

AGENDA
CITY OF ROELAND PARK, KANSAS
CITY COUNCIL MEETING
ROELAND PARK
Roeland Park City Hall, 4600 W 51st Street
September 16, 2024 6:00 PM

- | | | |
|--|---|--|
| <ul style="list-style-type: none">• Michael Poppa, Mayor• Benjamin Dickens, Council Member• Jan Faidley, Council Member• Emily Hage, Council Member• Jennifer Hill, Council Member | <ul style="list-style-type: none">• Matthew Lero, Council Member• Tom Madigan, Council Member• Kate Raglow, Council Member• Jeffrey Stocks, Council Member | <ul style="list-style-type: none">• Keith Moody, City Administrator• Jennifer Jones-Lacy, Asst. Admin.• Kelley Nielsen, City Clerk• John Morris, Police Chief• Donnie Scharff, Public Works Director |
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Admin

Lero

Faidley

Finance

Stocks

Dickens

Safety

Hage

Hill

Public Works

Raglow

Madigan

Pledge of Allegiance

A. Instructions on Logging into Meeting Remotely

Roll Call

Modification of Agenda

I. Public Comments

Members of the public are welcome to use this time to make comments about City matters that do not appear on the agenda, or about items that will be considered as part of the consent agenda. Comments about items that appear on the agenda will be taken as each item is considered. Citizens Are Requested To Keep Their Comments Under 5 Minutes. If a large number of people wish to speak, this time may be shortened by the Mayor (Chair) so that the number of persons wishing to speak may be accommodated within the time available. Please turn all cellular telephones and other noise-making devices off or to "silent mode" before the meeting begins.

II. Consent Agenda

Consent agenda items have been studied by the Governing Body and will be acted on in a single motion. If a Council member requests a separate discussion on an item, it can be removed from the consent agenda and placed on new business for further consideration.

A. Appropriations Ordinance #1051

B. City Council Meeting Minutes September 3, 2024

III. Business From the Floor

A. Applications / Presentations

1. Girl Scout Troop 2336 Project

IV. Mayor's Report

A. Diaper Needs Awareness Week Proclamation

B. Bullying Prevention Month Proclamation

V. Workshop and Committee Reports

VI. Reports of City Liaisons

A. Ad-Hoc Historical Committee

VII. Unfinished Business

VIII. New Business

IX. Ordinances and Resolutions:

A. Eminent Domain Resolution for Mission Road Street Project (5 min)

B. Eminent Domain Resolution for 47th Place Street Project (5 min)

C. Eminent Domain Resolution for El Monte to Delmar Sidewalk Project (5 min)

D. Ordinance - Tree Preservation Policy (5 min)

E. Ordinance - Chapter 5 Business Licenses

X. Workshop Items:

XI. Reports of City Officials:

Welcome to this meeting of the City Council of Roeland Park. Below are the Procedural Rules of Council

The City Council encourages citizen participation in local governance processes. To that end, and in compliance with the Kansas Open meetings Act (KSA 45-215), you are invited to participate in this meeting. The following rules have been established to facilitate the transaction of business during the meeting. Please take a moment to review these rules before the meeting begins.

A. Audience Decorum. Members of the audience shall not engage in disorderly or boisterous conduct, including but not limited to; the utterance of loud, obnoxious, threatening, or abusive language; clapping; cheering; whistling; stomping; or any other acts that disrupt, impede, or otherwise render the orderly conduct of the City Council meeting unfeasible. Any member(s) of the audience engaging in such conduct shall, at the discretion of the Mayor (Chair) or a majority of the Council Members, be

declared out of order and shall be subject to reprimand and/or removal from that meeting. Please turn all cellular telephones and other noise-making devices off or to "silent mode" before the meeting begins.

- B. Public Comment Request to Speak Form.** The request form's purpose is to have a record for the City Clerk. Members of the public may address the City Council during Public Comments and/or before consideration of any agenda item; however, no person shall address the Council without first being recognized by the Mayor (Chair). Any person wishing to speak, whether during Public Comments or on an agenda item, shall first complete a Public Comment or Request to Speak form and submit this form to the City Clerk before the Mayor (Chair) calls for Public Comments or calls the particular agenda item
1. **Public Comment on Non-Agenda Items.** The Agenda shall provide for public comment about matters that are within the jurisdiction of the City but are not specifically listed on the Agenda. A member of the public who wishes to speak under Public Comments must fill out a Public Comment Request to Speak form and submit it to the City Clerk before the Mayor (Chair) calls for Public Comments.
 2. **Public Comment on Agenda Items.** Public comment will be accepted on Agenda items. A member of the public, who wishes to speak on an Agenda item, including items on the Consent Agenda, must fill out a Request to Speak form and submit it to the City Clerk before the Mayor (Chair) calls the Agenda item.
- C. Purpose.** The purpose of addressing the City Council is to communicate formally with the Council regarding matters that relate to Council business or citizen concerns within the subject matter jurisdiction of the City Council. Persons addressing the City Council on an agenda item shall confine their remarks to the matter under consideration by the Council.
- D. Speaker Decorum.** Each person addressing the City Council, shall do so in an orderly, respectful, dignified manner and shall not engage in conduct or language that disturbs, or otherwise impedes the orderly conduct of the Council meeting. Any person, who so disrupts the meeting shall, at the discretion of the Mayor (Chair) or a majority of the Council Members present, be subject to removal from that meeting.
- E. Time Limit.** In the interest of fairness to other persons wishing to speak and to other individuals or groups having business before the City Council, each speaker shall limit comments to five minutes. If a large number of people wish to speak, this time may be shortened by the Mayor

(Chair) so that the number of persons wishing to speak may be accommodated within the time available.

- F. **Speak Only Once.** Second opportunities for the public to speak on the same issue will not be permitted unless mandated by state or local law. No speaker will be allowed to yield part or all of his/her time to another, and no speaker will be credited with time requested but not used by another.
- G. **Addressing the Council.** Comment and testimony are to be directed to the Mayor (Chair). Dialogue between and inquiries from citizens at the lectern and individual Council Members, members of staff, or the seated audience is not permitted. Council Members seeking to clarify testimony or gain additional information should direct their questions through the Mayor (Chair). Always speak from the microphone to ensure that all remarks are accurately and properly recorded. Only one speaker should be at the microphone at a time. Speakers are requested to state their full name, address and group affiliation, if any, before delivering any remarks.
- H. Agendas and minutes can be accessed at www.roelandpark.org or by contacting the City Clerk

The City Council welcomes your participation and appreciates your cooperation. If you would like additional information about the City Council or its proceedings, please contact the City Clerk at (913) 722.2600.

Item Number: Pledge of Allegiance- -A.
Committee 9/16/2024
Meeting Date:



City of Roeland Park

Action Item Summary

Date:

Submitted By:

Committee/Department:

Title: **Instructions on Logging into Meeting Remotely**

Item Type:

Recommendation:

See instructions to log in below.

Details:

The City Council Meeting will be held remotely. Below are instructions for joining the meeting by phone, online or both.

Kelley Nielsen is inviting you to a scheduled Zoom meeting.

Topic: City Council and Governing Body Workshop Meeting

Time: This is a recurring meeting Meet anytime

Join Zoom Meeting

<https://zoom.us/j/97767592270?pwd=VWNXbjNkejVb0JBaStWMDF5WXpoZz09>

Meeting ID: 977 6759 2270

Passcode: council

One tap mobile

+16699006833,,97767592270# US (San Jose)

+12532158782,,97767592270# US (Tacoma)

Dial by your location

- +1 669 900 6833 US (San Jose)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)
- +1 929 205 6099 US (New York)
- +1 301 715 8592 US (Washington DC)
- +1 312 626 6799 US (Chicago)

Meeting ID: 977 6759 2270

Find your local number: <https://zoom.us/j/97767592270>

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Nielsen, Kelley	Approved	8/26/2024 - 1:16 PM

Goals/Objectives & Terms

Item Number: Consent Agenda- II.-A.
Committee 9/16/2024
Meeting Date:



City of Roeland Park
Action Item Summary

Date: 9/16/2024
Submitted By: Jennifer Jones-Lacy, Assistant City Administrator/Finance Director
Committee/Department:
Title: **Appropriations Ordinance #1051**
Item Type:

Recommendation: Approve appropriations ordinance no 1051.

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

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Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Jones-Lacy, Jennifer	Approved	9/12/2024 - 5:56 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Appropriations Ord no 1051	Cover Memo

Appropriation Ordinance - 9/16/2024 - #1051

4600 West Fifty-First Street

Roeland Park, Kansas 66205

City Hall (913) 722-2600 – Fax (913) 722-3713

Thursday, September 12, 2024

Appropriation Ordinance - 9/16/2024 - #1051

An Ordinance making Appropriation for the payment of certain claims. Be it ordained by the Governing Body of the City of Roeland Park, Kansas:

Section 1: That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of the respective funds in the City Treasury the sum required for each claim.

Section 2: This Ordinance shall take effect and be in force from and after its passage. Passed and approved this September 16, 2024.

Attest:

City Clerk

Mayor

\$ 185,803.56

Appropriation Ordinance - 9/16/2024 - #1051

Vendor	Dept	Acct #	Description	Invoice Description	Check /EFT Date	Amount	Chk #	Check Amount
Vendor	Dept	Account	Account Description	Reference	Date	Distribution Amount	Check #	Check Amount
Luis G Palos	300	5470.300	Park Maintenance	19	09/11/24	3,800.00	77209	3,800.00
ADP, Inc.	101	5214.101	Other Contracted Services	668986394	09/04/24	452.40	77167	452.40
Advance Auto Parts	102	5260.102	Vehicle Maintenance	5128423538287	09/04/24	168.83	77168	217.01
Advance Auto Parts	106	5260.106	Vehicle Maintenance	5128424138590	09/04/24	48.18		
Arrow Cleaners & Dyers, Inc.	102	5224.102	Laundry Service	A71E42	09/11/24	81.95	77210	81.95
Augustine Exterminators, Inc.	290	5210.290	Maintenance & Repair Building	2457025	09/11/24	84.98	77211	84.98
Balls Food Stores	101	5267.101	Employee Related Expenses	83985	09/11/24	5.59	77212	5.59
Breeden Holdings, LLC	106	5260.106	Vehicle Maintenance	1088399	09/04/24	35.70	77169	35.70
Kansas City Board of Public Utilities	101	5222.101	Traffic Signal Expense	2834 8/26/24	09/04/24	36.68	77170	36.68
The Bullet Hole	102	5206.102	Travel Expense & Training	239023	09/11/24	35.00	77213	35.00
REDACTED	101	5282.101	Property Tax Rebate Program	9/4/24 Property	09/11/24	571.09	77214	571.09
Commercial Aquatic Services, Inc.	220	5211.220	Maintenance & Repair Equipment	506001	09/11/24	615.47	77215	615.47
Casey's Auto Repair	102	5260.102	Vehicle Maintenance	56916	09/04/24	1,037.00	77171	1,153.63
Casey's Auto Repair	102	5260.102	Vehicle Maintenance	56920	09/04/24	116.63		
Casey's Auto Repair	102	5260.102	Vehicle Maintenance	56976	09/11/24	610.00	77216	610.00
Cintas Fire 636525	290	5210.290	Maintenance & Repair Building	F58703578	09/11/24	277.55	77217	277.55
City of Roeland Park	103	2080.103	Liability for Court Bonds	9/10/24 Daughert	09/10/24	500.00	2028	500.00
City of Roeland Park	103	2080.103	Liability for Court Bonds	9/10/24 McNeal	09/10/24	250.00	2027	250.00
City of Roeland Park	103	2080.103	Liability for Court Bonds	9/10/24 Muller	09/10/24	1,000.00	2029	1,000.00
City of Roeland Park	103	2080.103	Liability for Court Bonds	9/10/24 Muller 2	09/10/24	1,000.00	2029	1,000.00
Edwards Chemicals	220	5326.220	Chemicals	IN162941	09/04/24	136.00	77172	136.00
Everygy Energy Solutions, Inc.	101	5214.101	Other Contracted Services	MS009259	09/04/24	996.80	77173	2,076.67
Everygy Energy Solutions, Inc.	220	5214.220	Other Contracted Services	MS009259	09/04/24	456.87		
Everygy Energy Solutions, Inc.	290	5214.290	Other Contracted Services	MS009259	09/04/24	623.00		
Frank P. Gilman, PA	103	5214.103	Other Contracted Services	Recurring Check	09/01/24	1,249.50	77163	1,249.50
Galls, LLC	102	5308.102	Clothing & Uniforms	28715882	09/11/24	531.50	77218	1,503.27
Galls, LLC	102	5308.102	Clothing & Uniforms	28737714	09/11/24	109.98		
Galls, LLC	102	5308.102	Clothing & Uniforms	28755661	09/11/24	452.92		
Galls, LLC	102	5308.102	Clothing & Uniforms	28755683	09/11/24	87.70		
Galls, LLC	102	5308.102	Clothing & Uniforms	28917534	09/11/24	65.00		
Galls, LLC	102	5308.102	Clothing & Uniforms	28939462	09/11/24	117.96		
Galls, LLC	102	5308.102	Clothing & Uniforms	28947832	09/11/24	84.71		

