed amount of special assessments to be levied in the district to pay qualified project costs;

(F) The proposed amount of any community improvement district retailers' sale tax;

(g) The proposed amount of any special obligation bonds to be issued by the City and the sources of revenue to be pledged to the payment of such bonds;

(h) The proposed amount of any City funds requested to be appropriated by the City to pay project costs and a justification for such request consistent with the City's goals as stated in this resolution;

(i) The proposed amount of any full faith and credit general obligation bonds to be issued by the City and a *detailed* argument supporting the commitment of the City's full faith and credit to the payment of the project costs, consistent with the City's goals, as stated in this resolution;

(j) A statement that the developer/applicant will agree to pay the costs of a financial feasibility study for the proposed project performed by an independent consultant selected by or approved by the City; and

(k) A statement that the developer/applicant will pay the costs of the City's financial advisor and bond counsel with respect to the proposed CID financing.

12. Applicants for CID financing may be required, at the request of the City and/or RDA, to prepare a thorough market analysis that identifies: (1) the population areas that the businesses in the CID will draw from; (2) the existing businesses in the City of similar types that will compete with new business in the

CID; (3) the anticipated impact of the new businesses in the CID on existing business of a similar type; and (4) the anticipated effect on the City's net retailers' sales tax revenues, as received from the proposed new businesses in the CID.

#### **SECTION FOUR: PROCEDURE.**

1. Upon presentation of the preliminary information described in Section Three, the RDA will review the proposal in light of the City's policies as stated in this resolution. The RDA will forward the preliminary information and its findings to the City Commission. If the City Commission approves of the concept, it may authorize the City Manager and other City staff and consultants to work with the applicant/developer to develop a CID finance plan. After reviewing an application, the City may request and the applicant shall furnish additional information to further describe or clarify the proposal.

2. Upon receiving conceptual approval from the City Commission, the applicant shall, in consultation with the RDA proceed with the preparation of a plan for the financing and construction of the project pursuant to state law and City requirements, including a complete and comprehensive financial feasibility study showing, among other things, that the special assessments and/or community improvement district retailers' sales tax derived from the district and the project will fully fund any proposed bond payments and provide additional coverage as required by this policy or by the purchasers of such bonds, and that the term of the bonds or notes issued to finance the community development district project costs does not exceed a mutually agreed upon period of time, as permitted by law. The financial feasibility study for a CID project shall demonstrate that the proposed project will produce a net economic benefit to the City as a whole. The financial feasibility study shall be performed by an independent consultant selected by or approved by the City. The costs of the feasibility study shall be paid by the applicant/developer.

3. Before the City may create a community development district the applicant must file a petition as required by the Kansas Community Improvement District Act with the City Clerk. The petition must be signed by a percentage of property owners in the proposed district as required by law (presently 100% of owners of all the land in the district for projects to be financed solely by special assessments in the district, or, in the case of projects to be financed from a district retailers' sales tax or requesting issuance of the city's full faith and credit general obligation bonds, the owners of *more than 55%* of land in the district *and* property owners collectively owning land representing *more than 55%* of the assessed value in the proposed district).

4. The applicant and City will enter into a Community Improvement District Development Agreement with respect to the proposed project which will identify, among other things, the duties and responsibilities of the developer/applicant and those of the City with respect to financing, construction,

property acquisition, environmental issues with respect to any property the City will acquire, any conditions precedent to the City's issuance of bonds or notes for the project, insurance, construction standards and other necessary matters.

**SECTION FIVE: REQUEST FOR PROPOSAL.** The City may request proposals for CID projects. When the City receives an application that is not in response to a City request, the City may, at its option, publish notice in a newspaper of general circulation in the City or on the City's website requesting proposals for development in the proposed project area.

**SECTION SIX: APPLICATION AND SERVICE FEES.** Any applicant shall pay a non-refundable CID application and service fee of one percent (1%) of the total financial assistance requested for the CID project, in the form of special assessments, retailers' sale tax in the CID, special obligation bonds, general obligation bonds or other funds of the City. The application fee shall not exceed \$50,000, as described below. The fee shall be paid as follows:

**CID Application Fee**

Initial application fee*	5%** or \$2,500 whichever is less
RDA preliminary approval fee	15%** or \$7,500 whichever is less
Resolution approving creation of the Community Improvement District and development agreement	80%** or \$40,000 whichever is less
Maximum fee – due at a prescribed time (includes initial application fee)	\$50,000

\* To be paid with submission of application.

\*\* Portion of 1% of total CID project to be financed

Reapplication fees for substantial changes will be charged at the same rate as the schedules shown above.

In addition to the fees described above, the applicant shall pay to the City an administration service fee of not to exceed 5% of the total cost of the CID project or the costs of work done by the City. This fee will be applied to reimburse administration, service and other City costs incurred for each approved CID Project and shall be in addition to the application fee. The service fee may be paid from district sales tax revenue, special assessments or other revenue generated from the project over time, from bond or note proceeds or from a direct billing to the applicant. The amount and payment method of the administration service fee shall be determined by the City on a case by case basis.

