

CHAPTER I. ADMINISTRATION

- Article 1. General Provisions
- Article 2. Governing Body
- Article 3. Officers and Employees
- Article 4. Personnel Policy and Employee Benefits
- Article 5. Oaths and Bonds
- Article 6. Open Records
- Article 7. Investment of Idle Funds
- Article 8. Fair Housing

ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Bentley, Kansas," and may be so cited. The Code may also be cited as the "Bentley City Code." (Code 1990)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City shall mean the City of Bentley, Kansas.
 - (b) Code shall mean "The Code of the City of Bentley, Kansas."
 - (c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
 - (d) County means the County of Sedgwick in the State of Kansas.
 - (e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
 - (f) Gender. Words importing the masculine gender include the feminine and neuter.
 - (g) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.
 - (h) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
 - (i) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
 - (j) Month shall mean a calendar month.
 - (k) Number. Words used in the singular include the plural and words used in the plural include the singular.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code 1990)

1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 1990)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1990)

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

part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code 1990)

- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 1990)
- 1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section _____ of the code of the City of Bentley is hereby amended to read as follows: (the new provisions shall then be set out in full). ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Bentley is hereby amended by adding a section (or article or chapter) which reads as follows:. .(the new provisions shall be set out in full). ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) _____ of the code of the City of Bentley is hereby repealed." (Code 1990)
- 1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. All ordinances shall be valid when a majority of all the members-elect of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 1990)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 1990)
- 1-110. SAME; PUBLICATION. (a) No ordinance, except those appropriating money, shall be in force until published in the official city newspaper by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication.
(b) In lieu of subsection (a), a city may opt to publish a summary of an ordinance so long as:
(1) The publication is identified as a "summary" and contains notice that the complete text of the ordinance may be obtained or viewed free of charge at the office of the city clerk;
(2) The city attorney certifies the summary of the ordinance prior to publication to ensure that the summary is legally accurate and sufficient; and
(3) The publication contains the city's official website address where a reproduction of the original ordinance is available for a minimum of one week following the summary publication in the newspaper.

If an ordinance is subject to petition pursuant to state law, then the summary shall contain a statement that the ordinance is subject to petition. (K.S.A. 12-3007; Code 2016)

- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 1990)
- 1-112. RESOLUTIONS/ MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 1990)
- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full. (K.S.A. 12-120:121; Code 1990)
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Bentley to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 1990)
- 1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 1990)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
 - (b) Imprisonment in jail for not more than 179 days; or,
 - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 2016)
- 1-117. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 1990)

ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and five (5) council members to be elected as set out in Chapter 6 of this code. (Code 2016)
- 1-202. POWERS GENERALLY. All powers exercised by cities of the third class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and councilmembers as governing body of the city. (K.S.A. 12-103; Code 1990)
- 1-203. REGULAR AND SPECIAL MEETINGS. (a) Regular meetings of the governing body of the City of Bentley, along with any accompanying work session as called by the governing body shall be held on the 2nd Thursday of each month at 7:15 p.m. In the event any regular meeting day shall fall on a legal holiday or any day observed as a holiday by the city offices, the governing body shall fix the succeeding day or another alternative not observed as the holiday as a meeting day..
(b) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
(c) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn. (K.S.A. 15-106; Ord. 270; Code 2016)
- 1-204. SAME; QUORUM. In all cases, it shall require a majority of the council-elect to constitute a quorum to do business. (K.S.A. 15-106; C.O. No. 4; Code 2016)
- 1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:
(a) Have the superintending control of all officers and affairs of the city;
(b) Take care that the ordinances of the city are complied with;
(c) Sign the commissions and appointments of all officers elected or appointed;
(d) Endorse the approval of the governing body on all official bonds;
(e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
(f) Have the power to approve or veto any ordinance as the laws of the state shall prescribe;
(g) Sign all orders and drafts drawn upon the city treasury for money. (K.S.A. 15-301 *et seq.*; Code 1990)
- 1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as

"acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other councilmembers but shall exercise no veto. (K.S.A. 15-310; Code 1990)

1-207. ADMINISTRATIVE POWERS. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor. (Code 1990)

1-208. VACANCIES IN GOVERNING BODY; HOW FILLED.
In case of a vacancy in the council occurring by resignation, death, or removal from office or from the city, the mayor, by and with the advice and consent of the remaining council members, shall appoint an elector to fill the vacancy until the next election for that office.