Galls, LLC	102	5308.102	Clothing & Uniforms 28965914	09/11/24	53.50		
Andrew Gardner	101	5237.101	Community Events 9/2/24 Block Par	09/11/24	100.00	77219	100.00
Gather Media and Communications, LLC	101	5209.101	Professional Services 1280	09/04/24	2,825.00	77174	2,825.00
Grass Pad Inc.	300	5470.300	Park Maintenance 543681	09/04/24	652.00	77175	652.00
Emily Hage	108	5206.108	Travel Expense & Training 9/6/24 Costco	09/11/24	538.87	77220	538.87
Devan Hartnett	101	5283.101	IP Community Foundation Grant Expense 82524	09/04/24	32.00	77176	32.00
Hill's Pet Nutrition Sales, Inc.	109	5316.109	250558681	09/11/24	65.42	77221	65.42
Hometown Lawn, LLC	104	5214.104	Other Contracted Services 8993	09/11/24	200.00	77222	200.00
Hometown Lawn, LLC	106	5214.106	Other Contracted Services 4410	09/04/24	1,645.00	77177	3,480.00
Hometown Lawn, LLC	106	5214.106	Other Contracted Services 4451	09/04/24	1,835.00		
Anna Jacobson	360	5209.360	Professional Services 17	09/11/24	1,100.00	77223	2,275.00
Anna Jacobson	360	5209.360	Professional Services 18	09/11/24	1,175.00		
Johnson County Wastewater	101	5288.101	Waste Water 1970 8/19/24	09/11/24	136.51	77224	136.51
Johnson County Wastewater	220	5288.220	Waste Water 7792 8/29/24	09/11/24	80.35	77239	80.35
Jennifer Jones-Lacy	105	5206.105	Travel Expense & Training 9/21-25/24 Trave	09/11/24	605.96	77225	605.96
Max10 MO LLC	101	5210.101	Maintenance & Repair Building 169319	09/04/24	745.00	77178	1,220.00
Max10 MO LLC	106	5210.106	Maintenance & Repair Building 169479	09/04/24	475.00		
KC Can Compost	101	5256.101	Committee Funds KCC2676	09/11/24	40.00	77226	40.00
The Kansas City Gardener	101	5283.101	IP Community Foundation Grant Expense 13652	09/04/24	840.00	77179	840.00
Kansas One-Call System, Inc.	101	5220.101	4080460	09/04/24	163.20	77180	163.20
Lamp, Rynearson & Assoc., Inc.	300	5209.300	Professional Services 323094010000010	09/11/24	2,971.00	77227	2,971.00
League of Kansas Municipalities	104	5206.104	Travel Expense & Training 200014068	09/11/24	75.00	77228	375.00
League of Kansas Municipalities	105	5206.105	Travel Expense & Training 200014122	09/11/24	300.00		
The Legal Record	101	5204.101	Legal Printing L19903	09/04/24	144.72	77181	144.72
Lynda Leonard	101	5230.101	Art Commissioner Recurring Check	09/01/24	200.00	77164	200.00
Manning NavComp, Inc.	106	5214.106	Other Contracted Services 50036	09/04/24	6.00	77182	6.00
Mauer Law Firm PC	510	5209.510	Professional Services 829/24	09/11/24	946.00	77229	12,685.00
Mauer Law Firm PC	101	5215.101	City Attorney 829/24	09/11/24	11,739.00		
MEI Total Elevator Solutions	101	5210.101	Maintenance & Repair Building 1089301	09/04/24	272.54	77183	272.54
Micro Center A/R	220	5403.220	Office Equipment 9810035	09/04/24	1,769.94	77184	3,529.90
Micro Center A/R	290	5425.290	Other Capital Outlay 9810035	09/04/24	1,759.96		
Midwest Public Risk	107	5126.107	Health/Dental/Vision Insurance 9/2024 Final Inv	09/04/24	36,982.00	77185	36,982.00
Midtown Signs LLC	300	5470.300	Park Maintenance 176340	09/11/24	867.44	77230	867.44
NEJC Chamber	105	5206.105	Travel Expense & Training 42683	09/04/24	25.00	77186	50.00
NEJC Chamber	105	5206.105	Travel Expense & Training 42691	09/04/24	25.00		
Post Publishing, Inc.	101	5283.101	IP Community Foundation Grant Expense 4803	09/04/24	650.00	77187	1,277.00
Post Publishing, Inc.	101	5305.101	4837	09/04/24	627.00		
Propio LS, LLC	103	5214.103	Other Contracted Services 281410824	09/11/24	25.35	77231	25.35

T2 Holdings, LLC	101	5214.101	Other Contracted Services	1528177	09/11/24	175.00	77232	175.00
Rejis Commission	102	5214.102	Other Contracted Services	537093	09/04/24	238.88	77188	1,058.38
Rejis Commission	102	5214.102	Other Contracted Services	537232	09/04/24	819.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	11969	09/04/24	220.00	77189	220.00
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12809	09/11/24	220.00	77230	64,727.50
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12960	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12961	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12962	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12963	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12964	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12965	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12966	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12967	09/11/24	7,167.50		
Ripple Glass, LLC	115	5272.115	Solid Waste Contract	12968	09/11/24	7,167.50		
Saltus Technologies	103	5266.103	Computer Software	240929	09/04/24	2,890.00	77190	2,890.00
SFS Architecture	300	5476.300	Community Center Improvement	16157	09/11/24	12,100.00	77234	12,100.00
Cathy Boyer-Shesol	101	5283.101	IP Community Foundation Grant Expense	12/11-8/28/24EXP	09/11/24	118.45	77235	358.03
Cathy Boyer-Shesol	101	5283.101		12/11-8/28/24EXP	09/11/24	57.74		
Cathy Boyer-Shesol	101	5283.101	IP Community Foundation Grant Expense	12/11-8/28/24EXP	09/11/24	181.84		
Smitty's Lawn & Garden Equipment	106	5211.106		110217	09/04/24	217.86	77191	217.86
Stanard & Associates, Inc.	102	5305.102	Dues, Subscriptions, & Books	SA000058814	09/04/24	475.00	77192	475.00
Staples	101	5301.101	Office Supplies	7001874495	09/04/24	16.42	77193	107.72
Staples	101	5304.101	Janitorial Supplies	7001874495	09/04/24	91.30		
Strasser True Value	106	5306.106	Materials	459254	09/04/24	21.84	77194	21.84
Juliana Torres	103	5206.103	Travel Expense & Training	9/11/24 EXP	09/11/24	398.46	77236	398.46
Karen Torline	103	5214.103	Other Contracted Services	Recurring Check	09/01/24	1,517.25	77165	1,517.25
Tri-tech Forensics, Inc.	102	5306.102	Materials	1056689	09/11/24	63.99	77237	63.99
USIC Locating Services, LLC	101	5220.101	Street Light Repair & Maintenance	680643	09/04/24	1,944.33	77195	1,944.33
Validity Screening Solutions	102	5207.102	Medical Expense & Drug Testing	248080	09/04/24	34.00	77196	102.00
Validity Screening Solutions	102	5207.102	Medical Expense & Drug Testing	248080	09/04/24	34.00		
Validity Screening Solutions	106	5207.106	Medical Expense & Drug Testing	248080	09/04/24	34.00		
Verizon Wireless	102	5202.102	Telephone	9972198740	09/04/24	321.85	77197	441.88
Verizon Wireless	104	5202.104	Telephone	9972198740	09/04/24	80.02		
Verizon Wireless	106	5202.106	Telephone	9972198741	09/04/24	40.01		
Veterinary Allergy and Dermatology Clinic	109	5316.109	K9 Expenses	32044	09/04/24	141.48	77198	141.48
Watchmen Security Services, LLC	106	5214.106	Other Contracted Services	92439	09/04/24	80.00	771919	140.00
Watchmen Security Services, LLC	106	5214.106	Other Contracted Services	92593	09/11/24	60.00		
Water District No 1 of Johnson County	101	5287.101	Water	1321 8/5/24	09/11/24	86.96	77238	252.26

Water District No 1 of Johnson County	101	5287.101	Water 6642 8/5/24	09/04/24	165.30		
The Work Zone, Inc.	101	5222.101	Traffic Signal Expense 70125	09/04/24	264.00	77200	264.00
Evergy	101	5222.101	Traffic Signal Expense 3549 9/6/24	09/06/24	5,312.17	EFT	
Open Edge	101	5247.101	Credit Card & Bank Fees 7493 8/31/24	08/31/24	1,028.48	EFT	
Open Edge	101	5247.101	Credit Card & Bank Fees 8925 8/31/24	08/31/24	369.62	EFT	
Open Edge	101	5247.101	Credit Card & Bank Fees 8926 8/31/24	08/31/24	1,000.06	EFT	
Wex Bank	102	5302.102	Motor Fuels & Lubricants 6429 9/5/24	09/05/24	2,143.50	EFT	
					185,803.56		

Item Number: Consent Agenda- II.-B.
Committee 9/16/2024
Meeting Date:



City of Roeland Park
Action Item Summary

Date:
Submitted By:
Committee/Department:
Title: **City Council Meeting Minutes September 3, 2024**
Item Type:

Recommendation:

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

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Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Nielsen, Kelley	Approved	9/11/2024 - 4:21 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▫ City Council Meeting Minutes September 3, 2024	Cover Memo

**CITY OF ROELAND PARK, KANSAS
CITY COUNCIL MEETING MINUTES
ROELAND PARK CITY HALL
4600 WEST 51ST STREET, ROELAND PARK, KS 66205
September 3, 2024, 6:00 P.M.**

- Michael Poppa, Mayor
- Benjamin Dickens, Council Member
- Jan Faidley, Council Member
- Emily Hage, Council Member
- Jennifer Hill, Council Member

- Matthew Lero, Council Member
- Tom Madigan, Council Member
- Kate Raglow, Council Member
- Jeffrey Stocks, Council Member

- Keith Moody, City Administrator
- Jennifer Jones-Lacy, Asst. City Admin.
- Kelley Nielsen, City Clerk
- John Morris, Police Chief
- Donnie Scharff, Public Works Director

Admin

Lero
Faidley

Finance

Stocks
Dickens

Safety

Hage
Hill

Public Works

Raglow
Madigan

(Roeland Park Council Meeting Called to Order at 6:00 p.m.)

Pledge of Allegiance

Mayor Poppa called the meeting to order and led everyone in the Pledge of Allegiance.

Roll Call

City Clerk Nielsen called the roll. All Governing Body members were present with CMBR Raglow appearing virtually. Staff present were City Administrator Moody, City Attorney Felzien, Finance Director/Assistant City Administrator Jones-Lacy, Public Works Director Scharff, Police Chief Morris, Deputy Police Chief Honas, and City Clerk Nielsen.

Modification of Agenda

There were no modifications to the Agenda.

I. Public Comments

There were no public comments made.

II. Consent Agenda

- A. Appropriations Ordinance #1050
- B. City Council Meeting Minutes August 20, 2024

MOTION: CMBR MADIGAN MOVED AND CMBR HAGE SECONDED TO APPROVE THE CONSENT AGENDA AS PRESENTED. (THE MOTION CARRIED 8-0.)

III. Business from the Floor - Proclamations/Applications/Presentations

- A. Life Saving Award for Officer Prodoehl

Police Chief Morris invited Officers Prodoehl, Hill, Gardner, and Corporal Magee to the front of the chambers. He wanted to recognize these officers for a unique thing that does not happen often and to bring this to the attention of the Council, the public, the administrative staff, and the officers' family members. Chief Morris relayed details of an incident that happened in the northern part of Nall Park on August 2nd, 2024, around 8:49 in the evening. He said it was an extremely hot and muggy night. The area where the officers went to was thick with vegetation and treacherous terrain. They were responding to a suicidal subject who was on the phone with the crisis line. He stressed that his officers searched this area not knowing what they would encounter. Officer Prodoehl eventually found the subject hanging in a tree and was able to cut him down and comfort him while waiting for his fellow officers, the ambulance, and paramedics. Thanks to their efforts they saved the subject's life.

Police Chief Morris said he reviewed the video and watching it is very emotional and he is proud of the camaraderie of his officers. They put their lives on the line even when they do not know what they are going into. He said the compassion that was shown to the subject is what Roeland Park is all about.

Chief Morris together with Deputy Chief Honas presented the Life Saving Award to Officer Prodoehl and the Meritorious Service Award to Officers Gardner, Hill, and Corporal Magee with a sincere thank you and gratitude for a job well done.

(Applause and photos were taken)

Mayor Poppa thanked Chief Morris and the officers. He said he does not have the words to thank them for what they do in Roeland Park and especially what they did that night.

IV. Mayor's Report

A. National Suicide Prevention and Awareness Month Proclamation

Mayor Poppa encouraged all residents to inquire about the well-being of their family, neighbors, and friends over the next few days and to convey their appreciation for their existence in any way they can. He added that suicide is never the answer. He then read the proclamation into the record proclaiming September 2024 as National Suicide Prevention and Awareness Month in Roeland Park.

All Councilmembers signed onto the proclamation.

For more information, or if you need help, reach out to:

- 988 Suicide & Crisis Lifeline: [www.988Lifeline.org/Talk-To-Someone-Now](https://www.988lifeline.org/Talk-To-Someone-Now)
- Johnson County Suicide Prevention Coalition: www.JoCoGov.org/SuicidePrevention

V. Reports of City Liaisons and Committees

A. Community Foundation

Ms. Jones-Lacy said the board had its quarterly meeting and the meeting minutes are included in the agenda packet. She said funds have been spent for the Go Green event planned for September 14th. Staff tracks the committee's financials and those are included in the packet as well.