In addition, the applicant will be required to pay the costs of the required feasibility study as described above and any additional costs, including the fees of the City's bond counsel, financial or other consultants for services related to the CID and issuing bonds or notes, if any.

The City may waive or reduce the fees established by this resolution if it is determined to be in the City's best interests.

**SECTION SEVEN: DESIGN CRITERIA.** CID development proposals are expected to meet the "highest development standards" as outlined by the City's adopted development policies for commercial and industrial buildings, as well as any design criteria adopted by the Planning Commission and City Commission or specifically required by the City Commission for the CID project. Development proposals are expected to demonstrate innovative design with human scale that exceeds the design standards of conventional development throughout the City. A CID project requires the use of high quality building materials, noteworthy architectural design and site design to achieve visual interest, provide human scale, place a premium on developing land in harmony with existing natural features, and enhance the value and function of adjacent properties.

All CID projects will be required to utilize a Planned Unit Development Overlay District and will include strict architectural, site, and landscape design requirements. As well, the Community Improvement District Development Agreement, development review process, and zoning ordinances will establish land use controls, allowed uses and materials, traffic improvements, environmental preservation areas and other design criteria to ensure the development will achieve the highest development standards possible.

The compatibility of the CID project with land use and development plans of the City and the availability of existing infrastructure facilities and essential public services will be a consideration. The project must be environmentally acceptable to its location and the surrounding area. Preference will be given to businesses that do their own pre-treatment or do not require extensive environmental controls. The proposed use must be clean, nonpolluting, and consistent with all policies, ordinances, and codes. If requested, the applicant must be willing to provide a traffic study on any anticipated traffic impact increase on the City due to the project.

**SECTION EIGHT: EMPLOYMENT AND BUSINESS RELOCATIONS; RETAILERS' SALES TAX NET IMPACT.**

If the CID application is recommended based upon job creation criteria, language will be included in the community improvement district development agreement with the developer providing that the City's obligation may be reduced if the indicated number and quality of jobs have not been generated.

If businesses are to be relocated from other areas of the City as part of a CID project, the applicant must supply justification of the relocation in terms of benefit to the City as a whole before such a relocation will be considered as part of a CID project. If existing businesses are to be relocated to the CID district, the base year activity for purposes of determining any general sales tax increase as a result of the CID project (other than a special sales tax levied in the CID



district) will be the last twelve month period at the businesses' current location, immediately preceding the relocation.

**SECTION NINE: METHOD OF FINANCING.** *Special Obligation Bonds.* CID applications may request that the City issue special obligation bonds or notes of the City to finance qualifying community improvement district costs. Such bonds shall be payable solely from special assessments levied in the community improvement district, from a retailers' sales tax approved for levy in the district, or from both. Special obligation bonds shall not be a general obligation of the City and shall not be payable from any other revenues of the City. The City may, in its discretion, agree to pledge other lawfully available funds of the City to the payment of such special obligation bonds, subject to annual appropriation requirements of the Kansas Cash Basis law.

*General Obligation Bonds.* In its discretion, the City will consider pledging its full faith and credit and issuing its general obligation bonds to pay costs of a CID project if the proposed CID project is shown to have significant and beneficial economic, cultural or quality of life impact throughout the entire City. Such general obligation bonds, if issued, will be payable first from the sources of revenue described in the preceding paragraph, with the City's full faith and credit pledge as a standby. A CID project applicant requesting issuance of full faith and credit general obligation bonds must demonstrate, through the financial feasibility study required by this resolution, that special assessments, a retailers' sales tax in the district or both, will fully fund the proposed general obligation bond payments.

*Pay as You Go Financing.* CID assistance will also be available as direct reimbursement to the applicant/developer of qualified costs paid by applicant/developer on a "pay as you go" basis as described in the Community Improvement District Act. The "pay as you go" method of financing is favored by the City.

The most significant factors in the City's decision to approve a method of financing will be the total amount of CID financing requested and the security for the revenue stream supporting any special obligation bonds or notes. The City will not provide credit enhancements for any special obligation bonds issued; however, credit enhancement provided by the applicant/developer will be viewed favorably. The City will have sole rights to determine the method of financing.

The City may request that an applicant/developer agree to do any or all of the following: (i) pay any shortfall in the special assessments or retailers' sales tax revenue pledged to pay special obligation bonds, or (ii) agree not to relinquish the applicant/developer's interest in the project for a specified period. In making such requests the City will take into account the impact such requirements may have on the tax-exempt status of interest paid on any bonds or notes to be issued for the project.

