

WORK SESSION AGENDA

March 2, 2022

5:00 p.m.

I. Work Session Discussion Items:

- i. American Rescue Plan Act (ARPA) Funds
- ii. American Rescue Plan Funds and First Responder Radios
- iii. Executive Limitations Policies
- iv. Outcomes Policies Development
- v. Insurance Proceeds Fund Ordinance

II. Regular Agenda Preview:

a. **Items to be Placed on the Consent Agenda**

- i. Meeting Minutes
- ii. Severe Weather Preparedness Week Proclamation

b. **Items to be Placed on the Regular Agenda**

- i. Myers East 2nd Addition – A Replat of Part of Myers East Addition
- ii. American Rescue Plan Act (ARPA) Funds
- iii. American Rescue Plan Funds and First Responder Radios

c. **Items to be Placed on the Land Bank Consent Agenda**

- i. None

d. **Executive Session**

- i. None

III. Reports:

- a. City Commission Reports
- b. City Manager Report

EL DORADO

K A N S A S

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: American Rescue Plan Act (ARPA) Funds
DATE: February 23, 2022

Background: In 2021, the City received notice that it will receive \$1.9 million in American Rescue Plan Act funds in response to the coronavirus public health emergency. The Department of Treasury released its Final Rule defining how local governments may spend the funds on projects or initiatives. The four categories for ARPA funds include:

- to respond to the public health emergency with respect to COVID-19 or its **negative economic impacts**, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
- to respond to workers performing essential work during the COVID-19 public health emergency by providing **premium pay to eligible workers** of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
- for the provision of government services to the extent of the **reduction in revenue** of the City due to COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year of the City; and
- to make necessary **investments in water, sewer, or broadband infrastructure**.

With the issuance of the Final Rule, the Department of Treasury provided local governments with the ability to designate up to \$10 million as reduced revenue, which allows cities to spend such funds on any general government purpose even if such use is beyond the scope of the defined categories. This designation gives smaller local governments, such as El Dorado, the most flexibility to allocate funds to uses best suited to the community.

Policy Issues: Should the City designate its share of American Rescue Plan Act funds as “reduced revenue due to the COVID-19 public health emergency,” or designate funds for another authorized use as provided in the Final Rule concerning Coronavirus State and Local Fiscal Recovery Funds promulgated by the Department of Treasury with an effective date of April 1, 2022?

Fiscal Impact: ARPA funds do not require a local match because these funds are entitlement funds granted by the federal government based on a formula. As such, spending the funds will not affect municipal funds unless the City decides to use local funds to extend the scope of ARPA funds.

Legal Review: The City Attorney has not reviewed this item.

Trade-offs: The City Commission can decide not to designate ARPA funds as “reduced revenue,” although it will have to spend the funds within the authorized uses. Designating the funds as “reduced revenue” provides the City Commission with the greatest flexibility in determining how to allocate these funds.

Staff Recommendation: The City Manager recommends designating the City’s ARPA allocation as “reduced revenue due to the COVID-19 public health emergency,” as provided in the Final Rule concerning Coronavirus State and Local Fiscal Recovery Funds promulgated by the Department of Treasury.



Coronavirus State and Local Fiscal Recovery Funds

The American Rescue Plan will deliver \$350 billion for state, local, territorial, and Tribal governments to respond to the COVID-19 emergency and bring back jobs.

The Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery.

Funding Objectives

- **Support urgent COVID-19 response efforts** to continue to decrease spread of the virus and bring the pandemic under control
- **Replace lost public sector revenue** to strengthen support for vital public services and help retain jobs
- **Support immediate economic stabilization** for households and businesses
- **Address systemic public health and economic challenges** that have contributed to the inequal impact of the pandemic

Eligible Jurisdictions & Allocations

Direct Recipients

- States and District of Columbia (\$195.3 billion)
- Counties (\$65.1 billion)
- Metropolitan cities (\$45.6 billion)
- Tribal governments (\$20.0 billion)
- Territories (\$4.5 billion)

Indirect Recipients

- Non-entitlement units (\$19.5 billion)



Support Public Health Response

Fund COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff



Address Negative Economic Impacts

Respond to economic harms to workers, families, small businesses, impacted industries, and the public sector



Replace Public Sector Revenue Loss

Use funds to provide government services to the extent of the reduction in revenue experienced due to the pandemic



Premium Pay for Essential Workers

Offer additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors



Water and Sewer Infrastructure

Make necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure



Broadband Infrastructure

Make necessary investments to provide unserved or underserved locations with new or expanded broadband access



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Example Uses of Funds



Support Public Health Response

- **Services to contain and mitigate the spread of COVID-19**, including vaccination, medical expenses, testing, contact tracing, quarantine costs, capacity enhancements, and many related activities
- **Behavioral healthcare services**, including mental health or substance misuse treatment, crisis intervention, and related services
- **Payroll and covered benefits** for public health, healthcare, human services, and public safety staff to the extent that they work on the COVID-19 response



Replace Public Sector Revenue Loss

- **Ensure continuity of vital government services** by filling budget shortfalls
- **Revenue loss is calculated** relative to the expected trend, beginning with the last full fiscal year pre-pandemic and adjusted annually for growth
- **Recipients may re-calculate revenue loss** at multiple points during the program, supporting those entities that experience revenue loss with a lag



Water & Sewer Infrastructure

- **Includes improvements to infrastructure**, such as building or upgrading facilities and transmission, distribution, and storage systems
- **Eligible uses aligned to Environmental Protection Agency project categories** for the Clean Water State Revolving Fund and Drinking Water State Revolving Fund



Equity-Focused Services

- **Additional flexibility for the hardest-hit communities and families** to address health disparities, invest in housing, address educational disparities, and promote healthy childhood environments
- **Broadly applicable** to Qualified Census Tracts, other disproportionately impacted areas, and when provided by Tribal governments



Address Negative Economic Impacts

- **Deliver assistance to workers and families**, including support for unemployed workers, aid to households, and survivor's benefits for families of COVID-19 victims
- **Support small businesses** with loans, grants, in-kind assistance, and counseling programs
- **Speed the recovery of impacted industries**, including the tourism, travel, and hospitality sectors
- **Rebuild public sector capacity** by rehiring staff, replenishing state unemployment insurance funds, and implementing economic relief programs



Premium Pay for Essential Workers

- **Provide premium pay to essential workers**, both directly and through grants to third-party employers
- **Prioritize low- and moderate-income workers**, who face the greatest mismatch between employment-related health risks and compensation
- **Key sectors include** healthcare, grocery and food services, education, childcare, sanitation, and transit
- **Must be fully additive** to a worker's wages



Broadband Infrastructure

- **Focus on households and businesses** without access to broadband and those with connections that do not provide minimally acceptable speeds
- **Fund projects that deliver reliable service** with minimum 100 Mbps download / 100 Mbps upload speeds unless impracticable
- **Complement broadband investments** made through the Capital Projects Fund



Ineligible Uses

- **Changes that reduce net tax revenue** must not be offset with American Rescue Plan funds
- **Extraordinary payments into a pension fund** are a prohibited use of this funding
- **Other restrictions apply** to eligible uses

The examples listed in this document are non-exhaustive, do not describe all terms and conditions associated with the use of this funding, and do not describe all the restrictions on use that may apply. The U.S. Department of the Treasury provides this document, the State and Local contact channels, and other resources for informational purposes. Although efforts have been made to ensure the accuracy of the information provided, the information is subject to change or correction. Any Coronavirus State and Local Fiscal Recovery Funds received will be subject to the terms and conditions of the agreement entered into by Treasury and the respective jurisdiction, which shall incorporate the provisions of the Interim Final Rule and/or Final Rule that implements this program.

EL DORADO

K A N S A S

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: American Rescue Plan Funds and First Responder Radios
DATE: February 24, 2022

Background: In 2012, Butler County purchased new handheld radios for first responder agencies throughout the County. The County purchased a new radio system and wanted all agencies to operate using the same equipment. That equipment has now reached its useful life and needs replacement before a catastrophic failure occurs.

Combined, the Police and Fire Departments require sixty handheld radio units. Butler County provided the City with twenty-three radio units for use by the Police and Fire Departments. The City plans to use proceeds from its most recent bond issuance to acquire another twelve handheld radios for the Fire Department. The City requires twenty-five additional radios to replace the remaining stock. At a cost of \$5,500 per radio, the cost of replacing these twenty-five radios is \$137,500.

The City Commission may allocate a portion of the City's American Rescue Plan Act (APRA) funds for the replacement of handheld radios for the Police and Fire Departments as a general government expenses following its designating of such funds as "reduced revenue."

Policy Issue: Should the City allocate a portion of its ARPA funds towards the purchase of handheld radios for the Police and Fire Departments?

Strategic Priority: The strategic priorities that apply to this item include:

Infrastructure - *The City invests in its public infrastructure provide the basic resources necessary for the community to thrive and prosper. Continuously **invest in public safety** initiatives, equipment, and technology to provide the El Dorado Police and Fire Departments with the resources needed to preserve order and protect life and property.*

Alternatives:

Staff has determined the following options exist with respect to this issue (*listed in no particular order*):

- Allocate a portion of the City's American Rescue Plan Act funds to purchase and acquire handheld radios for the Police and Fire Departments.
- Allocate a General Fund reserve balance to purchase and acquire handheld radios for the Police and Fire Departments.

- Require the Police and Fire Departments to purchase remaining handheld radios over the next few years from the departments' operating budgets.
- Finance the purchase of handheld radios for the Police and Fire Departments.

Fiscal Impact: Replacement radios cost \$5,500 each, so the cost of replacing twenty-five handheld radios will cost \$137,500. The General Fund did not budget to purchase these radios, so the expense will be a significant charge to both departments' operating budget or the General Fund reserve balance will need to cover the expense. The General Fund has sufficient reserve funds to pay for the replacement of the radios, although ARPA funds provide resources that will not change the City's financial position.

Following the purchase and replacement of the existing radios, the City plans to implement a phased replacement plan that mitigates a significant one-time expense when the radios are near the end of useful life. The goal of a phased replacement is to budget for the replacement of radios over several years instead of requiring a one-time expense or the need to finance radios. The City's entire handheld radio inventory will cost \$330,000 if the City purchased them all at once.

Legal Review: The City Attorney has not reviewed this item.

Trade-offs: The existing handheld radios used by the Police and Fire Departments have reached their useful life. While the radios could serve the departments longer than the expected life, the City does not want to put its first responders in a situation where communication fails. Situations where communication fails in police and firefighting work has a high possibility of injury and even death. Replacing handheld radios ensures that the equipment is ready to serve its users with a lower probability of failure.

Staff Recommendation: The City Manager recommends using ARPA funds to purchase and replace radios for the Police and Fire Departments. The City has not identified another source of funding to replace critical infrastructure necessary to allow communication between police officers and firefighters.

EL DORADO

K A N S A S

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Executive Limitations Policies
DATE: January 19, 2022

Background: The City Commission started a discussion about the Policy Governance model in an effort to enhance its effectiveness as a governing body. The *Executive Limitations Policies* provides one layer of the Policy Governance model that inform the city manager of what the governing body will not tolerate or allow. The governing body then holds the city manager personally accountable that all operational and staff activities fall within the boundaries established by the *Executive Limitations Policies*.

The idea of boundary setting is important for establishing optimal delegation. *Executive Limitations Policies* describe what would be unacceptable even if it were effective. It may be helpful to think of *Executive Limitations Policies* as establishing the condition for preapproval of any staff decisions or activities that do not violate the written policies. Thus if expenditures, compensation plans, or other operational decisions are not in violation of *Executive Limitations Policies*, they are deemed automatically governing body authorized by management.

In reviewing the drafted *Executive Limitations Policies*, the governing body should consider whether the body can accept any reasonable interpretation of the policies as drafted or if modifications are necessary to arrive at such a standard.

Other layers of the Policy Governance model include the *Delegation Policies* (defines how work is delegated to management), *Governance Policies* (defines standards and behavior of the governing body), and *Outcomes Policies* (define what is to be achieved by the organization). The City Commission will review drafts of these policies in the coming weeks and will continue the development of *Outcomes Policies*.

Policy Issue: Should the City Commission adopt the *Executive Limitations Policies* as drafted, or do the policies need modification in order to more clearly define the City Commission's boundaries (limitations) for management?