VI. Unfinished Business

There was no Unfinished Business discussed.

VII. New Business

A. Public Fireworks Display Request from Bishop Miede

Police Chief Morris said this item comes before the Governing Body every year. Bishop Miede would like to do a small fireworks displays as they have done for the past 20-plus years. They have completed their application and submitted the required paperwork. The proposed dates are 9/6, 9/27, 10/4, and 10/25. If the team goes to the playoffs, they will submit a request for additional dates for a fireworks display. Chief Morris said that he or someone from the department will be at the fireworks display for proper guidance. He said there is nothing unusual about this request.

MOTION: CMBR LERO MOVED AND CMBR MADIGAN SECONDED TO APPROVE THE SMALL DISPLAY OF FIREWORKS AT BISHOP MIEGE 2024 FOOTBALL GAMES ON 9/6, 9/27, 10/4, AND 10/25. (THE MOTION CARRIED 7-1 WITH CMBR HILL VOTING NO.)

B. Leaving the Twitter/X Platform

Ms. Jones-Lacy said that CMBR Dickens made an earlier request that the City leave the Twitter/X platform. Mayor Poppa had requested the DEI Committee review that request and to provide any additional information. Ms. Jones-Lacy said the DEI Committee reviewed the request, and the initial impetus is that X in its current form has become more offensive in terms of the misinformation that is coming through the platform and the filters against that are not strong. There is also a push for people to pay for official accounts. The platform identifies certain accounts as being state run media or whatever. Ms. Jones-Lacy said that personally she is not a big user of X and cannot speak to what it was versus what it is now. She did note that Merriam left earlier this year for the reasons that have been stated. The DEI Committee said the platform does not align with the City's values or that of the DEI Committee and recommended the City drop its use. Katie Garcia, the City's PIO, has no concern about dropping it as it is not the City's main source to get information out. Ms. Jones-Lacy said it is helpful with emergencies, but is not as well used as their website, the newsletter, or Facebook.

CMBR Stocks said he is not a big user of X, but his one suggestion would be that they retain the name so that someone cannot use it to spread misinformation. He said not to use it but to keep it as a placeholder.

CMBR Dickens said this is a great idea. He said he previously was an avid user and hopes that one day there will be new ownership over the platform. He also noted that just this past weekend the country of Brazil banned X because of their rhetoric.

MOTION: CMBR DICKENS MOVED AND CMBR MADIGAN SECONDED FOR THE CITY TO LEAVE THE TWITTER/X PLATFORM FOR DISSEMINATION OF CITY INFORMATION BUT RETAIN THE ROELAND PARK HANDLE TO PREVENT IT BEING USED BY SOMEONE ELSE OR POTENTIAL USE IN THE FUTURE. (THE MOTION CARRIED 8-0.)

VIII. Ordinances and Resolutions

A. Resolution Setting Date on Public Hearing to Amend TIF3 Boundary

City Manager Moody said setting a public hearing is required by the state to amend the TIF boundary. The date requested is October 7th. It will be an expansion of the land area to include Nall Park and the Community Center to allow the use of TIF3 funds for improvements on those two sites.

CMBR Faidley asked if the funds could be used for sidewalk connections to Nall Park, not only from the Community Center but to Nall Park itself. City Manager Moody said it can be used for that.

MOTION: CMBR HAGE MOVED AND CMBR FAIDLEY SECONDED TO APPROVE THE DATE OF OCTOBER 7, 2024, FOR THE PUBLIC HEARING TO AMEND THE TIF3 BOUNDARY. (THE MOTION CARRIED 8-0.)

B. Resolution - Fees

Ms. Jones-Lacy said they received their first request for a food truck permit and realized they did not have a fee schedule. They are recommending a \$50 annual permit fee which is equivalent to their business license fee.

CMBR Dickens asked if the food truck would need a business license separate from the permit. Ms. Jones-Lacy said that most food trucks have a brick-and-mortar operation, which would require a business license permit. The food truck permit would essentially be their business license to operate in Roeland Park. And a requirement of that application requires compliance with health inspections as well as from the fire marshal.

CMBR Faidley stated that Roeland Park does not allow food vendors in residential areas. Mayor Poppa added they can only set up in a business area.

Ms. Jones-Lacy said they will be reviewing that section of the City code later in the Workshop. She does not recall the code having those restrictions but will look further into it and bring that back to the Governing Body for review.

CMBR Faidley asked if the food truck would need a special use permit to operate on any public property. Ms. Jones-Lacy said they do not need such a permit, and the food truck permit would be their authorization to operate.

Further details regarding this item will be discussed at the Workshop.

MOTION: CMBR LERO MOVED AND CMBR MADIGAN SECONDED TO APPROVE THE RESOLUTION ADOPTING FEES AS IT RELATES TO FOOD TRUCK PERMITS IN THE CITY OF ROELAND PARK. (THE MOTION CARRIED 8-0.)

IX. Reports of City Officials

City Clerk's Office

City Clerk Nielsen said there will be a dog pool party on September 4th from 5-7:30 p.m. at the Aquatics Center.

City Administrator's Office

City Manager Moody said there was a Community Center Design meeting today and they are honing in on those plans, which the Governing Body will look at their next meeting. City Manager Moody will be

looking for their acceptance and then they will move the final set of plans to get bids for the work. After that, there will be a second amendment to the construction manager at risk agreement for a not to exceed price. Universal will also be present at the meeting to detail what is included in Phase 2 and to review what has been completed during Phase 1 of the project.

Police Department & Public Works Department

Both Police Chief Morris and Public Works Director Scharff gave a thumbs up that they are at full staff.

Adjourn:

MOTION: CMBR MADIGAN MOVED AND CMBR DICKENS SECONDED TO ADJOURN. (THE MOTION CARRIED 8-0.)

(Roeland Park City Council Meeting Adjourned at 6:28 p.m.)

Kelley Nielsen, City Clerk

Michael Poppa, Mayor

Item Number: Applications/Presentations- A.-1.
Committee 9/16/2024
Meeting Date:



City of Roeland Park

Action Item Summary

Date: 9/9/2024
Submitted By: Girl Scout Troop 2336
Committee/Department: Admin.
Title: **Girl Scout Troop 2336 Project**
Item Type: Other

Recommendation:

Girl Scout Troop 2336 is working on their Bronze Award Project. Here is a little bit about their project and how you can support their Troop earning their Bronze Award. Their project is to create hygiene kits and to educate others about why this is important. They are going to make kits/bags to give out to children who might not have access to personal hygiene. In these bags there will be deodorant, feminine hygiene products, toothbrushes/paste, laundry sheets, metal water bottles, etc. In order to make their project sustainable, they will teach others by making a video & presentation to their principal, Kelly Swift (and others). Also, they will be passing on the video to future Girl Scouts. They could use your help by supporting them in their project and donating suitable, working products to our cause.

Amazon wish list.

https://www.amazon.com/.../9TAJ9.../ref=nav_wishlist_lists_2

Project will wrap up at the end of September, they will accept donations through Friday, September 27.

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information**REVIEWERS:**

Department	Reviewer	Action	Date
Administration	Nielsen, Kelley	Approved	9/12/2024 - 8:37 AM

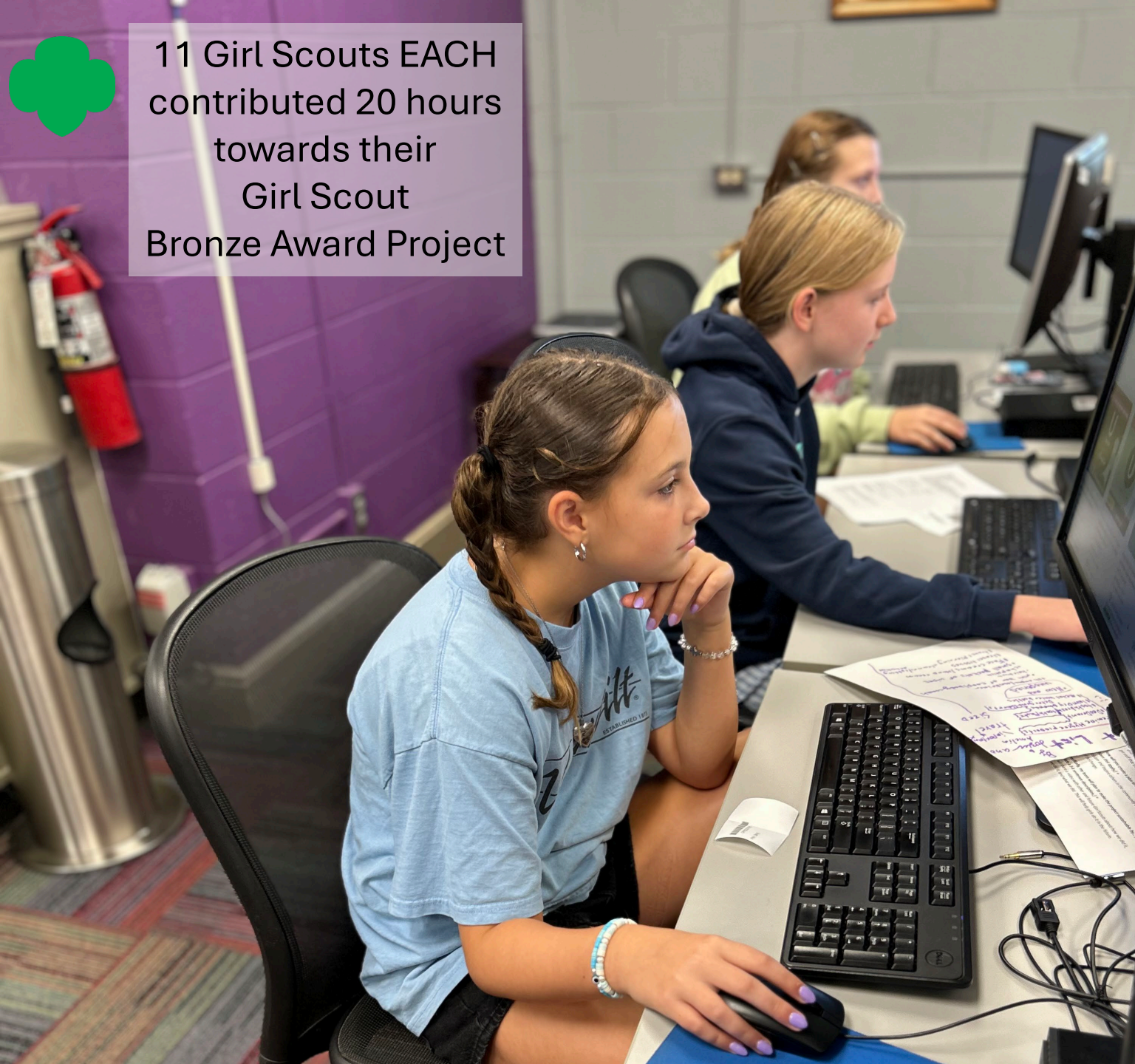
Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
📎 Girl Scouts	Cover Memo



11 Girl Scouts EACH
contributed 20 hours
towards their
Girl Scout
Bronze Award Project





Item Number: Mayor's Report- IV.-A.
Committee 9/16/2024
Meeting Date:



City of Roeland Park
Action Item Summary

Date:
Submitted By:
Committee/Department:
Title: Diaper Needs Awareness Week Proclamation
Item Type:

Recommendation:

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Nielsen, Kelley	Approved	9/12/2024 - 9:12 AM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Diaper Needs Awareness Week Proclamation	Cover Memo



Proclamation

Diaper Need Awareness Week

Whereas, diaper need, the condition of not being able to afford a sufficient supply of clean diapers to keep babies and toddlers clean, dry, and healthy, can adversely affect the health and well-being of children and their families; and

Whereas, national surveys and research studies report that nearly one in two families struggles with diaper need, and 48 percent of families delay changing a diaper to extend the available supply; and

Whereas, a daily or weekly supply of diapers is generally an eligibility requirement for babies and toddlers to participate in child care programs and quality early-education programs that enable children to thrive and parents to work; and

Whereas, many parents struggling with diaper need report missing an average of five days of work each month due to an insufficient supply of diapers; and

Whereas, without enough diapers, babies and toddlers risk infections and health problems that may require medical attention resulting in medical costs, and parents may be prevented from accessing child care needed to go to work or school, thereby destabilizing the family's economic prospects and well-being; and

Whereas, the people of Johnson County recognize that diaper need is a public health issue, and addressing diaper need can lead to economic opportunity for the state's families and communities and improved health for children, thus ensuring all children and families have access to the basic necessities required to thrive and reach their full potential; and

Whereas, Johnson County is proud to be home to trusted community-based organizations including Happy Bottoms that recognize the importance of diapers in ensuring health and providing economic stability for families and thus distribute diapers to families through various channels; and

Whereas, through their important work of addressing diaper need, diaper banks play a critical role in supporting families, improving infant health and wellbeing, and advancing our local and state economic growth; now

Therefore, I, Mayor Michael Poppa, do hereby proclaim the week of September 23rd through September 29th, 2024, as

NATIONAL DIAPER NEED AWARENESS WEEK

in the City of Roeland Park, thank the aforementioned diaper banks, their staff, volunteers and donors, for their courageous service during the crisis, and encourage the residents of Roeland Park to donate generously to diaper banks, diaper drives, and support those organizations that collect and distribute diapers to families struggling with diaper need, so that all of Johnson County children and families can thrive and reach their full potential.