In case any person elected as a council member neglects or refuses to qualify within 30 days after election, the council member shall be deemed to have refused to accept the office and a vacancy shall exist. The mayor may, with the consent of the remaining council members, appoint a suitable elector to fill the vacancy.

In case of a vacancy in the office of mayor, the president of the council shall become mayor until the next regular election for that office and a vacancy shall occur in the office of the council member becoming mayor.
(C.O. No. 8; Code 2016)

1-209. COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 1990)

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

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

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

(Code 1990)

1-211. INCORPORATING CODE OF PROCEDURE FOR KANSAS CITIES. There is hereby incorporated by reference for the purpose of establishing a code of procedure for the conduct of city council meetings of the City of Bentley, Kansas, that certain code known as the "Code of Procedure for Kansas Cities," Edition of 2006, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. One copy of said Code of Procedure for Kansas Cities shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Bentley, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Code 2016)

1-212.

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

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

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

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

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

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

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

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

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

(1) Incompatible Employment - No elected or appointive city official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper

discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.

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

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

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

(Code 1990)

ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTMENT. At the first regular meeting in May of each year the mayor, by and with the consent of the council, shall appoint a city clerk and city treasurer, and may appoint a city attorney, municipal judge, chief of police, street commissioner and such other officers as may be deemed necessary for the best interest of the city. Such officers shall hold their respective offices until their successors have been appointed and qualified. All such appointments shall be entered on the journal of proceedings of the governing body. The duties and salaries of all appointed officers shall be fixed by ordinance.
(K.S.A. Supp. 15-204; Ord. 33, Sec. 1; Code 1990)
- 1-302. EMPLOYEES. The mayor shall have authority to hire all other employees, or such authority may be delegated to the respective department heads.
(Code 1990)
- 1-303. REMOVAL. (a) A majority of all members elect of the governing body may remove any appointed officer.
(b) The city council with consent and approval may suspend at any time any appointed officer.
(c) Employees, other than appointed officers, may be removed by and with the consent and approval of the city council.
(K.S.A. 15-204; Code 2016)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 15-209; Code 1990)
- 1-305. CITY CLERK. The city clerk shall:
(a) Be custodian of all city records, books, files, papers, documents and other personal effects belonging to the city and not properly pertaining to any other office;
(b) Carry on all official correspondence of the city;
(c) Attend and keep a record of the proceedings of all regular and special meetings of the governing body;
(d) Enter every appointment of office and the date thereof in the journal;
(e) Enter or place each ordinance of the city in the ordinance books after its passage;
(f) Publish all ordinances, except those appropriating money, and such resolutions, notices and proclamations as may be required by law or ordinance.
(Ord. 33, Sec. 2; Code 1990)
- 1-306. SAME; FISCAL RECORDS. The city clerk shall:
(a) Prepare and keep suitable fiscal records according to generally accepted accounting principles;
(b) Assist in preparing the annual budget;
(c) Audit all claims against the city for goods or services rendered for the consideration of the governing body. His or her accounts shall properly show the amounts paid from any fund of the city and the cash balance existing in each fund;
(d) Keep an accurate account of all bonds issued by the city;

(e) Keep a record of all special assessments.
(Code 1990)

1-307. SAME; SEAL; OATHS. The city clerk shall:
(a) Have custody of the corporate seal of the city and shall affix the same to the official copy of all ordinances, contracts, and other documents required to be authenticated;
(b) Have power to administer oaths for all purposes pertaining to the business and affairs of the city;
(c) Keep suitable files of all such oaths required to be deposited in his or her office.
(Code 1990)