Strategic Priority: The City's adopted strategic plan does not address this item specifically. The proposed policies define the relationship between the governing body and city manager by outlining behaviors that the governing body deems unacceptable. The governing body will hold the city manager personally accountable that all operational and staff activities fall within the boundaries established by the *Executive Limitations Policies*. The idea of boundary setting is important for establishing optimal delegation.

Attachments:

- Draft *Executive Limitations Policies* document

Fiscal Impact: This item does not have a fiscal impact.

Legal Review: This item is a policy matter concerning interactions between the City Commission and City Manager and does not require a legal review.

Trade-offs: A lack of delegated authority blurs management's responsibilities in managing the municipal organization. Individual members of the governing body may have different expectations for management. Management may not have clear definition of expectations, which can lead to confusion, unauthorized decision-making, or repetitive discussions with the governing body to clarify direction.

Many management decisions will require approval of the governing body without clear definition of limitations on executive authority. The governing body can facilitate effective policies without getting into administrative decisions by setting forth clear expectations for what management may approve without requiring governing body approval. Management will then have to demonstrate to the satisfaction of the governing body that management complies with the defined limitations.

Staff Recommendation: The City Manager recommends adoption of *Executive Limitations Policies* as drafted or as otherwise amended by the City Commission to reflect the governing body's desires with respect to actions by management the governing body will not allow.

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EL DORADO

K A N S A S

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Executive Limitation Policies
DATE: December 6, 2021

Executive Limitations Policies inform the city manager of what the governing body will not tolerate or allow. The governing body will hold the city manager personally accountable that all operational and staff activities fall within the boundaries established by the *Executive Limitations Policies*. The idea of boundary setting is important for establishing optimal delegation. *Executive Limitations Policies* describe what would be unacceptable even if it were effective.

It may be helpful to think of *Executive Limitations Policies* as establishing the condition for preapproval of any staff decisions or activities that do not violate the written policies. Thus if expenditures, compensation plans, or other operational decisions are not in violation of *Executive Limitations Policies*, they are deemed automatically governing body authorized by management.

Global Executive Limitations Policy

The city manager shall not cause or allow any organizational practice, activity, decision or circumstance that is either unlawful, imprudent, or in violation of commonly accepted municipal and professional ethics and practices.

Executive Limitations Policy 1: Treatment of Citizens and Community Stakeholders

With respect to interactions with citizens and community stakeholders, the city manager shall not cause or allow conditions, procedures, or decisions that are unsafe, untimely, undignified, or unnecessarily intrusive. To that end, the city manager shall not:

- a. Elicit information for which there is no clear necessity.
- b. Use methods of collecting, reviewing, transmitting, or storing citizen or vendor information that fails to protect against improper access to the material.
- c. Fail to operate facilities with appropriate accessibility and privacy.
- d. Fail to establish with citizens a clear understanding of what may be expected and what may not be expected from services offered.

- e. Fail to inform citizens of this policy or to provide a way to be heard for persons who believe they have not been accorded a reasonable interpretation of their rights under this policy or applicable local ordinances.

Executive Limitations Policy 2: Treatment of Staff

With respect to the treatment of paid and volunteer staff, the city manager may not cause or allow conditions that are unfair, undignified, disorganized, or unclear. To that end, the city manager shall not:

- a. Operate without written personnel rules that a) clarify rules for staff, b) provide for effective handling of grievances, and c) protect against wrongful conduct such as nepotism and grossly preferential treatment for personal reasons.
- b. Retaliate against any staff member for non-disruptive expression of dissent.
- c. Fail to acquaint staff with the city manager's interpretation of their protections under this policy.
- d. Allow staff to be unprepared to manage emergencies.

Executive Limitations Policy 3: Financial Planning/Budgeting

The city manager shall not cause or allow financial planning for any fiscal year or the remaining part of any fiscal year to deviate materially from the governing body's approved *Outcomes Policies*, risk financial jeopardy, or fail to be derived from an approved multi-year plan. To that end, there will be no financial plans that:

- a. Risk incurring those situations or conditions described as unacceptable in the board policy "Financial Condition and Activities."
- b. Omit credible projection of revenues and expenses, separation of capital and operational items, cash flow, and disclosure of planning assumptions.
- c. Provide less for board prerogatives during the year than is set forth in the "Cost of Governance" policy.

Executive Limitations Policy 4: Financial Condition and Activities

With respect to the actual, on-going financial conditions and activities, the city manager shall not cause or allow the development of financial jeopardy or material deviation or actual expenditures from governing body priorities established in approved *Outcomes Policies*. To that end, the city manager shall not:

- a. Expend more funds than have been received in the fiscal year to date unless the governing body's debt guideline is met.
- b. Incur debt in an amount greater than can be repaid by certain and otherwise unencumbered revenues within sixty days.

- c. Use any long-term reserves.
- d. Conduct inter-fund shifting in amounts greater than can be restored to a condition of discrete fund balances by certain and otherwise unencumbered revenues within thirty days.
- e. Fail to settle payroll and debts in a timely manner.
- f. Allow tax payments or other government-ordered payments or filings to be overdue or inaccurately filed.
- g. Make a single purchase or commitment of greater than \$50,000. Splitting orders to avoid this limit is unacceptable.
- h. Acquire or encumber real property. Dispose of real property unless such property has an assessed valuation of less than \$50,000.
- i. Fail to aggressively pursue receivables after a reasonable grace period.

Executive Limitations Policy 5: Emergency City Manager Succession

To protect the governing body from sudden loss of professional management services, the city manager shall not permit there to be fewer than two other executive sufficiently familiar with governing body and management issues and processes to enable either to assume the duties and responsibilities of the city manager with reasonable proficiency as an interim successor.

Executive Limitations Policy 6: Asset Protection

The city manager shall not cause or allow municipal assets to be unprotected, inadequately maintained, or unnecessarily risked. To that end, the city manager shall not:

- a. Fail to insure adequately against theft and causality and against liability losses to governing body members, staff, and the organization itself.
- b. Allow unbonded personnel access to material amounts of funds.
- c. Subject facilities and equipment to improper wear and tear or insufficient maintenance.
- d. Unnecessarily expose the organization, the governing body, or its staff to claims of liability.
- e. Make any purchase a) wherein normally prudent protection has not been given against conflict of interest; b) of more than \$5,000 without having obtained comparative prices and quality; c) of more than \$10,000 without a stringent method of assuring the balance of long-term quality and cost. Orders shall not be split to avoid these criteria.
- f. Fail to protect intellectual property, information, and files from loss or significant damage.

- g. Receive, process, or disburse funds under controls insufficient to meet the board-appointed auditor's standards.
- h. Compromise the independence of the governing body's audit or other external monitoring or advice, such as by engaging parties already chosen by the governing body as consultants or advisors.
- i. Invest or hold operating capital in insecure instruments as required by state statute, including uninsured checking accounts at any time, or in non-interest bearing accounts except when necessary to facilitate ease in operational transactions.
- j. Endanger the organization's public image, its credibility, or its ability to accomplish approved *Outcomes Policies*.
- k. Change the organization's name or substantially alter its identity in the community.

Executive Limitations Policy 7: Compensation and Benefits

With respect to employment, compensation, and benefits to employees, consultants, contract workers, and volunteers, the city manager shall not cause or allow jeopardy to financial integrity or to public image. To this end, the city manager shall not:

- a. Change the city manager's own compensation and benefits, except as those benefits are consistent with the compensation and benefits provided to all other employees.
- b. Promise or imply permanent or guaranteed employment.
- c. Establish current compensation and benefits that deviate materially from the geographic or professional market for the skills employed.
- d. Create obligations over a longer term than revenues can be safely projected, in no event longer than one year, and in all events subject to losses in revenue.
- e. Establish or change pension benefits so as to cause unpredictable or inequitable situations, including those that:
 - i. Incur unfunded liabilities;
 - ii. Provide less than some basic level of benefits to all full-time employees, though differential benefits to encourage longevity are not prohibited;
 - iii. Allow any employee to lose benefits already accrued from any previous plan; and
 - iv. Treat the city manager differently from other employees.

Executive Limitations Policy 8: Communication and Support to the Governing Body

The city manager shall not cause or allow the governing body to be uninformed or unsupported in its work. To that end, the city manager shall not:

- a. Neglect to submit to monitoring data required by the governing body in *Delegation Policy* “Monitoring City Manager Performance” in a timely, accurate, and understandable fashion, directly addressing provisions of governing body policies being monitored, and including city manager interpretations consistent with *Delegation Policy* “Delegation to the City Manager,” as well as relevant data.
- b. Allow the governing body to be unaware of any actual or anticipated non-compliance with any approved *Outcomes Policies* or *Executive Limitations Policy* of the governing body regardless of the governing body’s monitoring schedule.
- c. Allow the governing body to be without decision information required periodically by the governing body or let the governing body be unaware of relevant trends.
- d. Let the governing body be unaware of any significant incidental information it requires, including anticipated media coverage, threatened or pending lawsuits, and material internal and external changes.
- e. Allow the governing body to be unaware that, in the city manager’s opinion, the governing body is not in compliance with its own policies on *Governance Process* and *Delegation*, particularly in the case of governing body behavior that is detrimental to the work relationship between the governing body and the city manager.
- f. Present information in unnecessarily complex or lengthy form or in a form that fails to differentiate among information of three types: monitoring, decision preparation, and other.
- g. Allow the governing body to be without a workable mechanism for official board, officer, or committee communications.
- h. Deal with the governing body in a way that favors or privileges certain members over others, except when:
 - i. Fulfilling individual requests for information; or
 - ii. Responding to officers or committees duly charged by the governing body.
- i. Fail to submit to the governing body a consent agenda containing items delegated to the city manager, yet required by law, regulation, or contract to be approved by the governing body, along with applicable monitoring information.

Executive Limitations Policy 9: Ends Focus of Grants or Contracts

The city manager may not enter into any grant or contract arrangements that fail to emphasize primarily the facilitation of *Outcomes Policies* and, secondarily, the avoidance of unacceptable means. To this end, the city manager shall not:

- a. Fail to prohibit particular methods and activities to preclude grant funds from being used in imprudent, unlawful, or unethical ways.
- b. Fail to assess and consider an applicant's capability to produce appropriately targeted, efficient results.
- c. Fund specific methods except when doing so for research purposes, when the result to be achieved is knowledge about differential effectiveness of various methods of service delivery.

EL DORADO

K A N S A S

TO: City Commission
FROM: David Dillner, City Manager
SUBJ: Development of Outcomes Policies
DATE: January 19, 2022

Background: The City Commission started a discussion to define the outcomes or results the body desires the municipal organization to achieve. The primary purpose of *Outcomes Policies* is to define the priorities of the organization and the expected outcomes or results from pursuing these priorities. In other words, what is the municipal government to work towards and how will the City Commission define success?

Other layers of the Policy Governance model include the *Delegation Policies* (defines how work is delegated to management), *Governance Policies* (defines standards and behavior of the governing body), and *Executive Limitations Policies* (define what management cannot do without governing body approval). The City Commission will review drafts of these policies in the coming weeks and will continue the development of *Outcomes Policies*.

Outcomes Development: The City Commission may find it useful to frame priorities using the SMART methodology to develop and define *Outcomes Policies*. Outcomes developed using the SMART framework (an acronym representing Specific, Measurable, Attainable, Relevant, and Timely) will provide clear direction on what is to be sought and what results are to be attained. To that end, the City Commission should work to develop outcomes it desires the municipal government to work towards with the clarity of this approach.

- **Specific:** Describe the outcome in enough detail so management knows the desired outcome or result.
- **Measurable:** Describe how the governing body will know when the goal has been attained. What resources will be assigned to achieve the outcome?
- **Attainable:** Can this outcome be accomplished?
- **Relevant:** Describe how the outcome is relevant to the community. Who is the primary beneficiary of the expected outcome?
- **Timely:** When does the governing body expect the outcome to be accomplished?

The City Commission listed the following priorities in previous discussions:

- Housing;
- Economic Development;
- Lake Debt;
- Swimming Pool; and
- Comprehensive Plan Update.