MICHAEL POPPA
Mayor

Item Number: Mayor's Report- IV.-B.
Committee 9/16/2024
Meeting Date:



City of Roeland Park
Action Item Summary

Date:
Submitted By:
Committee/Department:
Title: Bullying Prevention Month Proclamation
Item Type:

Recommendation:

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Nielsen, Kelley	Approved	9/12/2024 - 9:14 AM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Bullying Prevention Month Proclamation	Cover Memo



Proclamation

Bullying Prevention Month

WHEREAS, bullying is defined as unwanted aggressive behavior or intimidation that may inflict physical, psychological or social harm on a person or group of people; and

WHEREAS, bullying has become increasingly prevalent and damaging to children and adults, especially through the use of technology, also known as cyberbullying; and

WHEREAS, we, as a Governing Body, agree that unwanted aggressive behavior has no place in our schools or community at-large, and that we are committed to offering all community members an environment that holds promise, provides security and provides an opportunity to live, work, play and learn without fear of bullying; and,

WHEREAS, at a time when engaging in civic affairs has become increasingly divisive, local governments have an opportunity to demonstrate how people from all backgrounds and perspectives can come together in civil discourse; and,

WHEREAS, communities across the United States are commemorating “Bullying Prevention Month” in October, challenging people of all ages to pledge to end unwanted aggressive behavior.

NOW, THEREFORE, I, Mayor Michael Poppa, do hereby proclaim the month of October 2024, as

BULLYING PREVENTION MONTH

in the City of Roeland Park, and urge all community members to work toward the prevention of bullying and pledge to be part of the solution to end bullying in all its forms.

The Pledge

Because I believe I can be part of the solution to end bullying and cyber-bullying, I pledge to:

- Remember kindness;
- Empower others to call out unwanted aggressive behavior;
- Support people who have been affected by bullying or cyberbullying;
- Participate in dialogue that is inclusive of others;
- Educate my friends and family about the harmful effects of bullying;
- Communicate honestly without attacking or belittling others; and
- Treat others with respect.

Michael Poppa, Mayor

Item Number: Reports of City Liaisons- VI.-A.
Committee 9/16/2024
Meeting Date:



City of Roeland Park
Action Item Summary

Date: 9/11/2024
Submitted By: Anna Jacobson
Committee/Department: Ad-Hoc Historical Committee
Title: **Ad-Hoc Historical Committee**
Item Type: Report

Recommendation:

Informational only. Anna Jacobson to provided update.

Details:

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Jones-Lacy, Jennifer	Approved	9/12/2024 - 5:55 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Progress Summary-9-12-2024	Cover Memo

Progress Summary:

Roeland Park Historical Projects:

I have included here a bullet summary of the work done since May 2023 as well as what I am expecting to complete by years end. I have also included some information about the use and importance of land acknowledgements.

Initial Project Plan:

- Edit and update *Rollin' Through the Years* to include holistic historical event/facts and update to present (2020s)
- Research and edit signage copy for historical signage markers and an interpretive signage plaza—taking what originally pulled together and update/revise as needed.

Summer 2023: Shifting Focus

- Upon reading *Rollin' Through the Years*, it became apparent that the work was not properly cited, making it impossible to reasonably fact check and verify context of the information provided.
- The Ad Hoc Historical Committee at this time agreed to shift focus from editing *Rollin' Through the Years* and begin writing a collection of essays to serve as a credible and holistic history of Roeland Park. These essays would also include a compiled oral history from current and/or recent residents of Roeland Park.
 - The essay topics are as follows:
 - Pre-colonization environmental and Indigenous History
 - Shawnee Nation in Kansas/Shawnee Missions/
 - John Roe + Family
 - Development and Becoming a City
 - Redlining and White Flight: The part it played in RP's development
 - Roeland Park as a Frontrunner of Queer Rights in Kansas
 - Oral Histories
 - The Committee also agreed to use excerpts from these essays' text as copy for historical signage, both the historical marker signs as well as the interpretive signs.

Completed to Date:

Signage:

- John Roe Family Home Signage Copy:
 - Completed: April 15, 2024
 - Additional Note:
 - While working on this signage, the Ad Hoc Historical Committee invited representatives from Roeland Park's DEI Committee to the May 2024 meeting.
 - The signage refers to the fact that the Roe family purchased their land from the heirs of Thomas Johnson, founder of the Shawnee Manual Labor School.
 - There was a discussion in the meeting if this gave enough context concerning how the Johnson's acquired the land initially, in spirit of consciousness to the experience of multiple Indigenous peoples and their historic ties to this land.
 - We discussed the fact that the historical marker signs require a strict character limit, and the Ad Hoc Historical Committee agreed that a separate sign acknowledging Indigenous relationship to this land would be more appropriate.
 - I have included more details concerning the importance and functions of land acknowledgments at the end of this document.

Essays:

- Pre-colonization environmental and Indigenous History
 - First Draft Completed: October 26, 2023
 - Second Draft Completed:
- Shawnee Nation in Kansas/Shawnee Mission(s)
 - First Draft: June 27, 2024

Oral Histories:

- Ardie Davis: May 4, 2024
- Ben Silk: May 4, 2024
- Tom Madigan: May 4, 2024
- Mayor Michael Poppa: August 3, 2024

Additional Notes:

○ Service and Function of Land Acknowledgment:

- Using the Kansas Association of Native American Educators (KANAE) guidance, the first step in creating a land acknowledgment is to identify an organization/entity's motivation for doing so.
- In the Ad Hoc Historical Committee's August 2024 meeting, I led a discussion to flesh out the Committee's intentions behind writing a land acknowledgment.
- Following the KANAE guidance, the significance of land acknowledgment statement may be different between depending on the entity writing the acknowledgment and the peoples that it is acknowledging.
- The Ad Hoc Historical Committee has discussed that the land acknowledgment signage would serve the purpose of having a visible and public statement identifying which specific Indigenous people had presence in this area—this would serve as an affirmation of those longstanding and ancestral connections to this place as well as an educational tool to those unaware of this history.

Expected to be Completed by End of 2024:

- Land acknowledgment signage and longer detailed statement
- Oral history transcription
- John Roe/ Roe family essay draft 1
- Shawnee Presence in Kansas/ Shawnee Manual Labor School/Thomas Johnson essay draft 2
- Developing and becoming a city essay draft 1

Item Number: **Ordinances and Resolutions:- IX.-**
 A.
Committee **9/16/2024**
Meeting Date:



City of Roeland Park

Action Item Summary

Date: 9/12/2024
Submitted By: Keith Moody
Committee/Department: Admin.
Title: **Eminent Domain Resolution for Mission Road Street Project (5 min)**
Item Type: Ordinance

Recommendation:

Staff recommends approval of a resolution authorizing the City Engineer to complete surveys and prepare legal descriptions for right of way, permanent sidewalk/utility easements as well as temporary construction easements necessary for constructing and maintaining sidewalk, street, storm and lighting improvements along the Mission Road Street Project.

Details:

In order to complete the 2025 Mission Road Street Project, it is necessary to acquire right of way, permanent sidewalk/utility easements and temporary construction easements from adjacent properties. Staff has been working through the process of acquiring easements, but a number of property owners have either been unresponsive or unwilling to sign the easements. With passage of this resolution a notice via certified mail will be sent to each affected property owner of the City's intent to proceed with condemnation to acquire the necessary easements/ROW.

Staff will continue to meet with property owners who have not yet signed as the city proceeds with steps to secure the easements through the eminent domain process. A subsequent Ordinance naming those property owners that have not signed off on the easements will require approval by Council to proceed with eminent domain. This is planned for the 2nd meeting in October. Even after adoption of the Ordinance staff will continue to meet with property owners to minimize the number of properties involved in the eminent domain process. This process is administered by the Circuit Court and involves the appointment of a 3-person appraisal board. The judge will make a ruling on if the eminent domain meets a public need.

Survey and easement documents required by this resolution will be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. This work has already been completed.

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Moody, Keith	Approved	9/12/2024 - 5:24 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
□ Eminent Domain Resolution for Mission Road Project	Cover Memo

CITY OF ROELAND PARK, KANSAS
RESOLUTION NO. _____

A RESOLUTION DECLARING IT NECESSARY TO ACQUIRE PRIVATE PROPERTY IN THE CITY OF ROELAND PARK, KANSAS FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING SIDEWALK, STREET, STORM AND LIGHTING IMPROVEMENTS ALONG THE MISSION ROAD STREET PROJECT AND FURTHER DIRECTING THE CITY ENGINEER OR DESIGNEE TO CAUSE A SURVEY TO BE MADE OF THE LAND NEEDED FOR SUCH IMPROVEMENT.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS:

SECTION 1. It is necessary to acquire by appropriation and proceedings in Eminent Domain, right of way, permanent sidewalk and utility easements, and temporary construction easements in the City of Roeland Park, Kansas for constructing and maintaining sidewalk, street, storm and lighting improvements along the Mission Road Street Project. The City Engineer or designee is hereby directed and instructed to cause to be prepared and made a survey of the land necessary for such purpose and to prepare a certificate showing the results of such survey over their signature and to cause the same to be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. Said report shall also contain a description of the land which is necessary for such purposes.

SECTION 2. After filing of said survey and report by the City Engineer or designee, the City Attorney of the City of Roeland Park, Kansas shall cause a proper ordinance to be prepared and submitted to the Governing Body for consideration, providing for the acquisition of private property in the City of Roeland Park, Kansas by appropriate proceedings in Eminent Domain.

SECTION 3. The City Clerk shall cause this Resolution to be published once in the official City newspaper.

ADOPTED by the Governing Body this 16th day of September 2024.

SIGNED by the Mayor this 16th day of September 2024.

Michael Poppa, Mayor

ATTEST:

Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

Steven E. Mauer, City Attorney

Item Number: **Ordinances and Resolutions:- IX.-**
 B.
Committee **9/16/2024**
Meeting Date:



City of Roeland Park

Action Item Summary

Date: 9/12/2024
Submitted By: Keith Moody
Committee/Department: Admin.
Title: **Eminent Domain Resolution for 47th Place Street Project (5 min)**
Item Type: Ordinance

Recommendation:

Staff recommends approval of a resolution authorizing the City Engineer to complete surveys and prepare legal descriptions for permanent sidewalk/utility easements as well as temporary construction easements necessary for constructing and maintaining sidewalk, street, storm and lighting improvements along the 47th Place Street Project.

Details:

In order to complete the 47th Place Street Project, it is necessary to acquire permanent sidewalk/utility easements and temporary construction easements from adjacent properties. Staff has been working through the process of acquiring easements, but a number of property owners have either been unresponsive or unwilling to sign the easements. With passage of this resolution a notice via certified mail will be sent to each affected property owner of the City's intent to proceed with condemnation to acquire the necessary easements.

Staff will continue to meet with property owners who have not yet signed as the city proceeds with steps to secure the easements through the eminent domain process. A subsequent Ordinance naming those property owners that have not signed off on the easements will require approval by Council to proceed with eminent domain. This is planned for the 2nd meeting in October. Even after adoption of the Ordinance staff will continue to meet with property owners to minimize the number of properties involved in the eminent domain process. This process is administered by the Circuit Court and involves the appointment of a 3-person appraisal board. The judge will make a ruling on if the eminent domain meets a public need.

Survey and easement documents required by this resolution will be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. This work has already been completed.

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

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- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Public Works	Moody, Keith	Approved	9/12/2024 - 5:25 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
□ Eminent Domain Resolution for 47th Place Project	Cover Memo

CITY OF ROELAND PARK, KANSAS
RESOLUTION NO. _____

A RESOLUTION DECLARING IT NECESSARY TO ACQUIRE PRIVATE PROPERTY IN THE CITY OF ROELAND PARK, KANSAS FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING SIDEWALK, STREET, STORM AND LIGHTING IMPROVEMENTS ALONG THE 47TH PLACE STREET PROJECT AND FURTHER DIRECTING THE CITY ENGINEER OR DESIGNEE TO CAUSE A SURVEY TO BE MADE OF THE LAND NEEDED FOR SUCH IMPROVEMENT.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS:

SECTION 1. It is necessary to acquire by appropriation and proceedings in Eminent Domain, permanent sidewalk and utility easements, and temporary construction easements in the City of Roeland Park, Kansas for constructing and maintaining sidewalk, street, storm and lighting improvements along the 47th Place Street Project. The City Engineer or designee is hereby directed and instructed to cause to be prepared and made a survey of the land necessary for such purpose and to prepare a certificate showing the results of such survey over their signature and to cause the same to be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. Said report shall also contain a description of the land which is necessary for such purposes.

SECTION 2. After filing of said survey and report by the City Engineer or designee, the City Attorney of the City of Roeland Park, Kansas shall cause a proper ordinance to be prepared and submitted to the Governing Body for consideration, providing for the acquisition of private property in the City of Roeland Park, Kansas by appropriate proceedings in Eminent Domain.

SECTION 3. The City Clerk shall cause this Resolution to be published once in the official City newspaper.

ADOPTED by the Governing Body this 16th day of September 2024.

SIGNED by the Mayor this 16th day of September 2024.