1-308. SAME; WITHHOLDING AGENTS. The city clerk is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 1990)

1-309. ASSISTANT CITY CLERK. (a) The office of assistant city clerk is hereby established. The mayor shall appoint, by and with the consent of the city council, the assistant city clerk. The person so appointed and confirmed shall hold the office for a term of one year and until a successor is appointed and confirmed.
(b) The assistant city clerk shall perform those duties assigned to that office by the city clerk.
(c) Whenever a vacancy occurs in the position of city clerk and the city is without a person appointed, confirmed or qualified to hold that office, the assistant city clerk shall become the acting city clerk and fulfill the duties of that office.
(d) Compensation of the assistant city clerk shall be set by ordinance passed by the governing body.
(Code 2016)

1-310. CITY TREASURER OR CITY CLERK AS ASSIGNED. The city treasurer shall:
(a) Keep a full and accurate record of all money received and paid out in a ledger book provided by the governing body;
(b) Publish an annual financial statement;
(c) Deposit all public moneys and sign all checks of the city;
(d) Pay out city funds only upon orders or warrants properly signed by the mayor and city clerk;
(e) Perform such other duties as may be prescribed by the governing body or the Kansas statutes.
(K.S.A. 10-803; K.S.A. 12-1608; Ord. 33, Code 2016)

- 1-311. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
- (a) Attend meetings of the city governing body when so directed to attend by the governing body;
 - (b) Advise the city governing body and all officers of the city upon such legal questions affecting the city and its offices as may be submitted to him or her;
 - (c) When requested by the city governing body, give opinions in writing upon any such questions;
 - (d) Draft such ordinances, contracts, leases, easements, conveyances and other instruments in writing as may be submitted to him or her in the regular transaction of affairs of the city;
 - (e) Approve all ordinances of the city as to form and legality;
 - (f) Attend planning commission and board of zoning appeals meetings when so directed by the boards;
 - (g) Appear and prosecute all violations of city ordinances in municipal court when his or her services shall be required;
 - (h) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
- (Ord. 33, Sec. 6; Code 1990)
- 1-312. CITY PROSECUTOR; OFFICE; DUTIES. (a) There is hereby established the office of city prosecutor. No person shall be eligible for the office of city prosecutor who is not an attorney at law admitted to practice law in the State of Kansas. The city prosecutor shall:
- (1) Attend meetings of the governing body when so directed to attend by the mayor or city attorney;
 - (2) Advise the city council and all officers of the city upon legal questions affecting the city and its officers as may be submitted to him or her;
 - (3) Draft such ordinances and other instruments in writing as may be submitted to him or her in the regular transactions of the affairs of the city;
 - (4) Appear and prosecute all violations of city ordinances in municipal court;
 - (5) Perform such other duties as may be prescribed by the governing body and the Kansas statutes.
- (b) The governing body may appoint a city prosecutor in accordance with section 1-301. In the event that there is no city prosecutor, the city attorney shall serve in such capacity.
- (Code 2016)
- 1-313. CITY ENGINEER. The city engineer shall be a licensed professional engineer in the State of Kansas. He or she shall be responsible for:
- (a) The design and specifications for all city streets, sewers, water lines, public buildings and other public facilities;
 - (b) The inspection of all public works projects including streets, sewers, water lines and other public facilities;
 - (c) The general supervision of the maintenance and repair of all public facilities.
- (Code 1990)

- 1-314. APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 1990)
- 1-315. CONFLICT OF INTEREST. All city officers and employees shall comply with the requirements of K.S.A. 75-4301a et seq., concerning governmental ethics and refrain from making or participating in the making of a contract when prohibited by state law. (Code 2016)

ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS.

1-401.

PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "Uniform Personnel Policies and Guidelines for the City of Bentley." One copy of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Bentley" and which there shall be attached a copy of this section. Said official copy shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Ord. 265; Code 2016)

ARTICLE 5. OATHS AND BONDS

- 1-501. OATH; AFFIRMATION. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:
- Oath: "I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of _____ (here enter name of office or position). So help me God."
- Affirmation: "I do solemnly, sincerely and truly declare and affirm that I will support the Constitution of the United States and of the State of Kansas and faithfully discharge the duties of _____ (enter name of office or position). This I do under the pains and penalties of perjury.
(K.S.A. 54-104; K.S.A. 54-106; K.S.A. 75-4308; Code 2016)
- 1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 1990)
- 1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:
- (1) City treasurer - \$10,000;
 - (2) City clerk - \$10,000;
 - (3) Judge of municipal court - \$1,000.
- (b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.
(Ord. 95, Sec. 2; Code 1990)
- 1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city.
(K.S.A. 78-111; Code 1990)
- 1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1990)
- 1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1990)

ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the appointed or designated record custodian thereof, or his or her designated representative.
- (Code 1990)
- 1-602. RECORD CUSTODIANS. (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
- (b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person.
- (Code 2016)
- 1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) Be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) Respond to inquiries relating to the Kansas Open Records Act;
- (d) Establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act. (Code 2016)
- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record custodian for each such day at which time any person may request access to an open public record. (Code 2016)

- 1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal record-keeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 2016)
- 1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 2016)
- 1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:
- (a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.
 - (b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.
 - (c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.
 - (d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.
 - (e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.
 - (f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.
- (Code 2016)
- 1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The city clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2016)
- 1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS. (a) Each of the official custodians appointed in section 1-607 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.
- (b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations. (Code 2016)
- 1-610. REQUESTS TO BE DIRECTED TO CUSTODIANS. (a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the

custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

(Code 2016)

1-611. FEE ADMINISTRATION. The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city.

(Code 2016)

1-612. INSPECTION FEE. (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.

(b) In all cases not covered by subsection (a) of this section, a record inspection fee shall be charged at the rate of \$25 per hour per employee engaged in the record search. A minimum charge of \$25 shall be charged for each such request.

(Code 2016)

1-613. COPYING FEE. (a) A fee of \$.25 per single sided page and \$.35 for double sided page shall be charged for photocopying public records, such fee to cover the cost of labor, materials and equipment.

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

(c) A fee of \$1 for the 1st page and \$.50 for each additional page shall be charged for any records that may need to be faxed.

(Code 2016)

1-614. PREPAYMENT OF FEES. (a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$25.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made. (Code 2016)

1-615. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Code 2016)

ARTICLE 7. INVESTMENT OF IDLE FUNDS

- 1-701. **PURPOSE AND GOALS.** It is the purpose of this statement to set forth the public policies of the city relating to the investment of public moneys, and establish procedural requirements as to investment management practice. The objective of the investment policy and program of the city shall be as follows:
- (a) The safeguarding of all public moneys shall be of the highest priority. Public money shall not be invested or managed in any matter which would jeopardize the safety of the principal.
 - (b) Consistent with the requirement of safety, the objective of the investment program shall be to aggressively manage and invest all public moneys to maximize net earnings, consistent with the public responsibility to secure maximum, safe investment return possible from moneys assigned to its stewardship, to relieve demands on the property tax and to otherwise reduce the cost of public services. (Code 2016)
- 1-702. **ACTIVE FUNDS; DESIGNATION OF DEPOSITORIES; ELIGIBLE DEPOSITORIES.** (a) The governing body shall designate the banks, savings and loan associations and savings banks which shall serve as depositories of its funds. The clerk, treasurer or other city officer or employee having the custody of city funds shall deposit such funds only at the designated banks, savings and loan associations and savings banks. Only banks, savings and loan associations and savings banks that have main or branch offices in Sedgwick County shall be designated as official depositories. No such bank, savings bank or savings and loan association shall be designated as a depository until the city is assured that it can obtain satisfactory security for its deposits.
- (b) The clerk, treasurer or other city officer or employee depositing public funds shall deposit all such public funds coming into such person's possession in their name and official title as such officer. If the governing body fails to designate an official depository or depositories, the officer thereof having custody of city funds shall deposit such funds with one or more banks, savings and loan associations or savings banks which have main or branch offices in Sedgwick County if satisfactory security can be obtained therefor and if not then elsewhere. In such event, the officer or employee shall serve notice in writing on the governing body showing the names and locations of such banks, savings and loan associations and savings banks where such funds are deposited, and upon so doing the officer or employee having custody of such funds shall not be liable for the loss of any portion thereof except for official misconduct or for the misappropriation of such funds by the officer or employee.
 - (c) If eligible banks, savings and loan associations or savings banks under subsections (a) or (b) cannot or will not provide an acceptable bid, which shall include services, for the depositing of public funds under this section, then banks, savings and loan associations or savings banks which have main or branch offices in any immediately adjoining county may receive deposits of the city's active funds, if such banks, savings and loan associations or savings banks have been designated as official depositories under subsection (a) and the city can obtain satisfactory security therefor. (Code 2016)