**SECTION TEN: TERM.** In general, the term of a CID financing shall be 15 years or less. Shorter projected terms will be viewed more favorably than longer terms. Terms longer

than 15 years (but not exceeding 22 years) may be approved for CID projects in blighted areas or for projects the City determines will have significant positive impact on the community at large.

**SECTION ELEVEN: AUTHORITY OF GOVERNING BODY.** The Governing Body reserves the right to deviate from any policy, but not from any procedure set forth in this Resolution or any other procedural requirements of state law, when it considers such action to be of exceptional benefit to the City or extraordinary circumstances prevail that is in the best interests of the City.

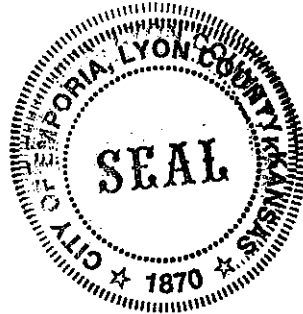
**SECTION TWELVE: EFFECTIVE DATE.** This Resolution shall take effect immediately after it is adopted by the City's governing body.

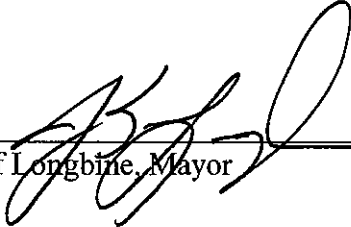
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ADOPTED by the Governing Body on December 2, 2009.

CITY OF EMPORIA, KANSAS

[seal]



By   
Jeff Longbine, Mayor

ATTEST:

By   
Susan Mendoza, City Clerk

# Interoffice Memorandum

**TO:** City Commission

**CC:** Traffic Safety Committee

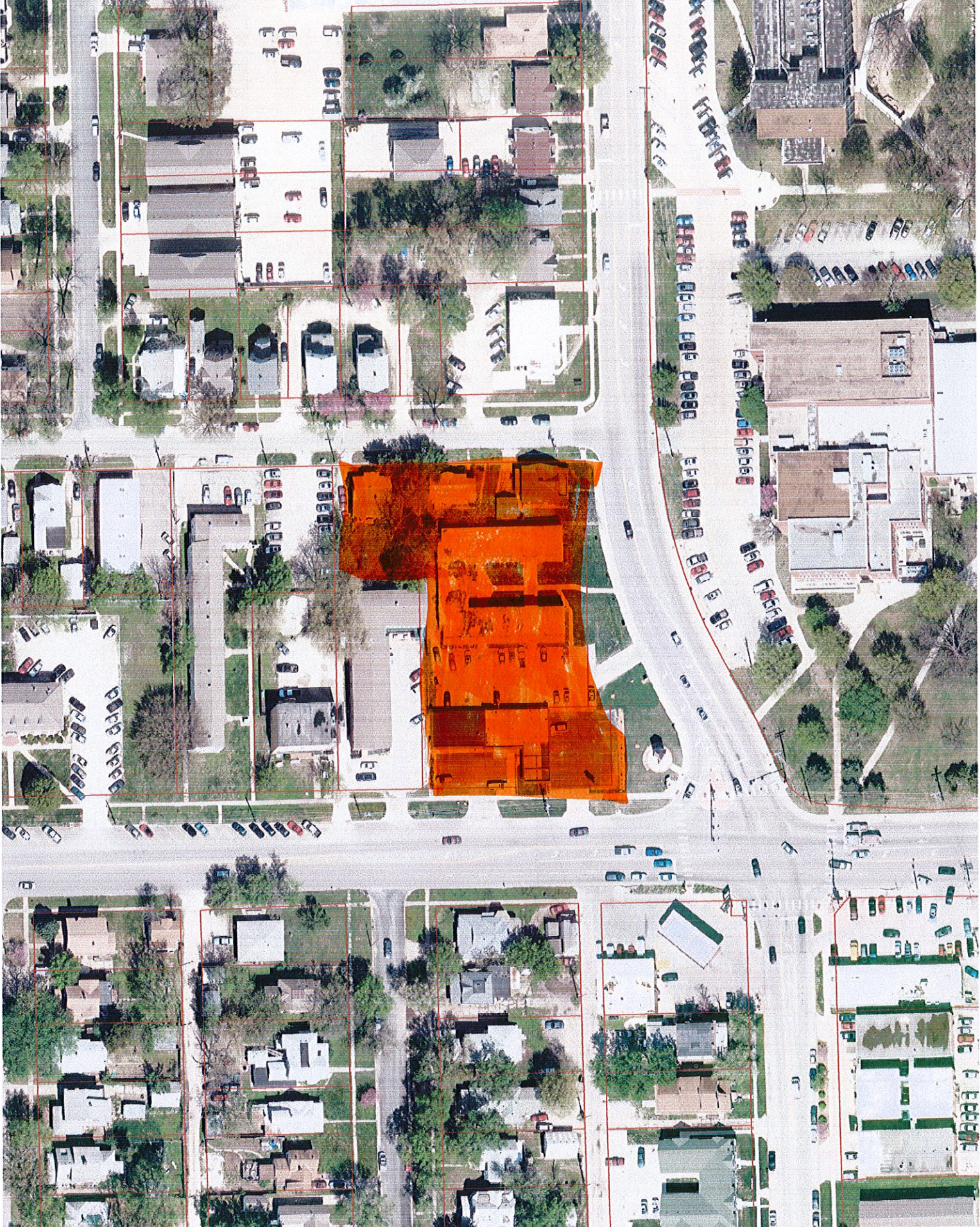
**FROM:** Matt Zimmerman   
Traffic Safety Committee Chairman