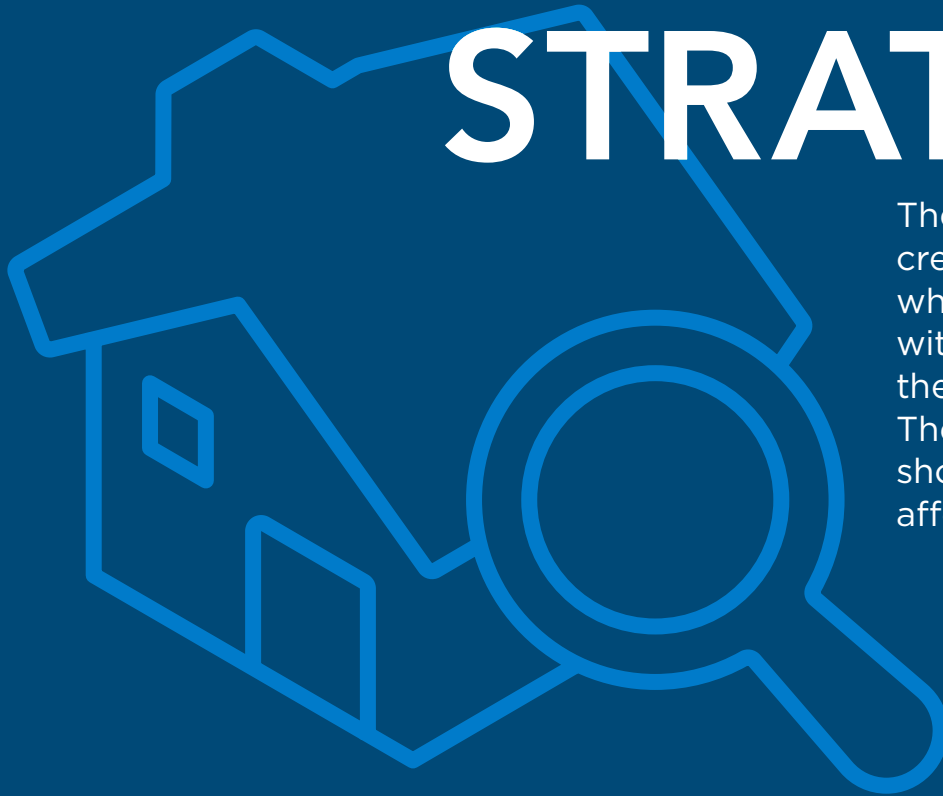
In addition to these subjects, the City Commission named the following topics as policy issues needing further discussion:

- Lake Debt;
- Excess Sales Tax;
- American Rescue Plan Funds;
- Downtown Plan;
- Recreation Master Plan;
- Housing;
- Homelessness;
- Advisory Boards;
- BG Stadium;
- Comprehensive Plan Update; and
- Civic Center.

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GOALS *and* STRATEGIES



The measure of a study's success is its ability to create action. In the case of a housing assessment where the issues are diverse and implementation lies with many constituents that have a vested interest in the housing market, the roadmap forward is critical. The desired action from a housing assessment should be an increase in housing variety and affordability.

Goals

The community engagement and market analysis presented in the previous sections brought to light several key challenges and opportunities that face the state as it considers its capacity to meet housing needs during the next 10 to 15 years. This chapter provides the goals and potential strategies for addressing the state's housing priorities.



Add or free up more middle-income housing

Over the past two decades, much of the new construction market has focused on units that are affordable to households making less than 80% of the area median income (AMI) or over 120% of AMI. The need for these units continues, but the gap for the middle-income ranges has only grown. Capital or incentives for these projects is often harder to find and returns on investments are seen as lower. To address this, a mix of incentives should both improve existing housing units and generate new construction.



Diversify the housing stock to match local demographic and employee needs

Households have different housing needs. For many years the housing market focused on single-family detached homes with rental construction happening primarily in urban areas. The lack of varying housing types results in individuals staying in homes they do not prefer (or need) or entering homes that do not fit their stage of life or lifestyle. A greater variety of housing products should provide options for households' needs at every stage of life.



Extend housing security

Many communities across Kansas have existing affordable units. Some of these are affordable because of the age of the house, while others were specifically built to meet the needs of lower-income households. Preserving and reinvesting in the older units should ensure that existing affordable units do not decrease.



Increase reinvestment in older housing stock, including vacant units

Approximately 30% of the housing stock in Kansas was built before 1960. Consequently, the condition of housing in many areas, especially rural areas, is below average. This housing is often referred to as naturally occurring affordable housing. Continual reinvestment in this stock of housing will be important to meet existing and future housing needs. Reoccupying many of the suitable vacant units within this supply of housing is also essential to add affordable units without the need for new construction.



Address the building trades labor shortage

The construction of new housing and the rehabilitation of existing housing will be difficult to achieve without the workforce necessary to complete this work. Existing contractors are busier than ever and cannot keep up with the demand. The recruitment and retention of this workforce will be necessary in all parts of the state. This could also mean investing in technological advancements and innovations that experiment with new construction methods, faster construction processes, or other ways that help existing tradespeople be more efficient.



Extend existing human capital resources

Many communities and community leaders have identified strategies for housing development. This knowledge should be collected and shared with others around the state. Some of this is already done with KHRC and the Department of Commerce but local innovations are opportunities for knowledge sharing at a broader level, even considering out-of-the-box initiatives in other states.

Strategies

A housing market is a complex and ever-changing landscape of countless variables including economic factors guiding production, rehabilitation, and demand. Social factors also influence housing preferences, as does the willingness of home buyers to adapt to new products, and the perception of a community.

Forward

The following section explores housing strategies and partnerships that can be used to generate energy in the market. There is no one solution to address issues and capitalize on strengths. Therefore, the following strategies are included as starting points for building momentum and expanding the state's quantity and quality of housing at every income level.

In decades past, housing strategies often focused on the production of housing for the lowest income households and how to make homeownership more attainable. **While these are still important issues, today's housing market is more nuanced.** The Statewide Profile and community outreach

in other sections illustrated the need for housing at almost every income level. For these reasons, strategies in this assessment try to target some of the underlying issues and opportunities that are driving the housing market today. These strategies should be seen as a starting point from which other policies and programs can be proposed that will help achieve the goals outlined in this assessment.

The following chapter identifies strategies related to each goal. Strategies are identified as either state or local level. Some strategies will help implement more than one goal.

In decades past, housing strategies often focused on the production of housing for the lowest income households and how to make homeownership more attainable. While these are still important issues, today's housing market is more nuanced.

MIDDLE INCOME HOUSING

If a group of individuals were asked “what is middle-income housing” the number of definitions received would probably equal the number of individuals asked. For the purposes of this assessment, “middle-income housing” will be defined as housing that is affordable to households making between 80% and 120% of Area Median Income (AMI). This definition allows for some flexibility based on regional context as the economic drivers in Southwest Kansas are different from those in the Kansas City Metro area.

The need for more middle income housing cannot be fully addressed through the construction of new units. No community or region can build their way out of the issue, nor should they. Across the state are many existing housing units valued at price points nearly impossible to construct in today’s market. Making sure these units are livable and providing alternative housing options for the households living in these units to move if preferred is an important part of adding more units.

2021 Income Limits - Four Person Families

	MEDIAN FAMILY INCOME	30% OR EXTREMELY LOW INCOME	50%	80%	120%
Kansas	\$77,400	\$23,200	\$38,700	\$61,900	\$92,800
Johnson County	\$86,600	\$26,500	\$43,300	\$69,300	\$103,900
Hamilton County	\$53,900	\$26,500	\$32,550	\$52,100	\$64,700

U.S. Department of Housing and Urban Development

The above chart provides a glimpse at income limits. Income limits are based on a county’s area median income. The above chart provides a summary of the highest and lowest income counties along with the statewide average. The income limits for each county can be found at HUD.gov.

State Level

Greater Funding for MIH Program

The Moderate Income Housing Program is impressive and participants from every corner of the state noted its benefits. Most housing assistance comes from State and Federal sources that require income restrictions of 30% to 80% of Area Median Income (AMI). The MIH program provides grants or loans to local governments to develop owner or rental housing for households making up to 150% of the state AMI in cities or counties with populations of less than 60,000.

In the past, middle-income products have often been left behind with price points too high to receive traditional low-

income incentives, but too low to make them profitable for the private sector. The MIH Program provides essential gap financing necessary to reduce the risk for development, and its flexibility has been impressive. The program has truly embodied the mission of bringing more housing to rural areas.

There are two main challenges to the program:

- The demand for the program is greater than the funding. In 2019 there were 18 applications for a total of \$5 million in requests. The requests have been steadily rising. In 2021 there were 28 applications for a total of \$8.7 million in requests.



MIH Project in Newton

- › The program has \$2 million available each year and each project has a \$400,000 request limit.
- The need for units within these price points also exists in our larger communities and counties that do not currently qualify to use the program. Preservation of existing units that meet the need for middle income households will be important but adding to the stock will also be important.

The funding for the existing MIH Program should be expanded to meet the growing demand. Additionally, the program should be expanded or a sister program developed with a separate pool of funding that focuses on the middle-income housing needs in larger communities and counties. An important component of this program may be the preservation of existing units through programs like a purchase, rehab, and resale program discussed in this chapter.

BENCHMARKS FOR MIH PROGRAM

Below are some benchmarks to determine the amount of funding and funding mechanisms to consider for the MIH Program.

- Nebraska Rural Workforce Housing Fund - is a matching grant for the development of workforce housing based on the price of units being less than \$285,000 for owner-occupied or rentals costing no more than \$200,000 per unit. The program was originally funded through a reallocation of \$7 million from the Nebraska Affordable Housing Trust Fund. <https://opportunity.nebraska.gov/program/workforce-housing-fund/#app>
 - › In 2020 a sister program, The Middle Income Workforce Housing Investment Fund, was developed to target the state's larger cities. The fund was established with a one-time transfer of \$10 million from the general fund. <https://opportunity.nebraska.gov/program/middle-income-workforce-housing-investment-fund/>
 - › Both of these funds in Nebraska can be further supplemented by revenue from appropriations from the legislature, grants, private contributions, and other sources.
 - › The Nebraska Housing Trust Fund is supported through stamp collections on real estate transactions.
- Iowa Workforce Housing Tax Credit - in 2021 provided nearly \$30 million in tax credits for 49 projects. No project can receive more than \$1 million in tax credits. For the most recent application round, 137 applications requesting \$85.9 million in tax credits were received. The program includes a small city set aside that in 2021 accounted for \$12 million in credits. <https://www.iowaeda.com/workforce-housing-tax-credit/>
- Oklahoma Housing Trust Fund - a one time allocation in the 1990s of \$4.5 million focused on households making less than 120% AMI. The program is set up as a revolving loan and therefore has periods of zero funding available. <https://www.ohfa.org/oklahoma-housing-trust-fund/>
- Missouri Affordable Housing Assistance Program (AHAP) - a tax credit for providing affordable housing assistance activities or market rate housing in distressed communities. The program offers \$10 million in production credits and \$1 million in operation assistance annually. http://www.mhdc.com/rental_production/ahap/index.htm
 - › Missouri Housing Trust Fund is supported through a \$3 recording fee on real estate transactions.

State Level Cont'd

State Business Incentives

One of the largest challenges for employers in Kansas' mid- to small communities is having adequate housing for new employees. For some businesses, the need to add workforce and having the housing for that workforce has hampered their ability to expand.

The State currently has a package of successful business incentives that could potentially be expanded to include housing targeted to a company's workforce. Potential adjustments to current programs include:

- High Performance Incentive Program (HPIP) or the Day Care Facilities Tax Credit. Both of these programs offer tax credits to employers for qualifying capital investments. HPIP could be expanded to include housing investment as a capital expense or a new program formed similar to the Day Care Facilities Tax Credit.
- Promoting Employment Across Kansas (PEAK) program. Offers qualified companies the ability to retain up to 95% of their payroll withholding tax for five to ten years. To help fund housing, this level could be lowered and the increment up to 95% could be used to pay off funds used to build housing geared toward the employer's workforce.
- Qualifying Expenses. Corporations in Kansas can claim certain qualifying expenses as a deduction against their corporate tax liability. Qualifying expenses could be expanded to include housing construction or funding to a program that produces or rehabilitates housing for their employees.