Michael Poppa, Mayor

ATTEST:

Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

Steven E. Mauer, City Attorney

Item Number: **Ordinances and Resolutions:- IX.-**
 C.
Committee **9/16/2024**
Meeting Date:



City of Roeland Park

Action Item Summary

Date: 9/12/2024
Submitted By: Keith Moody
Committee/Department: Admin.
Title: **Eminent Domain Resolution for El Monte to Delmar Sidewalk Project (5 min)**
Item Type: Ordinance

Recommendation:

Staff recommends approval of a resolution authorizing the City Engineer to complete surveys and prepare legal descriptions for permanent sidewalk/utility easements as well as temporary construction easements necessary for constructing and maintaining sidewalk, street, and storm drainage improvements between El Monte and Delmar streets.

Details:

In order to complete the El Monte to Delmar Sidewalk Project, it is necessary to acquire permanent sidewalk/utility easements and temporary construction easements from adjacent properties. Staff has been working through the process of acquiring easements, but a number of property owners have either been unresponsive or unwilling to sign the easements. With passage of this resolution a notice via certified mail will be sent to each affected property owner of the City's intent to proceed with condemnation to acquire the necessary easements.

Staff will continue to meet with property owners who have not yet signed as the city proceeds with steps to secure the easements through the eminent domain process. A subsequent Ordinance naming those property owners that have not signed off on the easements will require approval by Council to proceed with eminent domain. This is planned for the 2nd meeting in October. Even after adoption of the Ordinance staff will continue to meet with property owners to minimize the number of properties involved in the eminent domain process. This process is administered by the Circuit Court and involves the appointment of a 3-person appraisal board. The judge will make a ruling on if the eminent domain meets a public need.

Survey and easement documents required by this resolution will be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. This work has already been completed.

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Public Works	Moody, Keith	Approved	9/12/2024 - 5:26 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Eminent Domain Resolution for El Monte to Delmar Sidewalk Project	Cover Memo

CITY OF ROELAND PARK, KANSAS
RESOLUTION NO. _____

A RESOLUTION DECLARING IT NECESSARY TO ACQUIRE PRIVATE PROPERTY IN THE CITY OF ROELAND PARK, KANSAS FOR THE PURPOSE OF CONSTRUCTING AND MAINTAINING SIDEWALK, STREET, STORM AND LIGHTING IMPROVEMENTS FOR THE EL MONTE TO DELMAR SIDEWALK PROJECT AND FURTHER DIRECTING THE CITY ENGINEER OR DESIGNEE TO CAUSE A SURVEY TO BE MADE OF THE LAND NEEDED FOR SUCH IMPROVEMENT.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS:

SECTION 1. It is necessary to acquire by appropriation and proceedings in Eminent Domain, permanent sidewalk and utility easements, and temporary construction easements in the City of Roeland Park, Kansas for constructing and maintaining sidewalk, street, storm and lighting improvements for the El Monte to Delmar Sidewalk Project. The City Engineer or designee is hereby directed and instructed to cause to be prepared and made a survey of the land necessary for such purpose and to prepare a certificate showing the results of such survey over their signature and to cause the same to be filed in the Office of the City Clerk of the City of Roeland Park, Kansas. Said report shall also contain a description of the land which is necessary for such purposes.

SECTION 2. After filing of said survey and report by the City Engineer or designee, the City Attorney of the City of Roeland Park, Kansas shall cause a proper ordinance to be prepared and submitted to the Governing Body for consideration, providing for the acquisition of private property in the City of Roeland Park, Kansas by appropriate proceedings in Eminent Domain.

SECTION 3. The City Clerk shall cause this Resolution to be published once in the official City newspaper.

ADOPTED by the Governing Body this 16th day of September 2024.

SIGNED by the Mayor this 16th day of September 2024.

Michael Poppa, Mayor

ATTEST:

Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

Steven E. Mauer, City Attorney

Item Number: Ordinances and Resolutions:- IX.-
D.
Committee Meeting Date: 9/16/2024



City of Roeland Park

Action Item Summary

Date: 9/12/2024
Submitted By: Keith Moody
Committee/Department: Admin.
Title: Ordinance - Tree Preservation Policy (5 min)
Item Type: Ordinance

Recommendation:

A clean and redline ordinance reflecting suggested changes from the prior two workshops when discussed by Council are attached.

Details:

The attached redline prepared by the City Attorney addresses the direction provided by Council at the two prior workshops when the policy was discussed. Redline edits reflect the following changes:

- Adding a definition for “Mitigation fee” and made reference to it being found in the City’s Fee Schedule (to be included in the fee schedule at a later date)
- Removed the \$1,000 fee in Section 13-511 to make reference that the fee can be found in the City’s Fee Schedule

Additional suggested changes were discussed and they are noted in the redline, but not incorporated at this time.

The ordinance will go into effect 90 days after adoption. This will provide time for the Council to finalize the tree preservation contribution calculation method and adopt into the City's fee resolution.

8/5/24 Workshop Item Summary:

The Council wanted to know if they could impose a higher fee for removing trees when in concert with tear down and rebuild single family home sites.

The Council wanted to know if we can hold the utility companies subject to the tree replacement and fee payment provisions if they remove trees during their line trimming work.

In section 13.510, the council would like language that details how the tree fund resources will be used, such as for trimming right of way trees (around street lights and to maintain clearance above streets and sidewalks- the city already budgets for this each year), or for trimming of trees for properties that qualify based upon some income criteria (the city already provides funding for trimming and removal of a nuisance tree through our neighbors helping neighbors program) or for providing trees to residents to plant in replacement of trees lost due to weather, old age and disease (we don't current have a program or budget for this).

The attached redline prepared by the City Attorney addresses the direction provided by Council.

-
For 8/5/24 Meeting:

At the 6/20/23 Council meeting an ordinance creating a tree preservation section in the City was voted on but failed on a 4 to 3 vote. At that time direction was to hold ward meetings to seek feedback on what residents would suggest changing in the policy. Those ward meetings have been concluded. This is the first workshop to discuss and synthesize those recommendations into a new policy.

History of previously considered tree preservation policy.

Attached are the results of the 2023 Resident Survey questions focused on the tree preservation subject.

6/20/23 Update

At the 12/19/22 Council meeting the Tree Preservation Ordinance agenda item was tabled. Minutes from that meeting are attached for reference. A tabled item can be removed from the table via a motion, second and majority vote in support. The 2023 Resident Survey includes two questions developed by Council to gain insight concerning policy on the preservation of trees. The results of that survey will be presented to Council on 7/24/23.

12/5/22 Update

Councils' direction was for staff to develop two versions of the sample tree preservation policy which covers publicly owned trees as well as trees in the front yards on private property, version 1 goes into effect 90 days passage, version 2 goes into effect 180 days after passage.

11/28/2022 Update

Staff presented a review of the completed tree inventory at the 9/6/2022 workshop(attached). 3,700 trees were identified in a front yard or in the right way fronting a property with 68% of the trees located on private property and 32% located in the public right of way.

Minutes from the 1/3/22 Council meeting where this topic was last discussed are attached for reference. The direction from that meeting was for further discussion. A preferred ordinance has yet to be identified.

The sample ordinances attached would add section 13-506 to Article 5. Trees Shrubs and Growths in the City Code. The language was initially based upon an existing Fairway policy (see link below). Feedback from the Sustainability Committee, Parks and Trees Committee, Citizen Survey (attached) and discussions with City Council has brought about a number of iterations of the policy. The most recent reflects direction provided by Council at the 11/15/21 workshop. Specific changes incorporated in the policy following that workshop include:

1. A cap to the fee
2. Fee based upon number of replacement trees planted
3. Consideration extended to sites with an abundance of existing mature trees.
4. Clarified that the fee is not applicable to trees removed due to disease or posing a safety concern.
5. Clarified that the tree manager can establish a tree species list.

The difference between the two sample ordinances attached is that one only applies to public trees (trees in the right of way) and the other applies to public trees and private trees (located in a front yard).

Implementation of a new ordinance requires a simple majority of Council approval followed by publication. Significant public education on either ordinance will be necessary.

Both versions provide a penalty for removing regulated trees without approval.

The fee concept was an element that received little support in the citizen survey. Removing the fee element eliminates the motivation for a person to leave mature trees in place. An application process is necessary for staff to track the removal and replacement process, eliminating this element would make administering the policy very difficult. The City has completed an inventory of the trees that would be subject to regulation so that the policy can be effectively administered.

The Parks and Trees Committee reviewed a version of the policy on 7/14/21. The Committee was supportive of a policy applying to trees on public property but most members expressed concerns with a policy that applies to trees on private property. It was suggested that public input be sought out through a community forum or some other such engagement method prior to action on a policy applied to private trees. A member suggested holding removal of invasive species exempt from the policy.

The Sustainability Committee reviewed the draft policies at their 10/4/21 meetings. Their recommendation is to regulate all trees on both public and private property.

The example which includes front yard trees as those regulated along with trees on public property is similar to the approach taken by Prairie Village recently (see link below). Most of the trees in the community are located on private property (front yard, side yard and back yard) and thus expanding the regulation so that trees on private property are also covered creates significant control by the City over the tree canopy. Such control will have supporters; those who find that trees make Roeland Park unique and enhance quality of life, those who recognize the environmental and ecological benefits of trees, and those who enjoy the appearance of trees. But will also have opponents; those who view the regulation as an infringement on property rights, those who want to expand solar energy generation, and those who view trees as a potential hazard to their safety and property (if they fall). These differing views can create conflict in the administration/enforcement of the policy. It is important to weigh these views as you consider the scope of the policy. The written responses included in the Small Survey report reflect these as well as other concerns.

Chris Brewster with Gould Evans has assisted staff on this effort and made the attached presentation to Council at a prior workshop. Chris was involved with the tree preservation regulations recently adopted by Prairie Village and Gould Evans provides assistance to Prairie Village in administration of the regulation. His shared insights were valuable as the policy was developed.

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?

- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request: N/A	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

Roeland Park's Current Tree Policies:

https://library.municode.com/ks/roeland_park/codes/code_of_ordinances?nodeId=CHXIIIISTSI_ART5TRSHGR

Fairway Tree Policy:

https://library.municode.com/ks/fairway/codes/code_of_ordinances?nodeId=CH11TR

Prairie Village Tree Policy:

https://library.municode.com/ks/prairie_village/codes/code_of_ordinances?nodeId=CHXIXZORE_CH19.47LAST

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Moody, Keith	Approved	9/12/2024 - 5:32 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Ordinance 1062- Tree Preservation- Clean 9-16-24	Cover Memo
▣ Ordinance 1062- Tree Preservation- Redline 9-16-24	Cover Memo
▣ Feedback from Resident Meetings & Advisory Committees Re_ Tree Preservation & Tree Fund Policy-2	Cover Memo
▣ 2023 Resident Survey Questions on Tree Preservation	Cover Memo
▣ Council Workshop Minutes for 8-5-24	Cover Memo
▣ City Council Meeting Minutes June 20, 2023	Cover Memo
▣ City Council Meeting Minutes December 19, 2022	Cover Memo
▣ January 3, 2022 Council Minutes Section Regarding Tree Preservation Policy	Cover Memo
▣ Review of Tree Preservation Sample Ordinances by Gould Evans	Cover Memo
▣ Economics of Urban Forestry by the Arbor Day Foundation	Cover Memo
▣ Tree Inventory Presentation	Cover Memo

ORDINANCE NO. ~~1062~~

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AN ORDINANCE OF THE GOVERNING BODY OF THE CITY OF ROELAND PARK,
KANSAS AMENDING MUNICIPAL CODE CHAPTER 13, ARTICLE 5 “TREES
SHRUBS AND ~~GROWTH~~”

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WHEREAS, the City of Roeland Park desires to promote and preserve the general welfare of Roeland Park citizens and visitors by ensuring trees on the City’s property are protected.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS AS FOLLOWS:

Section 1. Chapter 13, Article 5 of the Roeland Park Municipal Code is hereby amended to read as follows:

“Sec. 13-501. Maintenance.

The City shall have the right to plant, maintain, treat and remove trees and shrubbery within the right-of-way abutting streets, alleys, avenues and boulevards within the City. It shall be the duty of the owners of property abutting any sidewalk, street, avenue, alley or parking to cut and trim the branches and limits of any trees or shrubbery as provided in section 8-904 of this Code. It shall also be the duty of the owner or occupant of any property abutting any street, avenue, alley or parking to cut and remove any dead tree, dead branches, dead limbs or dead shrubbery upon their property which extends over any street, avenue or alley.

Sec. 13-502. Traffic Hazard.

If the Chief of Police, Public Works Director, or their designee, determines that any tree or shrubbery located on any private property abutting any sidewalk, street, avenue, alley or parking constitutes a traffic or pedestrian hazard, by dangerously obstructing the view of drivers of vehicles or traffic entering a street from an intersecting street, they shall notify the owner of such abutting property to remove the same, and it shall be the duty of the owner to remove the same.

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Sec. 13-503. Trimming or Removal by City.

If the Governing Body determines that the owner of property abutting any sidewalk, street, avenue, alley or parking has failed to comply with the requirements of Sections 13-501 and 13-502, the City may proceed to order abatement of the nuisance in accordance with Article 3 of Chapter 8 of the Code.

Sec. 13-504. Diseased or Infected Trees Upon Private Property.