**DATE:** December 7, 2012

**SUBJECT:** TSC Recommendation Regarding Eliminating Parking on 13<sup>th</sup> From Merchant to 250 Feet West

The City has received a site plan for redevelopment of the northwest corner of 12<sup>th</sup> and Merchant, including all lots north to 13<sup>th</sup> Ave. A map of the area is attached. The new building will require truck access off of 13<sup>th</sup> Ave. On-street parallel parking is permitted on the north side of the street between Merchant and State. The Traffic Safety Committee (TSC) voted 4-0 to approve eliminating parking on the north side (parking is currently prohibited on the south side) from Merchant to the driveway of the multi-family unit west of the subject property, which is approximately 250 feet. This would provide some parking for renters while accommodating the truck movements. The Committee also identified that, due to increased vehicular traffic to the site, providing 2 full lanes for traffic would be beneficial given the proximity to the Merchant and 13<sup>th</sup> intersection.

The Chairman of the TSC designated this as a non-routine application as it will require approval of an ordinance by the City Commission. The Chairman recommends that the Commission also designate this as a non-routine application, which would require the TSC to hold a public hearing before making a final recommendation to the City Commission. This is a new application that many of the property owners and renters are probably not aware of. The Commission would consider the ordinance adopting the regulations following the public hearing.



# Interoffice Memorandum

**TO:** City Commission

**CC:** Jerry Menefee  
Casey Woods  
Jeanine McKenna

**FROM:** Matt Zimmerman  
City Manager 

**DATE:** December 6, 2012

**SUBJECT:** Revisions to Downtown Sidewalk Enhancement Policy

The City Commission discussed the latest draft of the proposed downtown sidewalk enhancement policy at the November 28 study session. The Commission directed that all waivers to the downtown sidewalk policy, as well as appeals of denied permits, should be heard and decided by the Board of Zoning Appeals (BZA). The Commission may want to receive a recommendation from the BZA whether ADA waivers and denials are within their purview. An amendment to Article 25 of the Zoning Code will also be necessary as the BZA does not currently have authority to consider ADA applications. If the proposed policy is adopted, staff will prepare a text amendment to the Zoning Code for the Planning Commission's consideration following a public hearing. The Commission also asked that renovation be defined so that builders will be aware of when projects will require buildings to meet the ADA guidelines. Staff has included a definition from *the Americans With Disabilities Act and Architectural Barriers Act Accessibility Guidelines, 2004 edition*, which is the edition the City uses. In short, any areas that have new construction or the specific area of the building being renovated would have to be brought into conformance with the guidelines. For example, if a planned alteration entails alterations to the entrance, and the building has an accessible entrance, the entrance being altered may not be required to comply. If a particular entrance is not made accessible, appropriate accessible signage indicating the location of the nearest accessible entrance(s) shall be installed at or bear the inaccessible entrance.

Changes from the November 28 draft are highlighted in yellow. All of the changes from the current policy are red-lined.

## Sidewalk Enhancement Policy for the Central Business District

**Purpose:** To provide guidance in the placing or permanently affixing enhancements on sidewalks so as to not impede pedestrian movements. This would include but not be limited to pedestrian benches, planting containers, and bicycle racks, which shall be known in this policy as enhancements.

**Scope:** Commercially zoned properties in the Central Business District beginning at 12<sup>th</sup> Avenue, thence south on Commercial Street to 8<sup>th</sup> Avenue, thence eastward to Mechanic Street, thence south to the railroad tracks, thence west to Merchant Street, thence north to 12<sup>th</sup> Avenue, thence east to Commercial Street at the point of beginning. This area also includes those portions of the side streets that border properties adjoining the boundary streets.

Guidelines:

1. A 6 foot wide pedestrian travel way shall be provided. This is exclusive of a 2 foot wide zone at the back of curb to provide for parked vehicle overhang. In the case of the presence of a light pole or other structure partially blocking the walkway available space shall be calculated starting at the base of the light pole or structure measuring to the wall of the building.
2. Enhancements such as bicycle racks and benches shall be anchored to the sidewalk so that movement is not possible.
3. All enhancements are subject to removal by the City at any time. The City will endeavor to allow sufficient time for them to be removed by owner when possible; however, in emergency situations they will be subject to removal by City crews or contractors. In these cases, attempts will be made not to damage the enhancement but this cannot be guaranteed by the City.
4. Enhancements must be made of durable materials that can withstand the effects of the weather. The type of material of the enhancement shall be subject to the approval of the City.
5. It is the responsibility of the owner to keep all enhancements in good condition. Poorly maintained enhancements will be subject to removal.