Rent-to-Own Program

Some states have carved out a portion of their tax credit allocations for rent-to-own projects. In these programs, homes must remain affordable for 15 years and a portion of the renters monthly payment goes into an escrow account that can be used to either purchase the home in the program at the end of the 15 years or used to purchase a market rate home. The programs are often combined with homeowner education programs.

Funding

Since the spring of 2020, states have received significant federal funding for various reasons. One source is The American Rescue Plan (ARP). ARP funding could be used for housing but some of the other existing and proposed legislation generally cannot be used for direct housing development.

More importantly, this funding may allow the State to use state funds that would have been devoted for infrastructure projects anyway, to be redirected to housing. Kansas

HOUSING DENSITY

One of the most effective ways to reduce housing costs is to use land more efficiently. The lower the density the more the costs of land and infrastructure are carried by the individual unit. The production of moderate income housing is nearly impossible at the lowest densities.

Existing programs should encourage or give preference to projects that use funding more efficiently through the development of medium and higher density housing.

Additionally, the location of housing adjacent to transportation services, child care and other services can lower a household's expense. In the state's largest cities, moderate income housing should be encouraged next to transportation services.

may have a unique opportunity to provide a substantial injection into the State Housing Trust fund that could address many of the issues identified in this plan and support generations to come. Additionally, a reliable source of funding for the Trust Fund should be established. This could be as simple as a small filing fee on all real estate transactions.

Local Level

Bond Programs

A growing number of cities across the country are looking to or already using bond initiatives to fund housing development and rehabilitation. This includes cities from the size of Newton, Iowa (15,000) to Greensboro, North Carolina (540,000). This type of initiative should be tailored to the community and may include the development of lots, rehabilitation or removal of aged properties, builder incentives to reduce risks associated with certain price points, or incentives to produce attached and medium density units.

Rural Housing Incentive District & Upper Story RHID

The RHID program in Kansas has been very successful but there are facets of the program that should be considered.

- **Development Costs.** The fees and costs associated with setting up a RHID (legal, bond, etc.) can be the same for a small community as they are for the city over 20,000. This can add costs to the units or even discourage a city from setting up a RHID. Finding ways to defray these costs, like having regional housing assistance resources/staff, should be considered.
- **Administrative Needs.** For a community looking to establish their first RHID there are few resources other than seeking out another city that has completed one and ask for their assistance. Regional resources to help are discussed later.

- **Proving the Market.** For some cities, RHIDs were, and are, essential to get any new lots developed. However, for many cities, this need has now been proven and a new phase should be considered. Cities with histories using RHID should consider emphasizing middle-income units and greater variety of units within developments. This variety is important to create a healthy housing market.
- **Upper Story RHIDs.** This is a new State program that is still untested but has great potential to add housing diversity and revitalize downtowns. Technical assistance with this program will be needed. Partnerships with the Main Street Program may be an opportunity to provide some technical assistance and identify potential properties and be a conduit between property owners and cities.

Industrial Revenue Bonds

Industrial revenue bonds (IRBs) are issued by cities and counties to provide funds for rental projects. The bonds are generally used as a tool to grant full or partial property tax abatement for certain commercial facilities for up to ten years and a sales tax exemption for labor and materials purchased for new facilities. Like RHIDs, there is no guarantee that housing produced using IRBs will meet the need for middle-income housing. Cities like Salina have established guidelines for using these programs that help promote middle-income housing and/or diverse housing options.

SHARED EQUITY HOUSING

Shared equity housing provides permanent affordability of housing. There are several models.

- **Community Land Trusts (CLT).** In this model the CLT retains ownership of land, homeowners purchase just the improvement, and there is a 99-year ground lease.
- **Limited Equity Cooperative.** The Co-op owns the buildings and land underneath, tenant-shareholders own a share in the corporation and receive a long-term “proprietary lease” to their units, and is democratically governed by tenant-shareholders.
- **Classic Deed Restriction.** Homeowner holds title to both the land and the home, deed includes restrictive covenants 30-99 years, and tend to be embedded within a larger organization or government.
- **The Lawrence Tenants to Homeowners (TTH) CLT** offers a stock of affordable renovated or newly constructed homes at subsidized sale prices to buyers with low to moderate incomes. The buyers agree that at resell they will sell to another income-eligible buyer at a formula price that provides affordability but allows the seller to gain some equity. This provides a permanent affordable unit.

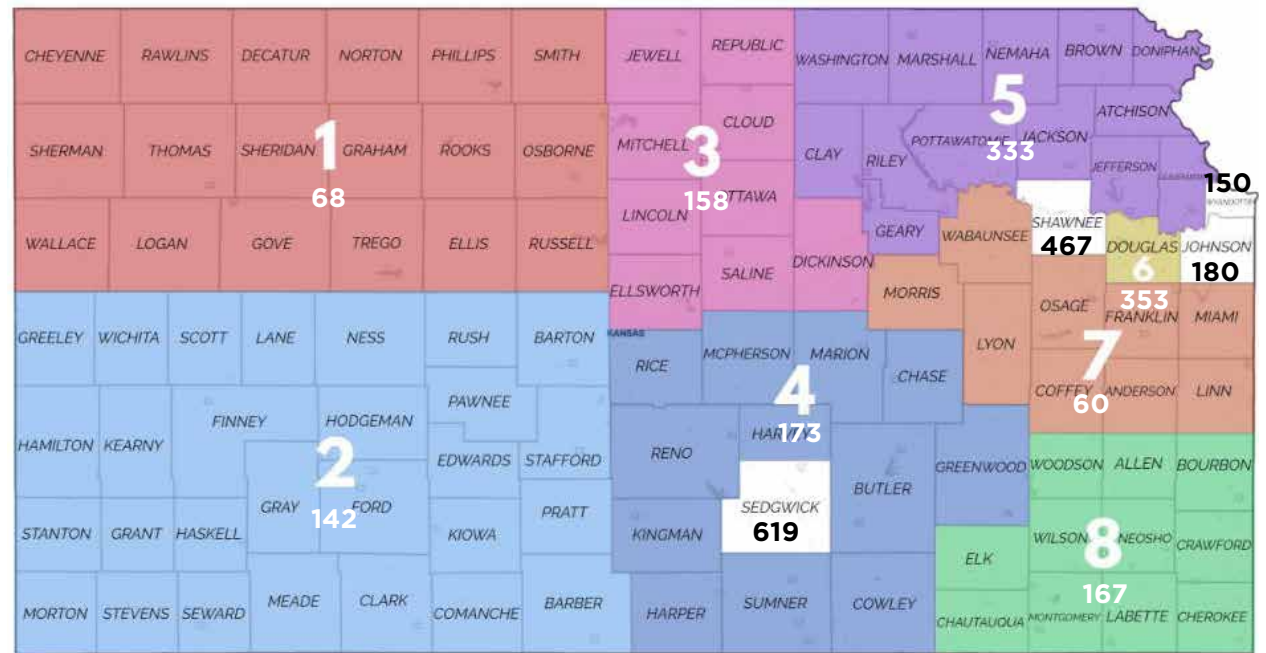
LOW INCOME HOUSING

The previous strategies focus on housing for those making above 80% AMI. Production or preservation of housing affordable to these households has been found to open up housing options at more affordable price points. However, that does not mean there is not a significant need for additional affordable housing for those making less than 80% AMI and even less than 50% AMI.

Additionally, without low-income and service based housing options, many may be at risk of homelessness and those that are currently homeless may have a harder time transitioning to stable housing. The point-in-time count of homeless population in Kansas as of January 2021 was 3,093 across the state, sheltered and unsheltered. Special note that pertains to this count in 2021:

- Areas outside of Sedgwick, Shawnee, Johnson, and Wyandotte counties (Balance of State, BoS) were issued a waiver on counting unsheltered in 2021. For 2020, the BoS unsheltered count was 223 persons across the eight regions.
- The sheltered count for BoS areas is approximately double what it was in previous years. This likely reflects the availability of non-traditional shelter options during COVID, such as expanded use of options like hotels/motels, etc. and innovative solutions like the 'tent city' that Lawrence created in a park near the hospital.

Kansas Continuum of Care Map - Jan. 2021 Homeless Count



Source: Kansas Statewide Homeless Coalition

- It is possible that numbers reported for Wyandotte County may have been lower than actuals, based on past provider experience with the local needs.

THE COST OF HOMELESSNESS

In 2017 the National Alliance to End Homelessness reported that on average a chronically homeless person costs taxpayers \$35,678 per year. However, supportive housing costs \$12,800 a year on average.

To learn more visit the National Alliance to End Homelessness at <https://endhomelessness.org/resource/ending-chronic-homelessness-saves-taxpayers-money-2/>

State Level

Low-Income Housing Tax Credit Projects (LIHTC)

Since 2017, over 4,400 LIHTC units in Kansas have initiated the process to leave the program. Adding to this struggle are the changes in the tax code that occurred in 2017. The Tax Cuts and Jobs Act of 2017 lowered the corporate tax rate, which made tax breaks like LIHTC's less appealing. The effect was almost immediate. The value of individual tax credits nationally fell from \$1.05 per credit in November 2016 to \$0.90 cents each. In Kansas, pricing topped out in the low-mid \$0.90s and currently developers are reporting offers in the mid \$0.80s. When credits drop below \$1.00, which they have been since 2017, developers must fill this gap. In some places, developers have chosen to focus on market-rate developments rather than struggle to find the funding necessary to complete low-income housing projects.

To increase the appeal of using the LIHTC program, the gap between what the credits can cover and development costs will have to be filled. This can happen through several strategies even at the local level including below market rate loans through a lending consortium, TIF, IRBs, a state level tax credit program, Federal affordable housing funds, USDA Rural Development loans, Federal Home Loan Bank resources, and cost sharing on land and infrastructure.

Kansas may have a unique opportunity to provide a substantial injection into the State Housing Trust fund that could address many of the issues identified in this plan and support generations to come.

Very Low Income

As noted earlier, funding middle-income housing is challenging. Therefore, funding housing for the lowest income households can be even more challenging. Often our communities' most vulnerable populations need more than just housing but an array of services that help them live independently and navigate other everyday challenges. Some existing funding resources include the National Housing Trust Fund (HTF) which targets rental housing at 30% of AMI. HOME-ARP will target homeless and at risk populations, with rental development as an eligible activity. Preservation of existing units and funding of additional units should be a priority.

Emergency Housing

In addition to helping those struggling to access housing, it is the mission of many churches and non-profits in Kansas to assist those who have lost their home due to a natural disaster or geopolitical crisis. While federal programs such as FEMA provide temporary resources in the aftermath of a natural disaster, if communities do not have adequate emergency housing for existing

residents, it can put additional strain on communities suffering from or seeking to help those who have lost their home.

Local Level

Housing Choice Vouchers

The Housing Choice Voucher program is a federal program that is administered by local housing authorities. The vouchers provide assistance to pay for housing that the voucher recipient selects. The rental units must meet minimum standards for health and safety. For some communities this requirement is a barrier because landlords have to choose to participate in the program and meet the minimum standards. At a local level, communities should consider developing a risk mitigation program that assists landlords in meeting the voucher requirements but also provides additional insurance for any damages that may occur from the renter.

Happening Around the State

It would be impossible to list all the housing and related support programs used by the hundreds of cities, counties, and regional entities throughout the state. The following list is only a sample of efforts heard throughout the spring and summer of 2021 that relate to middle and low income housing.

MIDDLE AND LOW INCOME HOUSING

- City of Humboldt had a program in the past to survey elderly who would like to move into maintenance free housing then help find that housing.
- Wichita Places for People Plan – Affordable Housing Fund. Under development in 2021.
- Norton City/County Economic Development – Free Lot Program. Qualified developers can have specific lots cost-free within the Cities of Almena, Lenora, or Norton for new residential units. Eligible projects include a minimum specified quantity/quality of new residential structures meeting design and timing specifications set out for that parcel of ground.
- Norton City/County Economic Development – Build on Cleared Lot Incentive. Build a new home on a cleared lot with city infrastructure in Almena, Lenora, or Norton and receive a bundled package of grants and incentives of approximately \$10,000 to \$12,000.
- Norton City/County Economic Development – Senior Living Relocation Incentive. Residents of Almena, Lenora, or Norton transitioning from home ownership to qualifying senior housing, assisted living, or long-term care within Norton County can receive a one-time grant of \$5,000 at home closing.
- The City of Topeka issued \$10 million in industrial bonds to prepare a former Ramada hotel into 140 workforce rental housing units.
- [Tenants to Homeowners](#) - a non-profit in Lawrence that works as a community land trust to provides affordable rental units and homeownership assistance.
- Several projects (for example, Grant Prairie Townhomes in Ulysses, Delaware Place in Valley Falls, Prairie View Estates in Ottawa) have successfully combined LIHTC and other low-income resources with MIH to build mixed-income communities.