1-703.

DEFINITIONS. As used in this article the following words and phrases shall mean:

(a) Bank - means any bank incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(b) Savings and loan association - means any savings and loan association incorporated under the laws of the state of Kansas or any other state, or organized under the laws of the United States and which has a main or branch office in Kansas;

(c) Savings bank - means any savings bank organized under the laws of the United States and which has a main or branch office in Kansas;

(d) Main office - means the place of business specified in the articles of association, certificate of authority or similar document, where the business of the institution is carried on and which is not a branch;

(e) Branch - means any office within this state, other than the main office, that is approved as a branch by a federal or state supervisory agency, at which deposits are received, checks paid or money lent. Branch does not include an automated teller machine, remote service unit or similar device or a loan production office;

(f) Investment rate - means a rate which is the equivalent yield for United States government securities having a maturity date as published in the Wall Street Journal, nearest the maturity date for equivalent maturities. The 0-90 day rate shall be computed on the average effective federal funds rate as published by the Federal Reserve System for the previous week. (Code 2016)

1-704.

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

(a) In temporary notes or no-fund warrants issued by the city;

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

(1) In banks, savings and loan associations and savings banks, which have main or branch offices located in the city; or

(2) If no main or branch office of a bank, savings and loan association or savings bank is located in the city, then in banks, savings and loan associations and savings banks, which have main or branch offices in the county or counties in which all or part of the city is located;

(c) In repurchase agreements with:

(1) Banks, savings and loan associations and savings banks, which have main or branch offices located in the city, for direct obligations of, or obligations that are insured as to principal and interest by, the United States government or any agency thereof; or

(2)(A) If no main or branch office of a bank, savings and loan association or savings bank, is located in the city; or

(B) If no such bank, savings and loan association or savings bank having a main or branch office located in the city is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks which have main or branch offices in the county or

counties in which all or part of the city is located; or

(3) If no bank, savings and loan association or savings bank, having a main or branch office in such county or counties is willing to enter into such an agreement with the city at an interest rate equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, then such repurchase agreements may be entered into with banks, savings and loan associations or savings banks located within the State of Kansas;

(d) In United States treasury bills or notes with maturities as the governing body shall determine, but not exceeding two years. Such investment transactions shall only be conducted with banks, savings and loan associations and savings banks; the federal reserve bank of Kansas City, Missouri; or with primary government securities dealers which report to the market report division of the federal reserve bank of New York, or any broker-dealer engaged in the business of selling government securities which is registered in compliance with the requirements of section 15 or 15C of the securities exchange act of 1934 and registered pursuant to K.S.A. 2005 Supp. 17-12a401, and amendments thereto;

(e) In the municipal investment pool fund established in K.S.A. 12-1677a, and amendments thereto;

(f) In the investments authorized and in accordance with the conditions prescribed in K.S.A. 12-1677b, and amendments thereto; or

(g) In multiple municipal client investment pools managed by the trust departments of banks which have main or branch offices located in county or counties where city is located or with trust companies incorporated under the laws of this state which have contracted to provide trust services under the provisions of K.S.A. 9-2107, and amendments thereto, with banks which have main or branch offices located in the county or counties in which Bentley is located. Public moneys invested under this paragraph shall be secured in the same manner as provided for under K.S.A. 9-1402, and amendments thereto. Pooled investments of public moneys made by trust departments under this paragraph shall be subject to the same terms, conditions and limitations as are applicable to the municipal investment pool established by K.S.A. 12-1677a, and amendments thereto.