5.

6. ~~New construction and/or renovation of existing structures shall not be permitted to encroach on the public right-of-way, including public sidewalks. Doors and other similar objects shall be prohibited from opening into the public right-of-way, including public sidewalks. Existing structures and doors shall be grandfathered, but shall be removed from the public right-of-way upon renovation of the exterior and/or doorway. For the purposes of this policy, "renovation" shall be defined as: (a) additions – each addition to an existing building or facility shall comply with the applicable requirements for new construction; (b) alterations – where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements. Renovation of existing buildings or construction of new buildings may have doors that encroach in the public ROW, subject to the approval of the City Engineer. All doorways in renovated or newly constructed~~

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buildings shall comply with the rules and guidelines in the Americans With Disabilities Act. Said doorways may utilize the public sidewalk as part of meeting the rules and guidelines, in accordance with the standards attached hereto as Exhibit A. Any sidewalk changes shall be at the sole expense of the owner.

**Application:**

Property owners or tenants shall submit a written request to the City Engineering Department describing the enhancement(s) to be installed, including any changes to the public sidewalk. The Chief Building Official shall notify the City Engineering Department of any permit applications that encroach on the public right-of-way, including public sidewalks. Accompanying the letter should be supporting documents describing the proposed enhancement, including a sketch map, measurements noting the proposed location of the enhancement and the distance to other enhancements the curb line and adjoining buildings. The application shall include a description, including type of material, of the proposed enhancement. Pictures are encouraged.

Waivers: The City Manager or his designee may waive the provisions of this policy at the City Manager's sole discretion.

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**Approval:** No enhancement shall be installed or erected without the prior written approval of the City Manager or his designee. In the event of a denial, the applicant may appeal the denial to the Board of Zoning Appeals pursuant to Article 25 of the Zoning Code. The applicant shall submit all information as may be required by the Board of Zoning Appeals. Applicants may submit a letter of recommendation from the Great Plains ADA Center containing a recommendation whether the project should be approved. The decision of the Board of Zoning Appeals shall be final.

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Sidewalk Ramp Chart

Elevation Rise*	Length** L1	13' ROW***			12' ROW***			11' ROW***			10' ROW***			9' ROW***			8' ROW***			7' ROW***			6' ROW***		
		L2	L3	L4	L2	L3	L4	L2	L3	L4	L2	L3	L4	L2	L3	L4	L2	L3	L4	L2	L3	L4	L2	L3	L4
8 inches	11'-8"	8'-0"	3'-0"	8"	8'-0"	2'-0"	1'-8"	8'-0"	1'-0"	2'-8"	8'-0"	0"	3'-8"	7'-0"	0"	4'-8"	6'-0"	0"	5'-8"	5'-0"	0"	6'-8"	4'-0"	0"	7'-8"
7 inches	10'-8"	7'-0"	3'-8"	0"	7'-0"	3'-0"	8"	7'-0"	2'-0"	1'-8"	7'-0"	1'-0"	3'-0"	7'-0"	0"	3'-8"	6'-0"	0"	1'-0"	5'-0"	0"	1'-0"	4'-0"	0"	6'-8"
6 inches	9'-8"	6'-0"	3'-8"	0"	6'-0"	3'-8"	0"	6'-0"	3'-0"	8"	6'-0"	1'-0"	2'-8"	6'-0"	0"	2'-8"	6'-0"	0"	3'-8"	5'-0"	0"	4'-8"	4'-0"	0"	5'-8"
5 inches	8'-8"	5'-0"	3'-8"	0"	5'-0"	3'-8"	0"	5'-0"	3'-8"	0"	5'-0"	3'-8"	0"	5'-0"	0"	1'-8"	5'-0"	0"	2'-8"	5'-0"	0"	3'-8"	4'-0"	0"	4'-8"
4 inches	7'-8"	4'-0"	3'-8"	0"	4'-0"	3'-8"	0"	4'-0"	3'-8"	0"	4'-0"	3'-8"	0"	4'-0"	3'-0"	8"	4'-0"	0"	1'-8"	4'-0"	0"	2'-8"	4'-0"	0"	3'-8"
3 inches	6'-8"	3'-0"	3'-8"	0"	3'-0"	3'-8"	0"	3'-0"	3'-8"	0"	3'-0"	3'-8"	0"	3'-0"	3'-8"	0"	3'-0"	0"	8"	3'-0"	0"	1'-8"	3'-0"	1'-0"	2'-8"
2 inches	5'-8"	2'-0"	3'-8"	0"	2'-0"	3'-8"	0"	2'-0"	3'-8"	0"	2'-0"	3'-8"	0"	2'-0"	3'-8"	0"	2'-0"	0"	0"	2'-0"	0"	8"	2'-0"	2'-0"	1'-8"
1 inch	4'-8"	1'-0"	3'-8"	0"	1'-0"	3'-8"	0"	1'-0"	3'-8"	0"	1'-0"	3'-8"	0"	1'-0"	3'-8"	0"	1'-0"	0"	0"	1'-0"	0"	0"	1'-0"	3'-0"	8"