CONSERVATION OF OLDER HOUSING STOCK

In 2019, the Census estimated the median year a housing structure was built in Kansas was 1974. That means in the next few years over 50% of the state's housing stock will be over 50 years old. Many of these units are the most affordable units in a community. Losing these units to lack of maintenance or to rising prices will create further housing pressures on the middle and lower income households and make it harder for communities to attract employees.

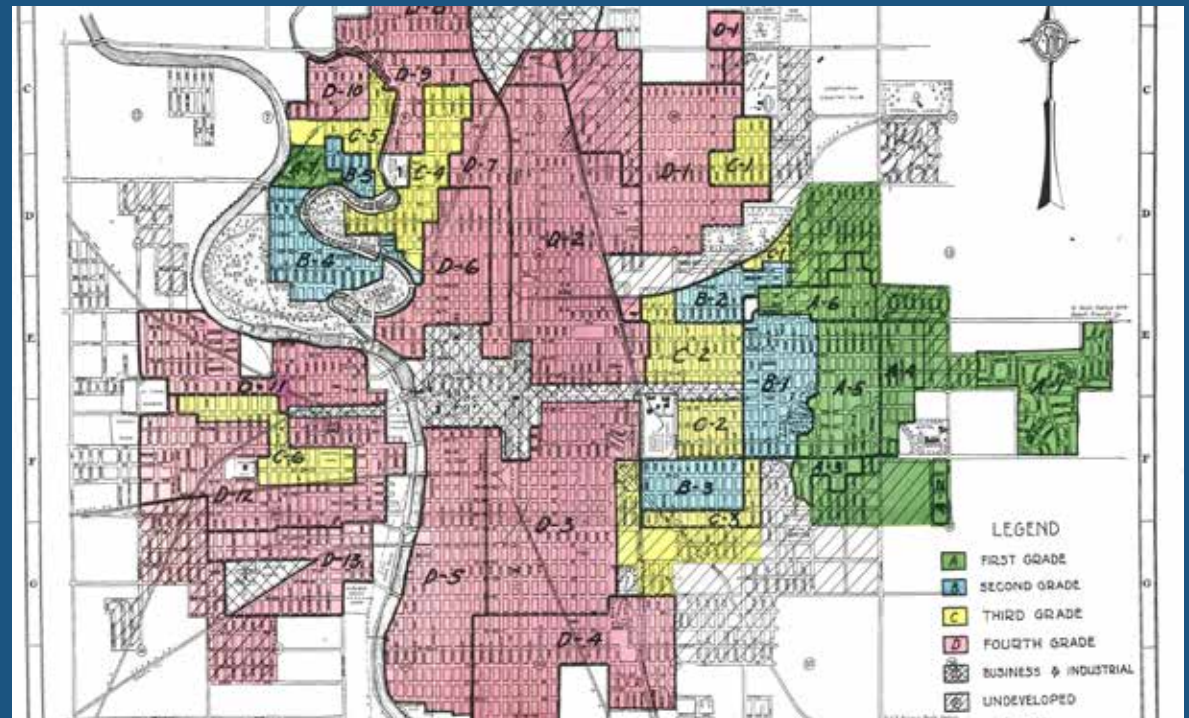
Conserving these units in rural areas and distressed urban neighborhoods may mean ensuring that reinvestment and maintenance continues. This can be very challenging when overall housing values in a community or neighborhood are low. If a \$30,000 investment only garners a \$20,000 increase in the valuation of the property there is little financial incentive to complete the project.

At the other end, some fast-growing communities are experiencing rapidly increasing values that outpace what some households can afford. This is especially true for those that teach, protect, and nurse a city's residents – our essential workers.

The following strategies can help address the need to preserve the state's older housing stock. Many of the strategies outlined in the previous section could also be targeted to housing rehabilitation and new construction.

REDLINING

Redlining was the discriminatory practice of denying services and financing within neighborhoods that had higher concentrations of certain racial and ethnic groups. These practices have lasting impacts on both the targeted ethnic and racial groups and the neighborhoods in which they lived. Being denied financing or paying higher financing costs made it more challenging to fund property maintenance or left households in rentals longer. These practices leave marks on the current times with families unable to build generational wealth and neighborhoods with decades of disinvestments. Growing acknowledgment of this history and the lingering impacts is important in addressing housing and neighborhood needs within the existing housing stock.



Redlining Map of Wichita

Source: Robert K. Nelson, LaDale Winling, Richard Marciano, Nathan Connolly, et al., "Mapping Inequality," American Panorama

State Level

Neighborhood Homes Investment Act

The Neighborhood Homes Investment Act is an Act being proposed at the national level (2021). It calls for creating a new federal tax credit that will produce new equity investment dollars for the development and renovation of multi-family housing in distressed urban, suburban, and rural areas. The goal is to address the “value gap” or the situation in which the cost of rehabilitating or building a home is greater than the post-construction value of the unit.

The Neighborhood Homes Coalition, which is advocating for the act, notes that the gap contributes to three interrelated conditions that hamper community prosperity:

1. Blight, vacancy, and abandonment – when there is no financial incentive to reinvest, owners will walk away from units.
2. Conversion of homeownership neighborhoods to absentee landlord neighborhoods – low valued units creates a favorable environment for absentee owners/investors who convert aging homeownership housing to rental housing. This can only further spur stagnant home values.
3. Racial inequity – the lack of capital for reinvestment has exacerbated racial inequities. Without the ability to invest in rehab and repair, families and neighborhoods may experience asset depreciation absent of mitigating factors.

At this time, this Act is being proposed at a national level, but there is no reason that a state could not consider providing a similar state level tax credit. As noted on the previous pages, several surrounding states have tax credit programs that focus on the development of housing. This could be tailored to address infill and redevelopment in distressed areas, specifically targeted to fill the gap between development costs and sale prices. This program could be blended with other programs like the RHID Upper Story or Neighborhood Revitalization Program.

Neighborhood Revitalization Program (NRP) and Expansion

The Neighborhood Revitalization Program (NRP) was established to encourage reinvestment in older neighborhoods and communities. Property owners can receive a property tax rebate on additional taxes levied as a result of eligible property improvements within a designated area. Each city establishes the area and the guidelines for the tax rebate, but many range from 25% to 100% rebates over a set period, or graduated decrease in the rebate over time.

The NRP has both positives (+) and negatives (-):

- (+) The program can be very appealing for investors looking to construct new or rehabilitated units. The rebate can be factored into their financing model and in theory the property taxes would not be passed on to the renter.

- (-) There is limited appeal for lower-income households to use the program. For these households, financing the initial improvements may be challenging. Therefore, having to come up with the additional taxes each year is just as challenging, even if the taxes are rebated.
- (-) Setting up or revising the program can be challenging. There is a significant amount of work required to establish a program or to revise an existing program area. For smaller communities, they may lack the staff to complete these tasks. There is also confusion on community versus county-wide NRP.

Through discussions with stakeholders, revising the program to encourage more owner-occupied rehab was not viewed as the appropriate solution. The current program is used and is successful. **Rather, participants felt that a sister program tailored to owner-occupied rehab would be more effective.** Addressing the concern of rising property taxes will be important. A graduated property valuation increase could be more appealing to lower income households.



Infill project in an NRP area, Ellinwood

Energy Efficiency Assistance

The energy efficiency of older homes can have a significant impact on the affordability of the housing unit. Older homes tend to be the least energy efficient. Lack of insulation, single-pane windows, and older heating and air conditioning units means higher utility bills. Often the households most affected by these issues, whether rural or urban, are lower income or elderly on fixed incomes. KHRC currently provides a weatherization program that covers:

- Sealing of drafts and air leaks, caulking doors and windows, weatherstripping.
- Testing, cleaning and repairs of heating and cooling systems, and water heaters.
- Adding insulation to ceilings, walls, floors, and foundations.
- Lighting, refrigerator, and fan upgrades.

The KHRC program has income limits and with the large stock of older housing, it is only scratching the surface of the need. **In other states, programs are often undertaken by utility companies. Kansas needs to open up these opportunities and provide incentives for utilities to work with customers. This will likely involve the utilities from around the state and state agencies.**

Historic Tax Credits

For those projects that qualify for historic tax credits at the state or federal level, small and rural communities are often unable to attract

investors seeking federal tax credits due to their project size. This is another area in which efforts can be made to “close the gap” by increasing the state historic tax credit for communities under a certain population or helping developers layer other state or local financing tools.

Local Level

Local Rehab Programs

Many communities have rehabilitation programs that are funded through CDBG and HOME funds. However, over the years funding to these programs has been dramatically cut. These local programs should be expanded using a mixture of funding sources including city funds, local development initiatives that include major employers, and potentially State Trust Fund dollars (the trust fund would first need greater funding).

For more rural areas funds could be established on a county-wide level. Norton City/County Economic Development is currently administering a program that provides a rebate grant of up to 10% for material purchases. Funding for these types of programs can come from a variety of sources including HOME, local/regional foundations, or local employers. Rehab programs should also include rental properties. The funds should be connected to minimum inspection standards and assurances that rental rates will remain affordable.

WEATHERIZATION & ENERGY EFFICIENCY PROGRAMS

- Pay As You Save. In this program, improvements are charged to the monthly utility bill but the bill is still less due to the energy savings provided by the improvements. <https://www.youtube.com/watch?v=cW8S8e7TTH4>
- Community Energy Efficiency Program. Washington State established the Community Energy Efficiency Program in 2009. The pilot was originally funded in 2009 from the American Recovery and Reinvestment Act and is managed by Washington State University Energy Program. The program focuses on energy efficiency retrofits and upgrades. <https://www.energy.wsu.edu/BuildingEfficiency/CommunityEEProgram.aspx>
- Focus on Energy. The Focus on Energy initiative is a partnership with 107 Wisconsin utilities that helps single-family homeowners, renters, and property owners make energy related improvements to their homes. <https://www.focusonenergy.com/residential>
- Other programs in Kansas: [Kansas Corporation Commission \(link\)](#)

Local Level Cont'd

Acquisition Rehab Resale

These types of programs have been highly successful in communities of all sizes. In this model, houses are acquired and sold in a rehabilitated or “turnkey” state to owner-occupants. Traditionally these programs are administered by a nonprofit housing developer or development corporation. The model recognizes the limited number of prospective buyers who want to carry out home rehabilitation projects. The program works best when candidate houses can be purchased at relatively low cost, usually due to their quality. Under the program, a development corporation purchases existing houses, rehabilitates, them, and resells them to new homebuyers. The lending community may participate cooperatively in this effort by providing interim financing. Mortgage financing for low- and moderate-income buyers may be assisted by Community Development Block Grant (CDBG) or HOME “soft-second” loans. Examples include KHRCs First Time Home Buyer program, and others operated by HOME Participating Jurisdictions (Wichita, Topeka, Lawrence, KCK, Johnson County). Real estate professionals may also participate by reducing commissions on selected projects.

NEIGHBORWORKS OF NORTHEAST NEBRASKA PURCHASE/REHAB/RESELL PROGRAM

Over a five year period NeighborWorks of Northeast Nebraska has implemented a highly successful Purchase/Rehab/Resell program. Under the program a qualifying household identifies a home, an assessment of the home for structural stability is completed, and then followed by NeighborWorks of Northeast Nebraska purchases the home to complete any repairs needed. Repairs can range from \$2,000 to \$25,000. Following completion of the repairs the home is sold to the qualifying household often with down payment assistance of 20% of the final purchase price, up to \$20,000. For Columbus, Nebraska this has resulted in 140 homes being updated and owned, often by first time home buyers.