(h) The investments authorized in subsections (d), (e), (f) or (g) of this section shall be utilized only if the banks, savings and loan associations and savings banks eligible for investments authorized in subsection (b), cannot or will not make the investments authorized in subsection (b) available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto.

(i) In selecting a depository pursuant to subsection (b), if a bank, savings and loan association or savings bank eligible for an investment deposit thereunder has an office located in the city and such financial institution will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and such financial institution otherwise qualifies for such deposit, the governing body shall select one or more of such eligible financial institutions for deposit of funds pursuant to this section. If no such financial institution qualifies for such deposits, the city shall select for such deposits one or more eligible banks, savings and loan associations or savings banks which have offices in the county or counties in which all or a part of the city is located which will make such deposits available to the city at interest rates equal to or greater than the investment rate, as defined in subsection (g) of K.S.A. 12-1675a, and amendments thereto, and which otherwise qualify for such deposits.
(Code 2016)

- 1-705. PROCEDURES AND RESTRICTIONS. The city clerk shall periodically report to the governing body as to the amount of money available for investment and the period of time such amounts will be available for investment, and shall submit such recommendations as deemed necessary for the efficient and safe management of city finances. The recommendations of the city clerk shall provide for an investment program which shall so limit the amounts invested and shall schedule the maturities of investments so that the city will, at all times, have sufficient moneys available on demand deposit to assure prompt payment of all city obligations. (Code 2016)
- 1-706. CUSTODY AND SAFEKEEPING. Securities purchased pursuant to this article shall be under the care of the city clerk, city treasurer and city's depository bank as designated annually and shall be held in the custody of a state or national bank or trust company, or shall be kept by such officers in a safety deposit box of the city in a bank or trust company. Securities in the original or receipt form held in the custody of a bank or trust company shall be held in the name of the city, and their redemption, transfer, or withdrawal shall be permitted only upon the written instruction of the city officers. Securities not held in the custody of a bank or trust company shall be personally deposited by such officer in a safety deposit box in the name of the city in a bank or trust company, access to which shall be permitted only in the personal presence and under the signature of two of the abovementioned officers.
(Code 2016)
- 1-707. SALE OR TRANSFER. If, in order to maintain sufficient moneys on demand deposit in any fund as provided in 1-705, it becomes necessary to transfer or sell any securities of such funds, the officers specified in 1-706 may transfer said securities to any other fund or funds in which there are temporarily idle moneys, or shall sell such securities, and for such purpose they shall have authority to make any necessary written direction, endorsement or assignment for and on behalf of the city. (Code 2016)
- 1-708. INTEREST ON TIME DEPOSITS. The city clerk shall deposit the interest earned on invested idle funds to the general fund, unless otherwise required or authorized by law. (Code 2016)

ARTICLE 8. FAIR HOUSING

- 1-801. POLICY. It is the policy of the city to provide, within constitutional limitations, for fair housing throughout the city. (Ord. 110, Sec.1; Code 1990)
- 1-802. DEFINITIONS. (a) Discriminatory Housing Practice means an act that is unlawful under sections 1-804:806.
- (b) Dwelling means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.
- (c) Family includes a single individual.
- (d) Person includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.
- (e) To Rent includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises owned by the occupant. (Ord. 110, Sec. 2; Code 1990)
- 1-803. UNLAWFUL PRACTICE. Subject to the provisions of subsection (b) and section 1-807, the prohibitions against discrimination in the sale or rental of housing set forth in section 1-803 shall apply to:
- (a) All dwellings except as exempted by subsection (b).
- (b) Nothing in section 1 -804 shall apply to:
- (1) Any single-family house sold or rented by an owner: provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsections shall apply only with respect to one such sale within any 24 month period: provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: provided further, that the sale or rental of any such single-family house shall be exempted from the application of this title only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice of any advertisement or written notice in violation of section 1-804(c) of this article but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or,
- (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.