Notes:


\* Height of building floor above sidewalk.

\*\* Length of ramp with 44 inch threshold. Assumes a 2' landing space behind curb for vehicle overhang. Ramps parallel to face of building should ideally only extend from landing to property line; however, they may be adjusted subject to location of entry on adjacent property to achieve a maximum slope of 8.33%.

\*\*\* Distance from face of building to the bck of the street curb.

Exhibit A

# Interoffice Memorandum

**TO:** City Commission  
**CC:** Water Committee  
**FROM:** Matt Zimmerman  
City Manager   
**DATE:** December 7, 2012  
**SUBJECT:** Revisions to Water Restrictions

The City's current water restrictions, as set forth in Section 28-28 of the City Code, do not match the City's water conservation plan that is on file with the Kansas Water Office (KWO). The City is required by the state statute to have a conservation plan, including mandatory water restrictions, on file. The City's contract with the Water Assurance District (WAD) also requires mandatory restrictions be implemented if required by the WAD Board of Directors. The City may only implement mandatory water restrictions by ordinance, therefore the conservation plan and City Code should be in conformance with one another. The types of mandatory water restrictions is important as the State has declared a water warning, which is still in effect, which requires some level of mandatory restrictions.

The Water Committee has reviewed the City's current restrictions, conservation plan and issues the Committee observed during the restrictions imposed in 2012. The Committee is proposing revamping the restrictions to match the State's three levels of declaration, water watch, water warning and water emergency. The restrictions become more severe as the State's level of declaration increases. Very significant restrictions are being proposed should a water emergency be declared by the State. This is because the reservoir levels at Council Grove Lake will probably be very low if the State declares a water emergency. The proposed restrictions also permit the City Commission to impose certain levels of restrictions prior to any level of declaration issued by the State and to impose additional restrictions as deemed warranted based on the level of demand and available water supply.

The City's conservation plan has to be reviewed and approved by the KWO. Once the restrictions are ready to be adopted by the City Commission, the City's conservation plan should be amended to match the restrictions, then submitted to the KWO. Staff also recommends the proposed restrictions be sent to the WAD for their review and comments. Upon approval of the conservation plan by KWO, the necessary ordinance would be brought before the City Commission for adoption or changes, if required by the KWO, would be reviewed at a study session.

**Sec. 28-28. Water Conservation Provisions:**

(a) *Purpose:* The purpose of this section is to conserve the water supply of the City of Emporia, Kansas, to meet the needs and demands of the citizens of the eCity and the rural water districts; to provide for the declaration of a water supply emergency and the implantation of voluntary and mandatory water conservation measures throughout the eCity in the event such an emergency is declared; and to set forth penalties for noncompliance with this section.

(b) *Definitions:* As used in this section, unless context clearly requires otherwise:

*Alternate day:* allows outside water use only on alternate days. To equalize the load on treatment and distribution facilities, residential service areas are usually divided (by way of house numbers) into two (2) equally sized groups and each group of customers is allowed to use water for outside uses on specified days.

*Consumer:* Any person using water for any purpose from the eCity's water distribution system and for which a regular charge is made.

*Outside Watering:* includes, but is not limited to, water used for outdoor watering, either public or private, for gardens, lawns, trees, shrubs, plants, parks, golf courses (except greens), sidewalks, driveways, filling station aprons, playing fields, swimming pools or other recreational areas; or the washing of motor vehicles, boats, trailers, appliances, machinery or the exterior of any building or structure.

*Times For Outside Watering:* Such times outside watering shall be prohibited shall be set forth in per a resolution of the governing body or as requested directed by the eCity mManager in accordance with the provisions of this Section.

*Water:* Water available to the eCity of Emporia, Kansas, for treatment by virtue of its water rights or any treated water introduced by the eCity into its water distribution system.