It shall be unlawful to harbor any tree or plant or shrubs infected or infested with disease or insect pest or larvae. It shall also be unlawful to store or otherwise harbor on any property in the City, the material from any diseased or infected trees. Upon failure of the owner to remove such infected, infested or diseased trees, shrubs or other growth, the City may order abatement of the nuisance in accordance with Article 3 of Chapter 8 of the Code.

Sec. 13-505. Saving Clause.

Nothing contained in this chapter shall prevent the trimming, cutting or removal of any tree, shrub or growth which endangers persons or property and nothing herein contained shall interfere with the suppression of pests or disease, including the Dutch Elm disease.

Sec. 13-506. Public and Private Tree Protection Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in Section 13-506 *et seq.*, except where the context clearly indicates a different meaning:

City Arborist means a professional certified by the International Society of Arboriculture (ISA), or registered with the American Society for Consulting Arborists (ASCA), or their qualified designee.

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Condition Rating means a value from 0 to 100 rated in accordance with the 9th Edition of the Council of Tree and Landscape Appraisers (CTLA) Guide to Plant Appraisal. The value assigned indicates the observed condition of a tree according to factors such as wounds, decay, storm damage, or insect or disease damage.

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Covered property means the front yard of privately owned lots or parcels as well as all right of ways, parkland, green space and City owned property within the incorporated boundaries of the City.

Diameter at breast height (DBH) means the diameter in inches of a tree as measured through the main trunk at a point four and one-half feet (4.5') above the natural grade level.

Drip line means a vertical line run through the outermost portion of the canopy of a tree and extending down to the ground.

Front Yard means the portion of privately owned land running the full width of a lot or parcel between the public street right of way line and the exterior elevation of the main building.

Hazardous Tree means a tree that has a structural defect that makes it likely to fail in whole or in part.

High Risk Tree means the potential for a tree or one of its parts to fail and, in so doing, injure people or damage property.

Mitigation fee means the fee, as determined by the Governing Body and established in the City's Fee Schedule, in lieu of planting a Replacement tree.

Commented [AF1]: Included definition and reference to the fee being found in the Fee Schedule, as alluded to in Section 13-510, below.

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Owner means the person who has the legal title to the property or lessee, agent or other person acting on behalf of the titleholder with authorization to do so.

Protected tree means any tree that has a DBH of twelve inches (12") or more located on Covered Property. Trees that have received special care provided by the City for the treatment or prevention of disease or infestation may also be considered protected.

Protective/temporary fencing means a snow fence, chain-link fence, orange vinyl construction fence or other similar fencing with a minimum four-foot (4') height.

Replacement tree means a tree from the replacement tree list with a preferred caliper size of two and one-half inches (2.5") but a minimum of two inches (2"), measured twelve inches (12") from the ground and having a total height of not less than seven feet (7') when planted.

Tree removal authorization means permission granted by the City to remove a protected tree.

Qualifying Property Owner means a resident of the City that meets the requirements of participating in the Tree Fund as set forth in this Article.

Sec. 13-507. Enforcement and Penalty.

The Public Works Director or their designee shall have the authority to enforce the terms and conditions of this article. Any person, firm, corporation, agent, or employee thereof who violates any provision of this article shall be notified in writing, sent via U.S. Mail, prepaid, and assessed an administrative fine of not more than five hundred dollars (\$500.00) for each incident. The unlawful injury, destruction or removal of each protected tree shall be considered a separate incident. In addition, all violations shall be required to meet the requirements outlined under tree replacement provisions of this Article, or the Roeland Park Tree Fund. If any administrative fine or assessment to the Roeland Park Tree Fund shall remain unpaid thirty (30) days after receipt of notice of the imposition or assessment, the City may use any and all reasonable means available to collect the funds, including, but limited to, imposing a lien on the property for the amount of the fine or assessment. The administrative fine stated herein shall not be imposed in special circumstances, including but not limited to, emergency tree removal and removal by a utility.

Sec. 13-508. Appeal Process.

Any person, firm, corporation, agent, or employee thereof may submit a written appeal of a decision of the City Arborist or designee to the Roeland Park Municipal Judge via the City Administrator's Office within thirty (30) days of receipt of notice of the imposition or assessment. The appellant shall appear at a hearing before the Roeland Park Municipal Judge at the next regularly scheduled municipal court date. Any imposition or assessment affirmed or amended shall be paid to the City within fourteen (14) days to prevent the City from taking any and all reasonable means available to collect the funds, including, but not limited to, stop work orders or imposing a lien on the property for the unpaid portion of the fine or assessment.

Sec. 13-509. Applicability of Section.

The terms and provisions of this Section shall apply to all Covered Property.

Sec. 13-510. Roeland Park Tree Fund.

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There is established a Roeland Park Tree Fund, which shall be a special account administered by the City. The Roeland Park Tree Fund shall be used only for purchasing, planting, maintaining, removal, replacement, and trimming of trees on covered property. The amount of payment for the required Mitigation Fee shall be established by the City Council and set in the City's Fee Schedule.

If approved by the City Arborist, an applicant or owner may make the payment as established in the City's Fee Schedule into the Roeland Park Tree Fund in lieu of planting replacement trees, this would be an exception to the norm as the intent of the policy is to encourage the preservation of the tree canopy within the City by adding Replacement trees when mature trees are removed.

Any tree that is authorized for removal due to disease or health of the tree, or other public safety reason(s), shall have the Mitigation fee waived. The property owner may request reimbursement of the cost of removing said tree from the City Council. The decision to use Tree Fund resources to cover the removal costs of said tree shall be based upon the property owner's ability to pay.

Sec. 13-511. Tree Protection.

Prior to demolition or construction, the following procedures shall be followed on all types of construction projects. It is the responsibility of the developer and/or contractor and their subcontractors to take appropriate action to preserve all protected trees and feature trees during all phases of construction.

(1) *Protective/temporary fencing.* Protective/temporary fencing shall be required for all protected trees and feature trees to prevent infringement on the root system from any construction-related activities. The protective fencing shall be installed according to tree diameter at breast height (DBH) as follows:

(a) Trees greater than twenty-eight-inch (28") DBH must have a fence to encompass a perimeter twenty feet (20') from center or seventy-five percent (75%) of drip line (whichever is lesser);

(b) Trees between twenty-inch (20") and twenty-eight-inch (28") inch DBH must have a fence to encompass a perimeter fifteen feet (15') from center of tree or seventy-five percent (75%) of drip line (whichever is lesser);

(c) Trees less than twenty-inch (20") DBH must have a fence to encompass a perimeter ten feet (10') from the center of the tree or seventy-five percent (75%) of the drip line (whichever is lesser).

Fencing shall exclude any preexisting structures, foundations, slabs, roadways, highways, and driveways. The fencing is to be installed along the edge of the driveways/roadways encompassing the tree to restrict access from the street side. All fencing must appear on construction documents and shall be installed prior to any other construction-related activity. The fencing shall remain in place at all times until all other construction-related activity has been completed or final grade achieved.

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Commented [MP2]: Use to assist qualifying property owners w/ removal/replacement/trimming?

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A property having 3 or more "Protected trees" combined in the front yard or in the public right of way adjacent to the front yard may remove a "Protected tree" and replace it with a "Replacement tree" without need to contribute to the tree fund.¶

A property having fewer than 3 "Protected trees" combined in the front yard or in the public right of way adjacent to the front yard may remove a "Protected tree" and replace it with-¶ One "Replacement tree" and pay \$500 to the tree fund¶ Two "Replacement trees" and pay \$250 into the tree fund¶ Three "Replacement trees" and pay no fee

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(2) *Prohibited activities.* Prohibited activities adjacent to trees shall include the following:

(a) *Material storage.* No materials for construction or waste accumulated due to excavation, demolition, or construction shall be placed under the canopy of any protected tree or feature tree.

(b) *Equipment cleaning/liquid disposal.* No equipment shall be cleaned or other materials or liquids deposited or allowed to flow over land within the limits of the canopy of a protected tree or a feature tree. This includes, without limitation, paint, old solvents, asphalt, concrete, mortar or similar materials.

(c) *Tree attachments.* No signs, wires or other attachments other than those of a protective nature shall be attached to any protected tree or feature tree.

(d) *Vehicular traffic.* No vehicular and/or construction equipment traffic or parking shall take place within the limits of the protective fencing.

(e) *Grade changes.* No grade changes in excess of two inches (2") (cut or fill) shall be allowed within the limits of the drip line of any protected tree or feature tree.

(f) *New impervious paving.* No new paving with asphalt, concrete or other impervious materials in a manner which may, in the reasonable discretion of the [City Arborist](#), reasonably be expected to severely damage or kill a tree shall be placed within the limits of the drip line of a protected tree or a feature tree.

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(g) *Exceptions.* Notwithstanding anything contained in this Section shall not prohibit work that is necessary to install, maintain, repair, replace or remove utility lines or activity that merely disrupts the surface of the ground.

Sec. 13-512. Tree Removal.

Authorization. No person, directly or indirectly, shall cut down, destroy, move or remove, or effectively destroy, any protected tree located on covered property without first obtaining tree removal authorization. Generally, if a tree removal authorization is granted, the applicant shall replace each protected tree removed with a replacement tree unless an exception is afforded in Section 13-510 above. If, for whatever reason, planting replacement trees is deemed infeasible, the owner shall make payment to the Roeland Park Tree Fund subject to the provisions of Section 13-510.

Process. Owners must request tree removal authorization in writing to the [City Arborist](#). If the removal is in conjunction with a construction project, the written request must be submitted at the same time as the building permit application.

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Authority to review; approval. The [City Arborist](#) shall be responsible for the review and approval of all requests for tree removal authorizations submitted in accordance with the

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requirements specified in this article. Upon receipt of a completed application, the City Arborist may take one (1) of the following actions:

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(1) *Deferral of decision.* The City Arborist may defer the approval of a tree removal authorization to the Board of Zoning Appeals for any reason. All decisions made by the Board of Zoning Appeals shall be final.

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(2) *Approval.* The City Arborist shall issue tree removal authorization provided the owner has agreed in writing to either meet the tree replacement criteria or make payment to the Roeland Park Tree Fund.

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(3) *Replacement Tree List.* The City Arborist shall determine which species are eligible as replacement trees based on size at maturity, appropriateness for this region, and the context of a specific site. The City Arborist may maintain a list of required or preferred species based on any reputable or professional tree resources applicable to this region.

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Authorization expiration. Tree removal authorization issued in connection with an approved building permit or site plan shall be valid for the period of that building permit's or site plan's validity. A tree removal authorization not issued in connection with an approved building permit or site plan shall become void after one hundred and eighty (180) days after the date of approval.

Authorization for removal of a protected tree with DBH > 30". A protected tree with a DBH > 30" may only be removed with approval from the City Council provided that at least one (1) of the following criteria is met. The burden of proof that a criteria has been met falls upon the applicant:

(1) The tree is dead. Commonly an expert such as a licensed arborist would provide confirmation to satisfy these criteria.

(2) The tree is diseased or dying and constitutes a threat to healthy trees, to property, or to public safety. Commonly an expert such as a licensed arborist would provide confirmation to satisfy these criteria.

(3) Removal of the tree is necessary for construction, development, or redevelopment, and:

(a) All reasonable efforts have been made to avoid removing the tree for construction/development and removal cannot be avoided.

(b) The presence of the tree places undue financial burden on the applicant.

(c) No other reasonable accommodations can be made to preserve the tree."

Section 2. This Ordinance shall become effective December 16, 2024, which is 90 days following the date of approval and after publication in the City's newspaper.

Passed by the Governing Body of the City of Roeland Park, Kansas this 16th day of September, 2024.

Deleted: 20th day of June 2023

Formatted: Superscript

Michael Poppa, Mayor

ATTEST:

Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

Steven E. Mauer, City Attorney

Feedback from Resident Meetings & Advisory Committees

Re: Tree Preservation & Tree Fund Policy

Strikethrough indicates the item has been reflected in the draft policy.