(c) For the purposes of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:

(1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein, or

(2) He or she has, within the preceding 12 months, participated as agent, other than the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental or any interest therein, or

(3) He or she is the owner of any dwelling, designed or intended for occupancy by, or occupied by, five or more families.

(Ord. 110, Sec. 3; Code 1990)

1-804.

DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING. As made applicable by section 1-803 and except as exempted by sections 1-803 and 1-807, it shall be unlawful:

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

(Ord. 110, Sec. 4; Code 1990)

1-805.

DISCRIMINATION IN THE FINANCING OF HOUSING. It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or give: provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in section 1-803. (Ord. 110, Sec. 5; Code 1990)

- 1-806. **DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.** It shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate broker organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (Ord. 110, Sec. 6; Code 1990)
- 1-807. **EXEMPTION.** Nothing in this article shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this article prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Ord. 110, Sec. 7; Code 1990)
- 1-808. **ADMINISTRATION.** (a) The authority and responsibility for administering this act shall be in the chief executive officer of the city.
 (b) The chief executive officer may delegate any of these functions, duties, and powers to employees of the city or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter under this article. The chief executive officer shall by rule prescribe such rights of appeal from the decisions of his or her hearing examiners to other hearing examiners or to other officers in the city, to boards of officers or to himself or herself, as shall be appropriate and in accordance with law.
 (c) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this article and shall cooperate with the chief executive officer to further such purposes. (Ord. 110, Sec. 8; Code 1990)
- 1-809. **EDUCATION AND CONCILIATION.** Immediately after the enactment of this article, the chief executive officer shall commence such educational and conciliatory activities as will further the purposes of this article. He or she shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this article and his or her suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. (Ord. 110, Sec. 9; Code 1990)
- 1-810. **ENFORCEMENT.** (a) Any person who claims to have been injured by discriminatory housing practice or who believes that he or she will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter "person aggrieved") may file a complaint with the chief executive officer. Complaints shall be in writing and shall contain such information and be in such form as the chief executive officer requires. Upon receipt of such a complaint, the chief executive

officer shall furnish a copy of the same to the person or persons who allegedly committed or about to commit the alleged discriminatory housing practice. Within 30 days after receiving a complaint or without 30 days after the expiration of any period of reference under subsection (c), the chief executive officer shall investigate the complaint and give notice in writing to the person aggrieved whether he or she intends to resolve it. If the chief executive officer decides to resolve the complaints, she or she shall proceed to try to eliminate or correct the alleged discriminatory housing practice by informal methods of conference, conciliation, and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this article without the written consent of the persons concerned. Any employee of the chief executive officer who shall make public any information in violation of this provision shall be deemed guilty of a violation and upon conviction thereof shall be fined not more than \$1,000 or imprisoned not more than one year.

(b) A complaint under subsection (a) shall be filed within 180 days after the alleged discriminatory housing practice occurred. Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice are based. Complaints may be reasonably and fairly amended at any time. A respondent may file an answer to the complaint against him or her and with the leave of the chief executive officer, which shall be granted whenever it would be reasonable and fair to do so, may amend his or her answer at any time. Both complaints and answers shall be verified.

(c) If within 30 days after a complaint is filed with the chief executive officer, the chief executive officer has been unable to obtain voluntary compliance with this article, the person aggrieved may, within 30 days thereafter, file a complaint with the secretary of the Department of the Housing and Urban Development. The chief executive officer will assist in this filing.

(d) If the chief executive officer has been unable to obtain voluntary compliance within 30 days of the complaint, the person aggrieved may, within 30 days hereafter commence a civil action in any appropriate court, against the respondent named in this complaint, to enforce the rights granted or protected by this article, insofar as such rights relate to the subject of the complaint. If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may enjoin the respondent from engaging in such practice or order such affirmative action as may be appropriate.