(c) *Voluntary Conservation Measures:* In the event the State issues a water watch or if it is determined by tThe eCity mManager that it is necessary and prudent in order to protect the water supply for potable purposes, the City Manager may decide to request implement voluntary conservation measures. Some causes that may lead to voluntary water measures include, but are not limited to:

(1) Reserve storage at Council Grove Lake has fallen below 90%

(2) Water has stopped flowing over the dam below the City's intake station

(3) Peak daily demand for one day is in excess of 15% of normal daily seasonal peak demand

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~~Voluntary water restrictions may include and is authorized to call all water consumers to employ voluntary conservation measures to limit or eliminated nonessential water uses including, but not be limited to, limitations on the following uses:~~

- (1) Alternate day watering
- (2) Times for outside watering
- (3) ~~Request citizens reduce water usage, such as Shorter showers,~~ repair of household leaks within 48 hours; and installing and/or use of water saving devices

~~In the event a water watch is issued or the City Manager institutes voluntary water measures, the City shall:~~

- (1) Provide notice of the voluntary water restrictions in the official City newspaper, notify local media, and provide notice on City's outlets, including but not limited to, the City's website, Facebook page, Twitter account, water bills, and signage.
- (2) Make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the remainder of the season
- (3) Advertise water saving tips in the local media and on City outlets
- (4) Repair water main leaks within 48 hours of detection
- (5) Monitor its use of water and curtail non-essential activities, such as hydrant flushing and street cleaning

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(d) ~~Declaration Of a Water Emergency Warning: In the event the State issues a water warning or the City Manager makes a recommendation to the governing body that additional water restrictions are necessary, Whenever~~ the governing body of the eCity finds that an emergency exists by reason of a storage of water supply needed for essential uses or due to extreme demand there is a significant reduction in pressure, it shall be empowered to declare ~~d~~ by resolution that a water warning emergency exists and included in each resolution which ~~phase of~~ mandatory conservation measures ~~is~~ to be included during the period of the warning emergency. Such as warning period emergency shall be deemed to continue until it is declared resolution by the governing body ~~to have has~~ ended. The resolutions declaring the existence and end of water supply warning emergency shall take effect upon and be operative three(3) days following the publication in the official eCity newspaper.

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(e) ~~Mandatory Conservation Measures;~~ Upon the approval of a resolution declaration of declaring a water supply emergency warning as provided ~~is in~~ subsection(d) of this section, the eCity mManager is authorized to implement certain mandatory water conservation measures, including, ~~but not limited to the following:~~

- (1) alternate day watering
- (2) times for watering outside, but not less than no watering between 10:00 a.m. and 6:00 p.m.

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(3) golf courses shall restrict watering of all areas except greens to every other day. Greens may be watered daily to the minimum necessary to protect the grass.

(4) re-filling swimming pools once per week and only after sunset

(5) commercial car washes shall be closed between the hours of 9:00 p.m. and 6:00 a.m.

(6) washing vehicles, equipment and similar devices at residences or businesses other than commercial car washes shall only be permitted by hand-held bucket or hose and shall be prohibited between the hours of 9:00 p.m. and 6:00 a.m.

(7) outside use of water for cleaning buildings, streets, sidewalks, parking lots and similar areas shall be prohibited

(8) rates for use of the water salesman shall be increased by 50% from normal rates

(9) waste of water shall be prohibited

(10) any other restrictions the governing body determines is necessary and prudent to protect the water supply

In the event a water warning is declared, the City shall:

(a) Provide notice of the mandatory water restrictions in the official City newspaper, notify local media, and provide notice on City's outlets, including but not limited to, the City's website, Facebook page, Twitter account, water bills, and signage.

(b) Make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the remainder of the season

(c) Advertise water saving tips in the local media and on City outlets

(d) Repair water main leaks within 24 hours of detection

(e) Monitor its use of water and curtail all non-essential activities, including but not limited to, hydrant flushing, street cleaning, watering of vegetation except as is necessary to maintain the life of the vegetation and any other use of water deemed non-essential by the City Manager

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(e) Declaration Of a Water Emergency: In the event the State issues a water emergency or the City Manager makes a recommendation to the governing body that additional water restrictions are necessary, the governing body of the City shall be empowered to declare by resolution that a water emergency exists and include in each resolution which mandatory conservation measures are to be included during the period of the emergency. Such an emergency period shall be deemed to continue until it is declared resolution by the governing body it has ended. The resolutions declaring the existence

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and end of water supply emergency shall take effect upon publication in the official City newspaper.

Mandatory Conservation Measures; Upon the approval of a resolution declaring a water emergency as provided in subsection(e) of this section, the City Manager is authorized to implement certain mandatory water conservation measures, including:

- (1) watering of outside vegetation shall be prohibited
- (2) watering at golf courses shall be prohibited except greens, which may be watered daily to the minimum necessary to protect the grass.
- (3) re-filling swimming pools shall be prohibited
- (4) commercial car washes shall be closed
- (5) washing vehicles, equipment and similar devices at residences or businesses shall be prohibited
- (6) outside use of water for cleaning buildings, streets, sidewalks, parking lots and similar areas shall be prohibited
- (7) Issuance of hydrant meters and use of water for construction purposes shall be prohibited
- (8) Installation of new sod and seeding of lawns shall be prohibited
- (9) rates for use of the water salesman shall be increased by 100% from normal rates and sales shall only be permitted between the hours of 6:00 a.m. and 6:00 p.m.
- (10) waste of water shall be prohibited
- (11) encourage businesses to reduce water usage and to install water saving devices
- (12) any other restrictions the governing body determines is necessary and prudent to protect the water supply
- (13) The governing body of the City shall have the power to adopt emergency water rates designed to conserve water supplies. Such emergency rates may provide for, but not be limited to uniform charges for water usage per unit of use (uniform unit rate).