<https://www.nwnen.org/what-we-do/homeownership-assistance/purchase-rehab-resellprogram>



Rental Inspection Programs

Under current state laws, interior rental inspection programs are prohibited. The condition of rental properties is concerning to both rural and urban communities and the use of inspection programs has both its supporters and detractors. The detractors are concerned with adding more costs and regulations for landlords that are then passed on to tenants in the form of higher rents. Supporters note the need to ensure that housing is safe and healthy for all residents, especially vulnerable populations and the lowest income households who often have few housing options. Most inspection programs, like that done by [La Vista, Nebraska](#), are established to prevent or eliminate substandard or deteriorating rental housing, and preserve residential rental properties, property values, and neighborhoods. The La Vista program waives all fees unless a re-inspection is required.

Land Banks

Land banks are non-profits developed by local government entities for the purpose of acquiring vacant, abandoned or dilapidated properties for renovation or demolition. Land banks are appealing because they allow for land assembly without the city having to hold and maintain properties. The land bank can then sell the lots for projects that meet specific needs or work with a local contractor or non-profit developer to rehab homes. It is crucial that the land bank is coupled with a steady local funding source.

Vacancy Rate Assessment

As noted in earlier sections, the Census is reporting fairly high vacancy rates in many parts of Kansas, especially in more rural areas. At the same time, participants in this process noted a lack of both renter and ownership units.

There can be a full range of reasons for the higher reported vacancy rates:

- Dilapidated homes that should be removed from the market.
- The undercount occurring in some locations. If a resident refuses to fill out the survey or answer the door when a Census surveyor arrives, the unit can get counted as vacant. This may have been exacerbated during the pandemic, but details of the extent are yet to be known.
- The unit is no longer available because it is being used for other purposes, such as storage.
- The owner of the unit has passed away or has moved into an assisted or skilled living unit and the unit was never put on the market for sale.

These are some of the most common reasons, but reasons can vary from community to community. For cities with higher vacancy rates (above 8% is a good threshold, depending on the community), an assessment of units should be completed to understand what units are vacant and why. From this assessment, strategies can be developed to determine how to fill these units or demolish those most deteriorated. It may take multiple agencies and individuals including utility providers, the U.S. Postal Service, and even real estate professionals to complete the assessments.



Happening Around the State

It would be impossible to list all the housing and related support programs used by the hundreds of cities, counties, and regional entities throughout the state. The following list is only a sample of efforts heard throughout the spring and summer of 2021 related to conserving the existing housing stock.

CONSERVATION OF OLDER HOUSING STOCK

- Ellis County has used funds from the Dane Hansen Foundation for a purchase-rehab-resale type program (developer rehab program).
- Dodge City Ford County Development Corporation/Community Housing Association of Dodge City – Community Home Renovation Program. CHRP assists residents in renovating homes to increase value and lifespan. There are specific programs to assist painting homes, rehabbing vacant homes, and constructing new homes on vacant lots.
- Wichita Places for People Plan – Land Bank. Under development and will promote the revitalization of neighborhoods consistent with the Wichita: Places for People Plan, through the management and transfer of properties that are deemed underutilized.
- Norton City/County Economic Development – Fix and Flip Program. Get 0% interest short-term funding for the purchase, renovation and resale of housing. Qualifying units include those identified as dilapidated or major wear in the 2019 Norton County Wide Housing Study.
- In Blue Rapids, a Community Action Team helped initiate mapping of the town through GIS. Then it was easy to see that they needed to target infill development of vacant lots and property. Infrastructure is expensive and having it close by was key for them.
- Overland Park – Exterior rental inspection program. A two-year cycle of inspections to the exterior elements of rental property throughout the city.



DIVERSITY OF HOUSING

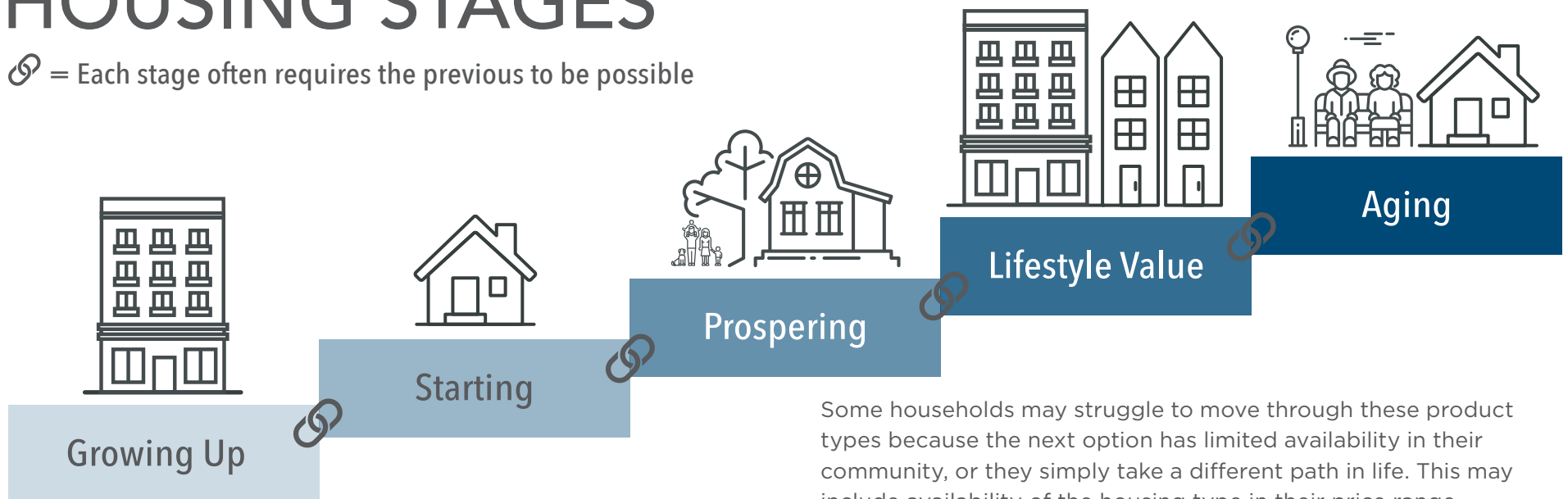
During the 1980s, 1990s, and 2000s the majority of new units produced in many communities across Kansas were single-family detached homes. In the last decade or two, there has been an increase in multi-family construction but there are still limited options for households looking for lower maintenance, smaller lot sizes, or units adjacent to family members. Greater housing variety can ensure more variety of price points and options for all stages of life. Communities have found that it can be one of the most effective ways to bring existing affordable homes to the market.

Variety, both in housing type, lot size, and location, provides for interesting neighborhoods and accommodates changing household preferences, but more importantly, provides affordable housing options. The affordability usually comes from efficiencies gained from smaller lots and the construction of more units (economies of scale). Housing types should range from townhomes, senior living facilities, low/no maintenance condominiums, multi-family development, and small lot (new or infill). Smaller lots sizes are one of the easiest ways to reduce home buying costs as land and infrastructure costs are spread across more units but home finishes remain similar to homes on larger lots.

Greater housing variety can ensure more variety of price points and options for all stages of life.

HOUSING STAGES

🔗 = Each stage often requires the previous to be possible



Housing Variety Examples



State Level

In many communities around the country the focus on housing diversity has trended toward addressing the need for Missing Middle Housing and the impediments to this housing type that are created by local regulations (<https://missingmiddlehousing.com/>).

At a state level, there are several mandated approaches that can have unforeseen consequences. Approaches should avoid swinging the pendulum too far in one direction. A healthy housing market has a full range of housing options.

Program Guidelines and Preferences

Existing State programs could give higher preferences to housing products that fill product gaps within a particular community. This can be determined using building permit data. If in the last several years the majority of units constructed have been one particular type (for example, all single-family detached or high density multi-family), a project would score higher if it is producing a different product for the community. Preference could easily be given to smaller lot developments or approaches that use materials or land more efficiently. These types of programs are easier to adjust to the needs of a community rather than blanket legislation.

Retiree Housing Incentive

One of the largest segments of the homeowner population is over the age of 55. Creating products appealing to this population can create movement in the market and free-up middle-income housing. One deterrent to move to a new unit that may cost more than their existing home is the increase in property taxes. A potential solution would be to allow a transfer of the appraised value of their existing home to the new construction. In this model the older household may move into a new home but not see their property taxes increase when they are on a fixed income.

Housing Toolkit

Many communities know they need more housing variety, especially for their retirees and young professionals but they are not always sure what that may look like or how to encourage those units. A local housing toolkit would provide guidance regarding:

- Types of desired housing.
- Site plans for how units can fit into existing and future neighborhoods.
- Planning tools to have in place.
- Regulatory tools that should be in place, or removed if they are barriers.
 - › This includes a zoning evaluation system that smaller communities can use to check older, dated codes. Many communities do not have full-time planners or zoning officials and have no idea their codes restrict something until a proposal comes forward.

FEDERAL FANNIE MAE - MANUFACTURED HOME ADVANTAGE PROGRAM

MH Advantage is a program by Fannie Mae to encourage the development of new affordable housing using manufactured housing. Homes under the program must meet specific criteria to classify them as real property, including being placed on a permanent foundation. These homes are required to have the same features of site built housing but the production off-site allows for greater efficiency and reduced costs. The program targets homes in the \$150,000 to \$250,000 range.

Local Level

Development Agreements

Developments today often require financing assistance from a city. This may be done through RHIDs, IRBs, infrastructure cost sharing, or TIF districts to name a few. With any of these, a development agreement can be established that requires different types of units to be included. This may be as simple as a gross density requirement that can be met by whichever products the builder feels will be most successful in the local market.

Streamlining the Approval Process

The pre-construction process includes many variables, most of which are out of the control of local officials. The city approval process is one step where local communities can play a role.

For many rural cities this is not an issue, but for larger communities regulations and processes have often been put into place to address the “worst case scenarios.” Additionally, new product types can cause worry for local residents, concerned over the impacts that a potential development could have and result in “Not In My Backyard” (NIMBY) battles. This can extend the process for the developer, costing them more because of design changes and interest payments. Even then, the developer may not be guaranteed approval.

Zoning in Small Cities

Nationally, there is a growing discussion regarding the adverse impact ordinances have on the development of housing. Cities and counties need to make sure that municipal codes do not prohibit or add time to desirable housing development.

An individual ordinance review for each city or county is beyond the possibility of this assessment. However, the following is the start of a general checklist, that may be beneficial for jurisdictions without a planner or zoning official on staff.

- Review past exceptions granted on residential development. If there are more than four or five similar exceptions granted each year, consider making the exception allowed citywide.
 - Review setbacks, site coverage, and parking requirements to allow building on nonconforming small lots that exist in many cities today.
 - Allow more residential uses in commercial/employment districts. At a minimum, upper story residential should be allowed in downtown districts.
 - Allow duplexes, attached housing, and even tri-plexes in more zoning districts. Cities may find many of these uses in “single-family” neighborhoods today as non-conforming uses that function just fine, and have for many years.
 - Evaluate nonconforming building regulations to ensure compliance
- requirements focus mostly on properties with records of nuisance or building code violations rather than merely seeking more properties to align with regulations that did not apply at the time of construction. Examples include:
- › Restoration after damage – Exempt residential uses in residential zoning districts from any compliance trigger for lot size, setbacks, building size, and parking when damaged. Instead, allow restoration of these damaged structures to the condition at the time of damage.
 - › Adaptive reuse and reconstruction – Specify adaptive reuse and reconstruction is allowed for any non-conforming building so long as the property has no known nuisance complaints or safety violations.
 - › Special permits for nonconforming structures – Exempt special permit requirements for reconstruction or structural alteration of residential uses if not changing the setback, height, or area as existing today.
 - Reduce or eliminate parking requirements for multifamily housing units. Generally, off-street parking requirements for residential uses should be two spaces per unit at most. Multifamily type uses can typically have standards lower than two spaces per unit.