(e) In any proceeding brought pursuant to this section, the burden of proof shall be on the complainant.

(f) Whenever an action filed by an individual shall come to trial, the chief executive officer shall immediately terminate all efforts to obtain voluntary compliance. (Ord. 110, Sec. 10; Code 1990)

1-811. INVESTIGATIONS; SUBPOENAS GIVING OF EVIDENCE. (a) In conducting an investigation the chief executive officer shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation: provided, however, that the chief executive officer first complies with the provisions of the Fourth Amendment relating to unreasonable searches and seizures. The chief executive officer may issue subpoenas to compel his or her access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the

same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The chief executive officer may administer oaths.

(b) Upon written application to the chief executive officer, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the chief executive officer to the same extent and subject to the same limitations as subpoenas issued by the chief executive officer. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his or her request.

(c) Witnesses summoned by subpoena of the chief executive officer shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him or her.

(d) Within five days after the service of a subpoena upon any person, such person may petition the chief executive officer to revoke or modify the subpoena. The chief executive officer shall grant the petition if he or she finds that the subpoena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

(e) In case of contumacy or refusal to obey a subpoena, the chief executive officer or other person at whose request it was issued may petition for its enforcement in the municipal or state court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

(f) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his or her power to do so, in obedience to the subpoena or lawful order of the chief executive officer shall be fined not more than \$1,000 or imprisoned not more than one year, or both. Any person who with intent thereby to mislead the chief executive officer, shall make or cause to be made any false entry or statement of act in any report, account, record, or other document submitted to the chief executive officer pursuant to his or her subpoena or other order, or shall willfully neglect or fail to make or cause to be made full, true, and correct entries in such reports, accounts, records, or other documents, or shall willfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(g) The city attorney shall conduct all litigation in which the chief executive officer participates as a party or as amicus pursuant to this article.
(Ord. 110, Sec. 1; Code 1990)

1-812.

ENFORCEMENT BY PRIVATE PERSONS. (a) The rights granted by sections 1-803:806 may be enforced by civil actions in state or local courts of general jurisdiction. A civil action shall be commenced within 180 days after the alleged discriminatory housing practice occurred: provided, however, that the court shall continue such civil case brought pursuant to this section or section 1-810(d) from time to time before bringing it to trial if the court believes that the conciliation efforts of the chief executive officer are likely to result in satisfactory settlement of the discriminatory housing practice complained of in the complaint made to the chief executive officer and which practice forms the basis for the action in court: and provided, however, that any sale, encumbrance, or rental consummated prior to the

issuance of any court order issued under the authority of this article, and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this article shall not be affected.

(b) The court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees in the case of a prevailing plaintiff: provided, that the plaintiff in the opinion of the court is not financially able to assume the attorney's fees. (Ord. 110, Sec. 12; Code 1990)

1-813. INTERFERENCE, COERCION, OR INTIMIDATION. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by sections 1-803:806. This section may be enforced by appropriate civil action. (Ord. 110, Sec. 13; Code 1990)

1-814. PREVENTION OF INTIMIDATION IN FAIR HOUSING CASES. Whoever, whether or not acting under color of law, by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with:

(a) Any person because of his or her race, color, religion or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale, purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings; or

(b) Any person because he or she is or has been, or in order to intimidate such person or any other person or any class of persons from:

(1) Participating, without discrimination on account of race, color, religion or national origin, in any of the activities, service, organizations or facilities described in subsection (a); or

(2) Affording another person or class of persons opportunity or protection so to participate; or

(c) Any citizen because he or she is or has been, or in order to discourage such citizen or any other citizen from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion or national origin, in any of the activities, services, organizations or facilities described in subsection (a), or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate: shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and if bodily injury results shall be fined not more than \$10,000, or imprisoned not more than 10 years, or both; and if death results shall be subject to imprisonment for any terms of years or for life. (Ord. 110, Sec. 15; Code 1990)