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In the event a water emergency is declared, the City shall:

- (a) Provide notice of the mandatory water restrictions in the official City newspaper, notify local media, and provide notice on City's outlets, including but not limited to, the City's website, Facebook page, Twitter account, water bills, and signage.

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- (b) Make daily news releases to the local media describing present conditions and indicating the water supply outlook for the remainder of the season
- (c) Advertise water saving tips in the local media and on City outlets
- (d) Hold periodic public meetings to discuss the emergency, the status of the City's water supply and further actions that may be taken
- (e) Repair water main leaks as quickly as possible
- (f) Close the Jones Aquatic Center
- (g) Monitor its use of water and curtail all non-essential activities, including but not limited to, hydrant flushing, street cleaning, watering of vegetation, any cleaning of buildings and grounds that requires water and any other use of water deemed non-essential by the City Manager
- (h) Seek additional emergency supplies from Lake Kahola, other users and the State and federal government

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~~(1) Phase 1: Restrictions on the uses of water in one or more definitions of water use (i.e., outside watering) wholly, or in part. For example, utilize the "alternate day" or "times for outside watering" programs.~~

~~(2) Phase 2: Includes a complete ban on outside watering at any time, except for vegetable gardens on an alternate day's basis. This shall include that no commercial businesses operating a carwash facility will be allowed to remain open. In addition, water which is purchased by the rural water district(s) for the city will also be reduced on a percentage basis.~~

~~(3) Phase 3; Emergency Water Rates: The governing body of the city shall have the power to adopt emergency water rates designed to conserve water supplies. Such emergency rates may provide for, but not be limited to uniform charges for water usage per unit of use (uniform unit rate).~~

(f) Commercial and Industrial Program: upon the declaration of a water supply emergency as provided in subsection (ed) of this section, the eCity mManager is also authorized to coordinate with local commercial and industrial water users concerning the mandatory conservation measures. The eCity mManager is empowered to promulgate such regulations as may be necessary to carry out the provisions of this section, any water supply emergency resolution, or emergency water rate ordinance. Such regulations shall be subject to the approval of the governing body at its next regular or emergency meeting.

(g) *Violations, Disconnections and Penalties:*

(1) If the eCity mManager or other eCity official charged with implementation and enforcement of this section or a water supply emergency resolution learns of any violation of any water use restrictions imposed pursuant to subsections (d) and (e) of this section, a written notice of violation shall be affixed to the property where the violation occurred and mailed to the consumer of record and to any other person known to the eCity who is responsible for the violation or its

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correction. ~~If the consumer had not previously recorded violations the notice shall constitute a formal warning.~~

(2) ~~If the consumer has one or more recorded violations,~~ the notice shall describe the violation and order that it be corrected, cured or abated immediately or within such specified time as the eCity determines is reasonable under the circumstances. If the order is not complied with, the eCity may terminate water service to the consumer subject ~~et~~ to the following procedures:

(a): The eCity shall give the consumer notice in accordance with section (g)(1) by mail that water service will be discontinued within a specified time due, ~~but not sooner than five (5) business days, to the violation~~ and that the consumer will have the opportunity to appeal the termination by requesting a hearing scheduled before the eCity eClerk, designated as a hearing officer by the governing body;

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(b): If such a hearing is requested by the consumer charged with the violation, he or she shall be given a full opportunity to be heard before the termination is ordered; and

(c): If a request for hearing is not served ~~on to~~ the eCity eClerk within five (5) business days following the date of the mailing of the written notice on the accused party or if the eCity eClerk subsequently finds that the allegations of such notice are true, water service will shall be terminated and additional monetary penalties shall be imposed. This monetary penalty shall be as provided below fee for a specific amount of dollars in addition to the normal eCity reconnection fee as established by administrative regulation and responsibility for the payment of water previously used. All of these financial obligations must be met before water service shall be resumed. The monetary penalties set forth are as follows:

(1). Upon a first violation, a fee in the sum of fifty dollars. (\$50.00).

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(2).- Upon a second violation, a fee in the sum of two hundred dollars (\$200.00)

(3).- Upon a third violation, and any subsequent violations, a fee in the sum of two hundred fifty dollars (\$250.00). (~~Ord. 89-10, § 1, 4-19-1989~~)