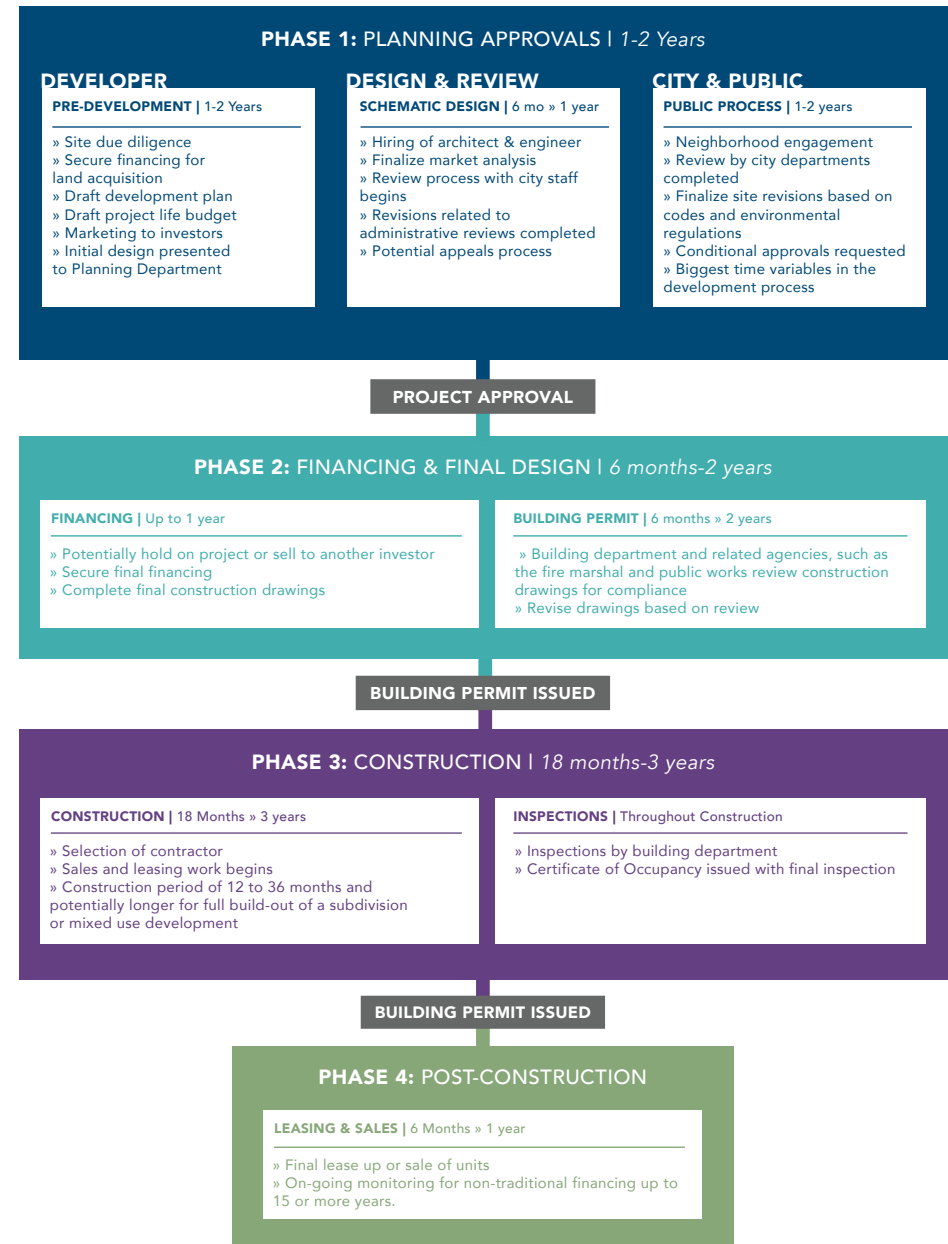
Streamlining the Approval Process Cont'd

There are ways to increase opportunities for administrative site plan approval. Especially when housing proposals meet a city's comprehensive plan goals and targeted housing needs. There should not be a question of public approval because the comprehensive planning process includes heavy public participation to frame the vision, goals, and actions for the city's future. Additionally, a well-structured and design-oriented zoning ordinance will prevent possible adverse effects of density, building mass, land use conflicts, and transportation movement. Exceptions include:

- The project requests an amendment to the comprehensive plan.
- The project requests a change to the zoning or subdivision ordinance.
- The project requests a rezoning.
- State or Federal law requires a public hearing because of specific funding or permit procedures.



Prototypical Development Process



Site Plans

The development approval process can be further streamlined by having prepackaged site plans available. Builders will often continue to build what they know – single-family homes or larger apartments – because of historical consistency in profits and evidence of past local approvals, which reduces the risk of a project falling through. By creating a package of example site plans and products that will get approved, a level of risk is taken off the builder. Cities or economic development organizations could go as far as to release a request for proposals (RFP) to develop assembled sites under specific criteria and standards. Both methods are straightforward ways to eliminate approval risks.

This also applies in smaller markets where these packaged site plans can provide technical assistance for less experienced local builders, investors, or community members interested in a community project.

A note about single-family zoning. There is currently a lot of national dialog around the elimination of single-family zoning. Often this approach eliminates zoning districts that only allow single-family detached housing, but does not eliminate or prohibit the production of single-family detached homes. This can streamline the process for producing other product types, but it does nothing to guarantee that a builder will change from building what they know best, which may be a single-family detached home.

OTHER TYPES OF ZONING INCENTIVES

These types of incentives may be more appropriate for larger cities where a decent number of developers/builders are already working at scale. Some cities already have similar provisions in place and are working to expand opportunities, such as the Wichita Places for People Plan.

Density Bonuses

These address entitlements and will typically involve higher density or other modifications of development regulations to encourage certain kinds of development. In some places, these incentives may include expedited processes, code relief, or other “accelerants.” However, this implies a level of favoritism that could well be unacceptable, in addition to implying that normal processes are substandard.

Density by Right

Zoning changes that permit higher density or different forms of development like accessory dwelling units and duplexes on residential lots.

Mandates or Minimum Requirements for Affordable Housing.

This would follow a model of requiring a certain percentage of units in a project to fall within affordability guidelines.

Inclusionary Zoning/Mixed-Income Housing

This approach requires developments to include a certain amount of affordable units. As written in Kansas Code, cities cannot require inclusionary zoning, only create incentives to provide affordable housing. These incentives need to be enough to make the effort worthwhile for a developer.



Infill Development Site Plan Schematics – Incremental Development Alliance

Happening Around the State

It would be impossible to list all the housing and related support programs used by the hundreds of cities, counties, and regional entities throughout the state. The following list is only a sample of efforts heard throughout the spring and summer of 2021 that relate to increasing the diversity of housing.

DIVERSITY OF HOUSING

- Newton had a speculative house program that offered up to ten builders a speculative housing finance guarantee. Once a Certificate of Occupancy is obtained the City will cover the carrying costs up to \$10,000.
- Catholic Charities of Northeast Kansas – Emergency Assistance and Transitional Housing. Provides an array of housing services from rental assistance to avoid eviction and a case manager to help find long term solutions.
- City of Frankfort – Free lots on City-owned golf course. Eight lots bought and filled with expensive housing over 2,000 square feet. While all the homes were upper income homes, there were 2 or 3 built to replace an existing home in Frankfort, opening up a lower price point home in the community.
- City of Fort Scott – Small Homes. While not initiated by the City, a local builder/developer completed smaller home footprints of 782 square feet.



BUILDING THE HUMAN CAPITAL

It is often said “there is no reason to reinvent the wheel” and this could not be truer for many rural communities. Kansas has a number of great tools but there is limited knowledge or resources on how to use those tools. Providing technical assistance and expanding the state’s human capital can ensure that existing programs are fully used.

State Level

Housing Extension Officers

Many communities noted the need for technical assistance in using programs such as RHIDs, NRP, and Land Banks. This is just one way in which a “housing extension officer” could assist cities and with small project administration. These individuals could be part of the regional planning commissions or University extension offices. Additional funding for these positions would be needed and could come from a variety of sources, including small fees paid by counties to their regional service providers.

At a minimum, a clearinghouse of resources should be created to provide guidance on these different programs. The Department of Commerce has many of these today. Therefore, expanding on this website may be all that is necessary. The appendix of this assessment lists a variety of local programs heard across Kansas during the outreach process.

Supportive Services

Across the state are agencies and organizations that provide services to low-income households. Many of the programs that these agencies administer are complicated. Providing additional support services and technical assistance should help to better use existing programs. Additionally, like many other industries, a good number of Baby Boomers that have filled these positions are retiring. The next generation needs to be trained.

Local Level

Training and Development

At the local level, community leaders need to invest in themselves through training and development. This may be as simple as KHRC, HUD, the Office of Rural Prosperity, or the Department of Commerce creating a regular speaker series on different housing initiatives going on around the state. In partnership, these agencies could cover a wide variety of topics and initiatives.

This is done to some extent at the local level in Johnson County, and has stimulated conversation on new programs and initiatives.

WEBINAR SERIES

Below are just a couple of examples, but several different organizations started these types of series during the pandemic.

- Regional Opportunity Initiatives developed a webinar series that explores workforce housing challenges, needs, and strategies for advancing housing opportunities in the Indiana Uplands. <https://regionalopportunityinc.org/housing-series/>
- Nebraska Investment Finance Authority hosts a monthly webinar series to connect with Nebraska communities and housing partners. <https://www.nifa.org/community-engagement/education-training>





BUILDING TRADES LABOR SHORTAGE

The shortage of workers in the building trades is well-documented. In September of 2021, the Bureau of Labor Statistics reported there were over 300,000 construction jobs open nationally. Many feel this is an undercount. A 2021 survey by the National Association of Home Builders found that 71% of their members reported the availability and cost of workers is one of the most significant challenges they face. While the financing and desire to build housing may exist, little will change if there are not the workers to actually build the homes.

State Level

Workforce recruitment and retention in many job sectors is a priority issue. States and local communities across the country are trying new and innovative approaches every day to address this issue. With regards to building trades, the State should consider:

- **Expanding workforce development programs around building trades.** In the list of highest-priority fields, skilled trades are often not on the list. The need for more plumbers, electricians, and heating and air conditioning workers is growing to near emergency status. Without these trades, many industries, including housing construction, will not be able to grow and expand.

A 2021 survey by the National Association of Home Builders found that 71% of their members reported the availability and cost of workers is one of the most significant challenges they face.

- **Provide assistance to Community and Tech Colleges and high schools for the expansion of building trade programs.** Many of these programs are being rebuilt after being cut in the past. Ramping these programs back up to address the labor shortage needs is a priority. This may include assistance finding trained educators to teach the classes. The ability to expand the full breadth of programs at community colleges to all campuses may also be important, rather than having certain specialties in different locations.
- **Create incentives for existing business to expand.** Starting a new business is never easy and expanding an existing business can be just as challenging. Small business loans and incentives targeted to existing business may help fill some of the gap and provide an opportunity for individuals new to a trade. However, a challenge many businesses face is the available labor.

Local Level

Often workforce issues need to be addressed at the local level through partnerships of engaged local stakeholders. In addition to expansion of trades programs within the community and tech colleges, local partnerships could consider:

- **Sponsorship programs for students in building trade programs.** This is not a new concept, many other industries have tried this approach, including the medical industry. Students are sponsored by a business or local initiative that can include tuition assistance or student loan payments. For this assistance, the students agree to spend a certain amount of time employed at the business or in the area.
 - › This type of program could be expanded to include training for inspectors. Projects using federal dollars, like CBDG, require certified inspectors. In many areas there are no certified inspectors which creates delays and additional costs to bring inspectors in from further away.
- **Succession planning programs for existing businesses.** In many communities, especially rural communities, trade businesses are owned and operated by individuals at or near retirement age. Many of these business owners are too busy focusing on their current workload to plan for passing their business on to the next generation. Local development groups can be a great resource and may need to pro-actively reach out to business owners.
- **Prison workforce.** Several participants in the outreach process noted the opportunity to train incarcerated individuals in the building trades for when they reenter the workforce or complete selected projects as part of prison programming.
- **Rural Opportunity Zones.** Within rural opportunity zones certain incentives exist that are meant to attract new workers and businesses to the areas. These incentives should be extended to those in the building trades, including those who are already in the communities.

As communities look to fill jobs and attract new residents, housing is only one component. Investments in communities to create high quality neighborhoods, schools, medical facilities, recreational amenities, and access to high speed internet are all important.

Happening Around the State

It would be impossible to list all the housing and related support programs used by the hundreds of cities, counties, and regional entities throughout the state. The following list is only a sample of efforts heard throughout the spring and summer of 2021 that relate to human capital and building trades.