SUGGESTED DEFINITIONS

- ☐ Qualifying Property Owner (to access Tree Fund)
- ☐ Add reference list of acceptable replacement trees w/ planting & care guidelines
- ☐ "Nuisance tree"
 - ☐ **Hazardous Tree:** A tree that has a structural defect that makes it likely to fail in whole or in part.
 - ☐ **High Risk Tree:** The potential for a tree or one of its parts to fail and, in so doing, injure people or damage property.
 - ☐ **Condition Rating:** A value from 0 to 100 rated in accordance with the 9th Edition of the Council of Tree and Landscape Appraisers (CTLA) Guide to Plant Appraisal. The value assigned indicates the observed condition of a tree according to factors such as wounds, decay, storm damage, or insect or disease damage.
 - ☒ **City Arborist:** A professional certified by the International Society of Arboriculture (ISA), or registered with the American Society for Consulting Arborists (ASCA), or their qualified designee

PROCESS

- ☐ Additional guidelines on new development & significant redevelopment?
- ☐ Outline notice process in enforcement & appeal sections
- ☒ Education (90-day period)
- ☒ Allow for and outline an appeal process
- ☒ Three tree rule is confusing

GENERAL

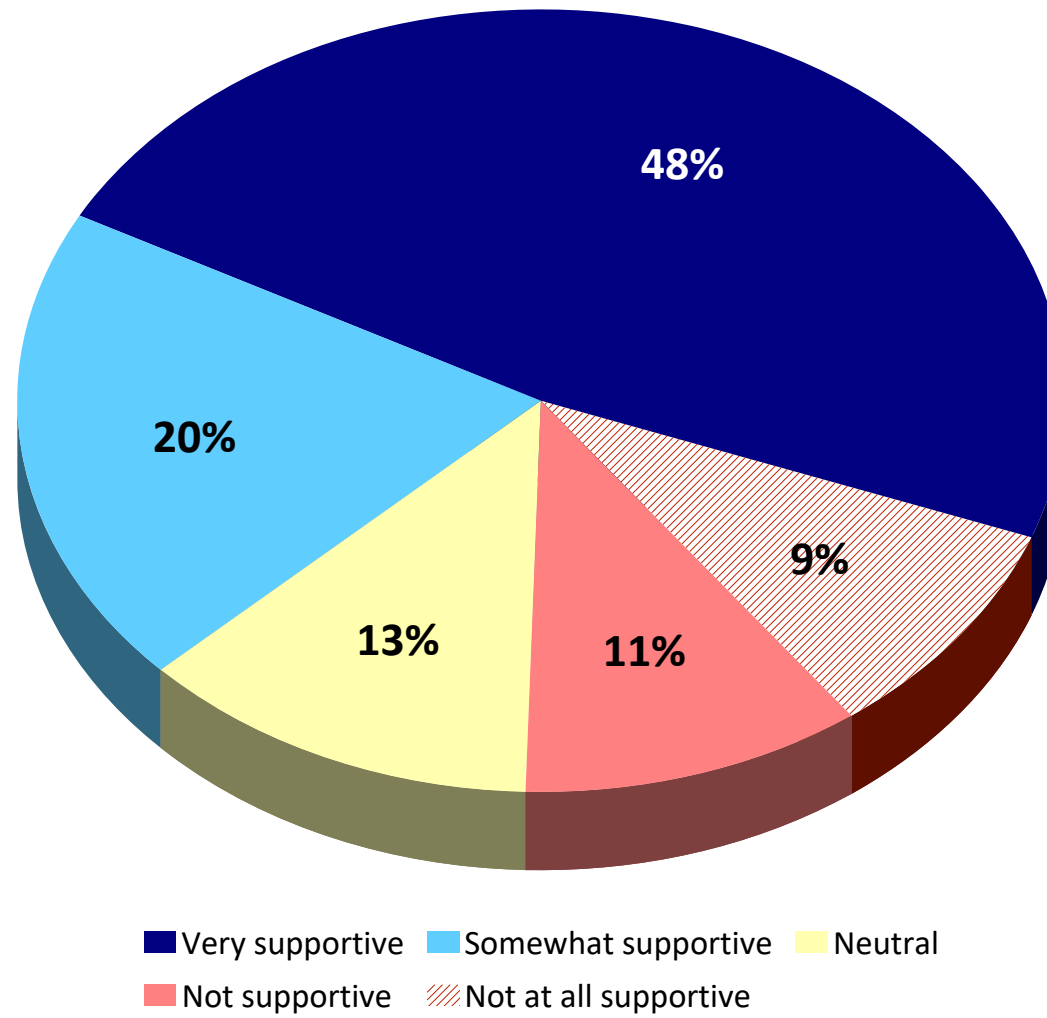
- ☒ Gender neutral pronouns
- ☒ Certified arborist

TREE FUND

- ☐ Exemptions from fines in special cases, including emergency tree removal and pruning or removal by public utilities?
 - ☒ Use to assist qualifying homeowners w/ removal/replacement/trimming
 - ☒ Discounted mature trees
-

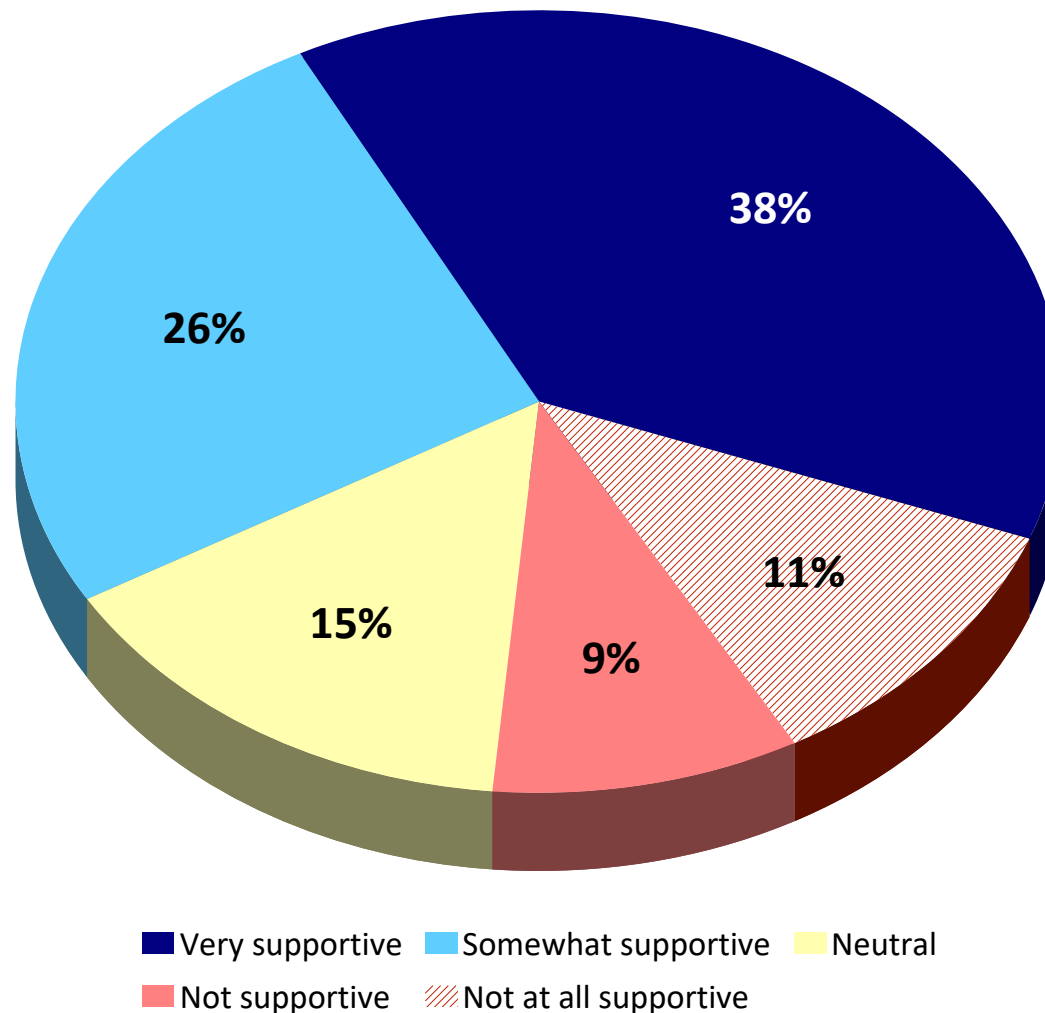
Q23. How supportive would you be of the City creating policy to protect all healthy, mature trees within the City?

by percentage of respondents (excluding “not provided”)



Q24. How supportive would you be of the City creating policy to protect all healthy, mature trees in front yards of private property & public rights-of-way?

by percentage of respondents (excluding “not provided”)



Q23. How supportive would you be of the City of Roeland Park creating policy to protect all healthy, mature trees within the City?

Q23. How supportive would you be of City creating policy to protect all healthy, mature trees within City	Number	Percent
Very supportive	290	47.0 %
Somewhat supportive	120	19.4 %
Neutral	76	12.3 %
Not supportive	64	10.4 %
Not at all supportive	57	9.2 %
Not provided	10	1.6 %
Total	617	100.0 %

WITHOUT "NOT PROVIDED"

Q23. How supportive would you be of the City of Roeland Park creating policy to protect all healthy, mature trees within the City? (without "not provided")

Q23. How supportive would you be of City creating policy to protect all healthy, mature trees within City	Number	Percent
Very supportive	290	47.8 %
Somewhat supportive	120	19.8 %
Neutral	76	12.5 %
Not supportive	64	10.5 %
Not at all supportive	57	9.4 %
Total	607	100.0 %

Q24. How supportive would you be of the City of Roeland Park creating policy to protect healthy, mature trees in just the front yards of private property and our public rights-of-way?

Q24. How supportive would you be of City creating policy to protect healthy, mature trees in front yards of private property & public rights-of-way

	Number	Percent
Very supportive	230	37.3 %
Somewhat supportive	157	25.4 %
Neutral	93	15.1 %
Not supportive	57	9.2 %
Not at all supportive	69	11.2 %
Not provided	11	1.8 %
Total	617	100.0 %

WITHOUT "NOT PROVIDED"

Q24. How supportive would you be of the City of Roeland Park creating policy to protect healthy, mature trees in just the front yards of private property and our public rights-of-way? (without "not provided")

Q24. How supportive would you be of City creating policy to protect healthy, mature trees in front yards of private property & public rights-of-way

	Number	Percent
Very supportive	230	38.0 %
Somewhat supportive	157	25.9 %
Neutral	93	15.3 %
Not supportive	57	9.4 %
Not at all supportive	69	11.4 %
Total	606	100.0 %

CITY OF ROELAND PARK, KANSAS
GOVERNING BODY WORKSHOP MINUTES
ROELAND PARK CITY HALL
4600 WEST 51ST STREET, ROELAND PARK, KS 66205
August 5, 2024, 6:00 P.M.

- Michael Poppa, Mayor
- Benjamin Dickens, Council Member
- Jan Faidley, Council Member
- Emily Hage, Council Member
- Jennifer Hill, Council Member

- Matthew Lero, Council Member
- Tom Madigan, Council Member
- Kate Raglow, Council Member
- Jeffrey Stocks, Council Member

- Keith Moody, City Administrator
- Jennifer Jones-Lacy, Asst. City Admin.
- Kelley Nielsen, City Clerk
- John Morris, Police Chief
- Donnie Scharff, Public Works Director

(Roeland Park Governing Body Workshop Meeting Called to Order at 7:23 p.m.)

I. MINUTES

A. Governing Body Workshop Meeting Minutes July 15, 2024

The minutes were approved as presented.

II. DISCUSSION ITEMS

1. Presentation on the Nall Park Master Plan Update

Greg Van Patten from Lamp Rynearson provided an update on the Nall Park Master Plan. He said this was also discussed at Workshop meetings in April and May. There was also a site visit to the park where they received feedback, and they took a survey at the concert in R Park. Results were positive for an adventure playground that incorporates the hill slides and the use of the natural topography at the park. The thought was to add play features for older children in contrast to R Park that is designed more for younger children. There was support for improving connectivity into the park and opinions were mixed on the addition of a dog park.

CMBR Faidley asked for a definition of a natural dog park. Mr. Van Patten said that is using the natural ground and elements versus having artificial turf or concrete.

Mr. Van Patten showed a potential park layout with elements that was broken into zones. He also said they have applied for TAP (Transportation Alternatives Program) funding for ADA improvements at the park.

Mayor Poppa asked if removal of the roundabout would make it difficult to get out of the park. Mr. Van Patten said he does not know who is using the roundabout at the end of Nall.

CMBR Madigan said the plan shows to remove the roundabout and return it to greenspace. He also asked what a pump track is, and Mr. Van Patten said its purpose is for cycling. CMBR Madigan also noted that the tree in the roundabout was dedicated to him and his family, and the other tree is dedicated to former Mayor Marquardt and his family. He wanted to know what would happen to those trees. Mr. Van Patten said the pump track could go around those trees, and they would propose not to disturb them. If it is a concern, then they can be fenced off.

CMBR Hage said people go sledding at Nall Park because the grade of road is steep. She noted that cars get stuck in the snow on Nall and use roundabout to get back up. She recommended that they be more intentional with treating the road if they remove the roundabout.

CMBR Faidley asked if this plan had been approved by the Parks committee. Mr. Van Patten said this is an update for the Council and he has a schedule at the end of his presentation.

CMBR Faidley also noted that the pump track is to be located behind houses and that the area currently is mostly turf with art pieces. She noted the area is heavily used by daycare children and those in summer programs. It is not a greenspace that is not being used. She recommended talking to those who do use that area.

CMBR Hill said there is a pump track currently at the park and trails and are they in a state of keeping them. Mr. Van Patten said that those in Zone 1 do need maintenance. CMBR Hill asked if the current pump track in front of the trees is gone. Mr. Van Patten said that is up for discussion. Mr. Marshall added that the other area shown on the plan was voted to be a more popular area than the existing track location.

CMBR Lero said they do have a work plan for the trails. They do want to see a pump track because the trails are more advanced. A pump track gives people a place to learn and gain skills so that they can take on the more advanced trail.

Mayor Poppa said he is looking forward to hearing from the Parks Committee.

CMBR Madigan said he has spoken with several vets, and they do not like dog parks. It was noted that all Councilmembers except one were against a dog park. He said that most people do not understand the ramifications of taking a dog into that environment.

CMBR Hill said there are a lot of viruses found in a dog park, some of which can be fatal. She would like to see some research on how to clean up or protect from viruses at a dog park.

CMBR Raglow said she loves dog parks but does not want to see one in Nall Park due to the size. She recommended Shawnee Mission Park dog park.