BUILDING THE HUMAN CAPITAL

- The Columbus Housing Interest Committee – Meets regularly to discuss housing needs and potential solutions. More people are stepping up with ideas and offers to invest. Homeowners are becoming more conscientious about the upkeep of their property. Community workdays and cleanup events are well attended.
- Lawrence Housing Toolkit – Outlines a variety of possible tools and strategies that have been utilized in other communities to meet similar housing goals identified for Lawrence.
- United Community Services of Johnson County – Housing for All Toolkit. Serves as a go-to resource for local governments, organizations, service providers, developers, and residents to learn about, take action, and contribute to housing solutions. <https://ucsjoco.org/housing-toolkit/case-studies/#preserve-stock>

BUILDING TRADES LABOR SHORTAGE

- Several areas with community colleges or high school programs, current or former, have programs to build a house a year as part of the curriculum.
- Plainville Free Land Program resulted in local people building their own homes rather than waiting on developers to come in and build.
- Blue Rapids – Marshall County Partnership 4 Growth (MCP4G) and the city mayor have been considering workforce housing through small home like cabins and modern container homes as built by Highland Community College for alternative housing options.
- Habitat for Humanity – Various programs throughout Kansas that are primarily volunteer based for building affordable homes, home repair, maintenance, and other resources.

CONCLUSION

As noted in the opening to this section, the issues around housing affordability and availability are complex and varied. These issues are often very localized and the strategies to address those issues will often need to be developed and championed at the local level. That does not mean that programs and funding at the state level should not encourage addressing these issues. Often outside voices are needed to push forward tough and painful conversations.

As noted earlier, this assessment should be a launching point for continued conversation, education, funding, and even reform. To do this, a statewide housing consortium should be formed that brings together experts and individuals passionate about housing issues from across the state. Part of their role should be the identification of priority initiatives and moving those priorities forward.

State Administered Programs as of 2021 for Reference

KHRC Administered

- Kansas Emergency Rental Assistance (KERA) program
- First Time Homebuyer Program
- Weatherization Assistance
- Tenant Based Rental Assistance
- Emergency Solutions Grant
- Community Services Block Grant
- Low Income Housing Tax Credit Program
- HOME Rental Development Program
- Private Activity Bonds
- National Housing Trust Fund
- Moderate Income Housing program

Kansas Department of Commerce

- Rural Housing Incentive Districts (RHID)
- Upper Story RHID Program
- Downtown Redevelopment Tax Rebate
- Community Development Block Grant (CDBG) program

Kansas Historical Society Administered

- Heritage Trust Fund
- State Historic Rehabilitation Tax Credit
- CARES Act Funds

Other Program Resources

- AARP - <https://local.aarpfoundation.org/>
- AffordableHousing.com - <https://afford-ablehousingonline.com/housing-search/Kansas>
- Residential Lead Hazard Prevention Program (RLHPP)

ADDITIONAL RESOURCES

- 2021. State and Local Policy Strategies to Advance Housing Affordability. Rosen Consulting Group. <https://www.nar.realtor/political-advocacy/state-and-local-policy-strategies-to-advance-housing-affordability>
- 2021. Housing is Critical Infrastructure: Social and Economic Benefits of Building More Housing. Rosen Consulting Group. <https://www.nar.realtor/political-advocacy/housing-is-critical-infrastructure>
- 2021. Kansas Housing Resources Corporation Qualified Action Plan. <https://kshousingcorp.org/qualified-allocation-plan/>
- 2021. Kansas Framework for Growth. Department of Commerce. <https://www.kansascommerce.gov/kansas-framework-for-growth/>

ORDINANCE NO. G-1097

**AN ORDINANCE OF THE CITY OF EL DORADO AMENDING TITLE 3,
CHAPTER 3.08 OF THE EL DORADO MUNICIPAL CODE RELATING TO
INSURANCE PROCEEDS FUND**

**NOW, THEREFORE, BE IT ORDNANIED BY THE GOVERNING BODY OF THE
CITY OF EL DORADO, KANSAS:**

Section 1: Section 3.08.010 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.010 Scope and application.

The city is authorized to utilize the procedures established by KSA 40-3901 et seq., whereby no insurance company shall pay a claim of a named insured for loss or damage to any building or other structure located within the city, arising out of any fire, explosion or windstorm where the amount recoverable for the loss or damage to the building or other structure under all policies is in excess of seventy-five (75) percent of the face value of the policy covering such building or other insured structure, unless there is compliance with the procedures set out in this chapter. The insured is required to provide the city with all information requested in regards to their insurance policy.

Section 2: Section 3.08.020 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.020 Lien--Created.

The governing body of the city creates a lien in favor of the city on the proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure located within the city, caused by or arising out of any fire, explosion or windstorm where the amount recoverable for all the loss or damage to the building or other structure under all policies is in excess of seventy-five (75) percent of the face value of the policy(ies) covering such building or other insured structure. The lien arises upon any unpaid tax, special ad valorem levy, or any other charge imposed upon real property by or on behalf of the city which is an encumbrance on real property, whether or not evidenced by written instrument, or such tax, levy, assessment, expense or other charge that has remained undischarged for at least one year prior to the filing of a proof of loss.

Section 3: Section 3.08.050 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.050 Procedure.

A. When final settlement on a covered claim has been agreed to or arrived at between the named insured or insureds and the company or companies, and the final settlement

exceeds seventy-five (75) percent of the face value of the policy covering any building or other insured structure, and when all amounts due the holder of a first real estate mortgage against the building or other structure, pursuant to the terms of the policy and endorsements thereto, shall have been paid, the insurance company or companies shall execute a draft payable to the city clerk in an amount equal to the sum of fifteen (15) percent of the covered claim payment unless the Building Official of the city has issued a certificate to the insurance company or companies that the insured has removed the damaged building or other structure, as well as all associated debris, or has repaired the structure to meet code for new construction.

B. Such transfer of funds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the city shall be disbursed in accordance with the policy terms.

C. Upon the transfer of the funds as required by subsection (A) of this section, the insurance company shall provide the city with the name and address of the named insured or insureds, the total insurance coverage applicable to said building or other structure, and the amount of the final settlement agreed to or arrived at between the insurance company or companies and the insured or insureds, whereupon the Building Official shall contact the named insured or insureds by registered mail, notifying them that said insurance proceeds have been received by the city and apprise them of the procedures to be followed under this chapter.

Section 4: Section 3.08.060 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.060 Fund created--Deposit of moneys.

The city clerk is authorized and shall create a fund to be known as the fire insurance proceeds fund. All moneys received by the city clerk as provided for by this chapter shall be placed in said fund and deposited in an interest-bearing account.

Section 5: Section 3.08.070 of the City of El Dorado Municipal Code is renamed and amended to read as follows:

3.08.070 Building Official --Investigation--Removal/Repair of structure.

A. Upon receipt of moneys as provided for by this chapter, the city clerk shall immediately notify the Building Official of said receipt, and transmit all documentation received from the insurance company or companies to the Building Official.

B. Within twenty (20) days of the receipt of said moneys, the Building Official shall determine, after prior investigation, whether the city shall instigate condemnation proceedings under the provisions of Title 15 of the City of El Dorado Municipal Code.

C. Prior to the expiration of the twenty (20) days established by subsection (B) of this section, the Building Official shall notify the city clerk whether he or she intends to initiate condemnation proceedings under the provisions of Title 15 of the City of El Dorado Municipal Code.

D. If the Building Official has determined that condemnation proceedings under the provisions of Title 15 of the City of El Dorado Municipal Code, shall be initiated, he or she will do so immediately but no later than thirty (30) days after receipt of the moneys by the city clerk. The Building Official shall notify the insured of the options to remove or repair the structure. If the insured chooses to remove the structure they shall do so within 30 days of notification from the Building Official and in accordance with Title 15 of the City of El Dorado Municipal Code. If the insured chooses to repair the structure they shall do so in accordance with Title 15 of the City of El Dorado Municipal Code and the following:

1. The insured shall remove all damaged materials and debris, and request an inspection from the Building Official before applying for permits.

2. The Building Official shall inspect the structure to determine if repairs are feasible. If feasible, the Building Official shall approve all permit applications to proceed with repairs, provided all other documentation is in place. The Building Official shall have the authority to request 3rd party tests, inspections, and/or engineering reports be provided by the insured.

3. Repairs must be started within 30 days of fire, explosion or windstorm, and must be completed within 6 months of starting.

4. All aspects of the structure, including undamaged portions, shall meet code for new construction.

5. The Building Official shall not be obligated to release insurance proceeds to the insured until the repairs are complete and a new Certificate of Occupancy has been issued. The Building Official can release the insurance proceeds earlier when, acting in good faith, he or she has determined that the insured will complete the repairs in accordance with all applicable laws and regulations. The Building Official shall not release insurance proceeds until all of the following work has occurred: structural issues corrected; exterior building envelope completed; rough framing, plumbing, mechanical and electrical completed; public nuisance and safety issues abated.

E. Upon notification to the city clerk by the Building Official that no proceedings shall be initiated under the provisions of Title 15 of the City of El Dorado Municipal Code, the city clerk shall return all such moneys received, plus accrued interest, to the insured or insureds as identified in the communication from the insurance company or companies. Such return shall be accomplished within sixty (60) days of the receipt of the moneys from the insurance company or companies.

Section 6: Section 3.08.080 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.080 Removal of structure--Excess moneys.

If the Building Official has proceeded under the provisions of Title 15 of the City of El Dorado Municipal Code, all moneys in excess of that which is ultimately necessary to comply with the provisions for the removal of the building or structure shall be paid to the insured.

Section 7: Section 3.08.090 of the City of El Dorado Municipal Code is amended to read as follows:

3.08.090 Removal of structure--Disposition of funds.

If the Building Official, with regard to a building or other structure damaged by fire explosion or windstorm determines that it is necessary to act immediately to remove any unsafe condition, any proceeds received by the city clerk under the authority of Section 3.08.050(A) of this chapter relating to that building or other structure shall be used to reimburse the city for any expenses incurred by the city in removing any unsafe condition. Upon reimbursement from the insurance proceeds, the Building Official shall immediately effect the release of the lien resulting therefrom. Should the expenses incurred by the city exceed the insurance proceeds paid over to the city clerk under Section 3.08.050(A) of this chapter, the Building Official shall publish a new lien as authorized by KSA 12-1756, in an amount equal to such excess expenses incurred. The Building Official shall have the authority to classify any structure that has been damaged by fire, explosion or windstorm, as an immediate hazard at anytime after the damaging event until the structure is removed or completely repaired to code for new construction.

Section 8: Section 3.08.120 of the City of El Dorado Municipal Code is created to read as follows:

3.08.120 Transfer of ownership

No person, who is regulated by this chapter and is responsible for compliance with this chapter shall transfer ownership of the structure damaged by fire, explosion or windstorm until compliance with this chapter has occurred or the grantee has furnished the Building Official a signed and notarized statement acknowledging compliance with this chapter is required. Insurance proceeds shall not be released until the structure is removed or repaired in accordance with this chapter or the grantee furnishes the Building Official a deposit equal to the amount of the insurance proceeds. The deposit shall be held by the City of El Dorado until compliance with this chapter has occurred.

Section 9: Section 3.08.130 of the City of El Dorado Municipal Code is created to read as follows:

3.08.130 Violation--Penalty

Any person, firm or corporation violating any of the provisions of this chapter shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars (\$500.00) per day. A separate offense shall be deemed committed upon each and every day during or on which a violation occurs or continues.

Section 10: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11: That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of

the remaining portions of this ordinance. The Commission hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 12: That nothing in this ordinance shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

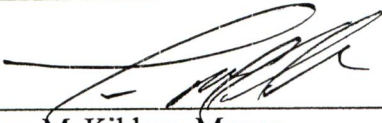
Section 13: That the City Clerk is hereby ordered and directed to cause this ordinance to be published once in the official city newspaper.

Section 14: That this ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately after the date of its final passage and adoption.

PASSED by the governing body of the City on January 19, 2010

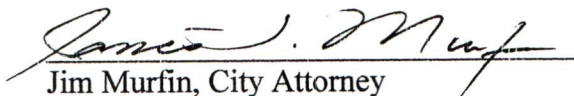
APPROVED AND SIGNED by the Mayor.




Tom McKibban, Mayor


Kendra Porter, City Clerk

APPROVED AS TO FORM


Jim Murfin, City Attorney