CMBR Hage said she too is excited to hear what the Parks Committee would think of the plan. She was on the Parks Committee for three years and this plan is very much in alignment with what they envisioned for Nall Park. She asked if this plan is feasible to implement. City Manager Moody said they have \$1 million set aside for Nall Park improvements.

Mr. Van Patten commented that he does not have any cost estimates, but they will be brought forward when they bring a plan to the Council for approval.

CMBR Raglow said when she was on the Parks committee that they were leaning more towards the natural elements.

CMBR Hill commented on using the natural hills for slides, noting that Roanoke Park is a good example of how to incorporate those features into the landscape.

Mr. Van Patten showed the timeline with an anticipated approval of the plan by the City Council in September.

2. Discuss Tree Preservation Policy Following Ward Meetings

CMBR Raglow stated that each ward held a meeting to discuss the proposed tree policy with their constituents. She also agreed with Mayor Poppa that this is a topic they discuss a lot and at times it too can be emotional.

City Manager Moody said the redline attached to the agenda packet represents feedback from the residents. They have used the work and information collected to develop a sample ordinance to reflect those changes.

Mayor Poppa noted this is a brand-new ordinance adding there was a lot of good in the previous iteration. Current feedback has been incorporated in this new ordinance.

CMBR Madigan asked about the three-tree rule. Mayor Poppa said this deletes it from the ordinance and appropriately places it in the fee schedule.

CMBR Faidley said their current tree inventory is two years old, and the trees have changed. She questioned whether there should be an updated list. City Manager Moody said they use the GIS system for locating trees. He did not know if there is a cost-effective way to keep it current and acknowledged that they have not been updating it.

CMBR Raglow suggested they move the tree inventory discussion to another Workshop item.

CMBR Lero likes the three-tree rule but said that enforcement is important.

City Manager Moody reminded everyone this tree ordinance was developed for public right-of-way and front yard trees only as they are more visible and easier to identify. It was also to make sure that trees were not being removed unnecessarily for construction and addressed aging trees as well as tree maintenance and concerns pertaining to tree health.

Mayor Poppa reviewed the redline changes in the proposed ordinance.

There was discussion of a tree fund and CMBR Lero asked if this could be used for general maintenance or only for tree removal. Mayor Poppa said that is the question and noted if they can keep up with the maintenance, then they are not having to cut them down.

There was general discussion of the placement of new trees, maintenance, and the proper number of trees due to lot size restrictions.

CMBR Faidley would like to see fines going into a tree fund but that they also dedicate monies during their budgeting process.

Mayor Poppa continued reviewing the redlines.

CMBR Faidley asked how they could hold a developer accountable. If an ordinance is on the books, they will have to make sure they protect those trees and get permission first to take them down and/or replace them. Mayor Poppa said a lot of times to get around this the contractor will take a tree down or accidentally bump into it before seeking that building permit.

CMBR Hill asked if having this ordinance in place would prevent the tree removal from happening. Mayor Poppa said it would not, but it would require a notice that the tree is gone.

CMBR Raglow said they cannot separate the laws between homeowners and commercial, but could they consider higher fines for developers. Mayor Poppa said his understanding is they could not but there could be a triggering circumstance.

CMBR Hage said that Prairie Village has a scale for the construction being done on a property regarding trees.

CMBR Lero added that the percent of the disturbance is what triggers their rules.

Mayor Poppa said they could have that apply for every property where a certain percent of the site disturbed.

CMBR Hill said in the event of a tear down/rebuild, the fee would go to the homeowner who allowed it to happen.

CMBR Lero asked if there was any talk in this process before of stressing the need to get trees planted now to keep the tree canopy. He said if they do not start planting now, then they will have 50 years with only baby trees. He said they need to look at the life of their trees and start looking at that ahead of time. He said this could be a use of the tree fund. He also directed the Council to look at Kansas City's tree program.

City Manager Moody asked what Kansas City's mechanism is for renewing their canopy before its depletion. CMBR Lero said they are just planting a lot of new trees.

Mayor Poppa asked if Sustainability had a master plan in the works. CMBR Dickens said he did not recall but he would check on that.

CMBR Raglow recommended they discuss Kansas City's tree plan during their tree inventory discussion. Mayor Poppa said the ordinance needs to be in effect before a master plan is done. CMBR Raglow said they all go hand in hand together.

CMBR Madigan said that real estate agents are being discouraged from using the term "master" bedroom/bathroom and suggested using "primary" plan and they might want to look into that going forward.

CMBR Hill would like the Sustainability committee to investigate groups that would be willing to donate trees. She noted the Arbor Day Foundation has done things in Johnson County with more substantially sized trees compared to what is mailed to someone's home.

CMBR Faidley said she is the secondary on the Sustainability Committee and they have a saying that the best time to plant a tree was 50 years ago and the second-best time is today. She said there really is not a bad time to plant a tree, but they are looking at diversity for their area, but fall is the preferred time. She also noted that there is not enough supply of the “free” trees to meet the demand, and they go very quickly.

CMBR Raglow said they are in agreement the Parks and Sustainability Committees will work on this primary plan. CMBR Faidley said it is really a progressive plan to replace the tree canopy.

CMBR Hage noted that the Bradford pear trees are now considered an invasive species. She also said it is important to acknowledge the impact of poorly maintained trees and maybe that tree fund could help with some of those costs. She notes that Everygreen is on a four-year rotation for trees but asked if the City has a plan for maintenance in the right-of-way.

City Manager Moody said they budget \$5,000 annually for right-of-way trees and trees on City property. Mayor Poppa said that most outages are because of backyard trees.

CMBR Madigan asked if they have changed what is defined as a protected area. Mayor Poppa said it is only up to the front of the residence and the side yards for those who live on a corner.

Mayor Poppa said he wants to get something to the City attorney to better identify their intentions.

CMBR Hill said that nuisance tree needs to be defined. Mayor Poppa recommended including condition, danger or will the tree fail to be included in that definition.

CMBR Hill also wanted to make sure people know that they are not forcing someone to cut down a good tree.

CMBR Raglow said a hazardous or high-risk tree should be included. Mayor Poppa said the condition rating would trigger the risk. CMBR Raglow recommended education around the rating.

Mayor Poppa said the education could include what the certified arborist’s rating system would be.

CMBR Raglow said that even after it goes to the City attorney it will not happen overnight. They still have Sustainability working through things as well as Parks. CMBR Raglow reiterated she is a strong proponent of education and would like to make sure they incorporate the feedback into the ordinance or education.

CMBR Faidley would like input on what is ordinance language and what is actually policy. She said that an ordinance is a structure and the internal policy is what matters.

CMBR Faidley said that things are evolving and the push 25 years ago for the pear trees is they are now invasive and taking over from native plantings.

CMBR Raglow said she is glad they are talking about this and taking a less punitive approach but would also like to spend time talking about how to get funds for the tree fund for that tree maintenance. She would consider supporting something in the budget for that. She also noted that not everything is ordinance related and becomes more policy.

III. COMMITTEE MINUTES

No minutes were submitted.

IV. ADJOURN

CMBR Raglow adjourned the meeting.

(Roeland Park Workshop Adjourned at 8:46 p.m.)

CITY OF ROELAND PARK, KANSAS
CITY COUNCIL MEETING MINUTES
Roeland Park City Hall
4600 W 51st Street, Roeland Park, KS 66205
Monday, June 20, 2023, 6:00 P.M.

- | | | |
|---|--|---|
| <ul style="list-style-type: none">○ Michael Poppa, Mayor○ Trisha Brauer, Council Member○ Benjamin Dickens, Council Member○ Jan Faidley, Council Member○ Jennifer Hill, Council Member | <ul style="list-style-type: none">○ Tom Madigan, Council Member○ Castagna-Herrera, Council Member○ Michael Rebne, Council Member○ Kate Raglow, Council Member | <ul style="list-style-type: none">○ Keith Moody, City Administrator○ Open, Asst. City Administrator○ Kelley Nielsen, City Clerk○ John Morris, Police Chief○ Donnie Scharff, Public Works Director |
|---|--|---|

Admin
Dickens
Rebne

Finance
Hill
Castagna-Herrera

Safety
Madigan
Brauer

Public Works
Faidley
Raglow

(Roeland Park Council Meeting Called to Order at 6:00 p.m.)

Pledge of Allegiance

Mayor Poppa called the City Council meeting to order and led everyone in the Pledge of Allegiance.

Roll Call

City Clerk Nielsen called the roll. CMBR Dickens and Brauer were absent; all other Governing Body members were present. Staff members present were City Attorney Mauer, Public Works Director Scharff, Police Chief Morris, and City Clerk Nielsen.

Executive Session

MOTION: CMBR HILL MADE A MOTION TO MOVE THE GOVERNING BODY RECESS INTO EXECUTIVE SESSION TO DISCUSS PERSONNEL MATTERS PURSUANT TO THE NON-ELECTED PERSONNEL MATTER EXCEPTION, K.S.A. 75-4319(B)(1). THE OPEN MEETING TO RESUME IN THE COUNCIL CHAMBER AT 6:05PM SECONDED BY CMBR MADIGAN. (MOTION CARRIED 6-0)

Modification of Agenda

CMBR MADIGAN MADE A MOTION TO REMOVE ITEM C UNDER NEW BUSINESS AND ITEM A UNDER ORDINANCES AND RESOLUTIONS SECONDED BY CMBR RAGLOW. (MOTION FAILED 3-4 WITH CMBR FAIDLEY, HILL, REBNE AND MAYOR POPPA VOTING NO)

I. PUBLIC COMMENTS

George Reichman (5215 Clark Drive) Mr. Reichman spoke regarding the Tree Preservation Ordinance.

Karen Grotewohl (5049 Parish Drive) Ms. Grotewohl spoke regarding the Tree Preservation Ordinance.

Cathy Creed (5007 Howe Drive) Ms. Creed spoke regarding the Tree Preservation Ordinance.

Megan Reavis (5628 Birch Street) spoke regarding the Tree Preservation Ordinance.

Judy Hyde (5113 W 58th Street) wrote via Zoom chat regarding the Tree Preservation Ordinance. Audio issues precluded virtual engagement during Public Comment. Ms. Hyde's chat comments were read aloud by Mayor Poppa for the community members attending in-person.

II. Consent Agenda

- A. Appropriations Ordinance #1022**
- B. Council Meeting Minutes June 5, 2023**

MOTION: CMBR MADIGAN MOVED AND CMBR CASTAGNA-HERRERA SECONDED TO APPROVE THE CONSENT AGENDA ITEMS AS PRESENTED. (MOTION CARRIED 6-0.)

III. Business from the Floor - Proclamations/Applications/Presentations

There was no Business from the Floor.

IV. Mayor's Report

No reports were given.

V. Reports of City Liaisons and Committees

No reports were given.

VI. Unfinished Business

There was no Unfinished Business to discuss.

VII. New Business

- A. Approve Adding Workplace Gender Transition Policy to Employee Handbook**

Mayor Poppa stated the policy aims at further protecting transgender community members from the anti-transgender bills passed by the Kansas Legislature which become law on July 1. He provided an overview of one piece of legislation, Senate Bill 180 (SB 180). Mayor Poppa stated the City wishes to reaffirm their commitment to equity and take concrete steps, internally, to protect transgender members of the community. He reviewed the Workplace Gender Transition Policy and noted that it is simply an internal resource providing direction to City staff and clarifying questions that may arise when an employee is transitioning.

Mr. Mauer provided a legal opinion on SB 180 and stated while it recognizes separate accommodations based on sex the bill does not direct individuals on which accommodations to use or prohibit individuals from utilizing accommodations that align with their gender identity. Notably, the measure also does not provide a private right of action, create a crime, or impose penalties for noncompliance.

Mayor Poppa reassured that the City's nondiscrimination ordinance will still be in full force and effect after July 1. Additionally, he stated that the Kansas Human Rights Commission includes sexual orientation and gender identity in their definition of "sex" as it relates to discrimination in employment, housing, and public accommodations.

MOTION: CMBR HILL MOVED AND CMBR RAGLOW SECONDED TO APPROVE ADDING WORKPLACE GENDER TRANSITION POLICY TO EMPLOYEE HANDBOOK. (MOTION CARRIED 6-0)

B. Appoint Aiden Ellis to the Sustainability Committee

MOTION: CMBR HILL MOVED AND CMBR MADIGAN SECONDED TO APPOINT AIDEN ELLIS TO THE SUSTAINABILITY COMMITTEE. (MOTION CARRIED 6-0)

C. Entertain a Motion to Take from the Table the Tree Preservation Policy Ordinance

MOTION: CMBR REBNE MOVED AND CMBR FAIDLEY SECONDED TO TAKE FROM THE TABLE THE TREE PRESERVATION POLICY ORDINANCE. (MOTION CARRIED 4-3 WITH CMBR MADIGAN, RAGLOW AND CASTAGNA-HERRERA VOTING NO)

VIII. Ordinances and Resolutions

A. Ordinance 1046 Establishing a Tree Preservation Policy

CMBR Madigan, Raglow and Castagna-Herrera requested that the ordinance be tabled until the results of the resident satisfaction survey would be in and reviewed by the Council at the July 24, 2023, City Council Meeting. CMBR Madigan stated that there had been no resident education on the Tree Preservation Policy since it was tabled at the meeting on December 19, 2022. CMBR Faidley, Hill and Rebne stated that the Governing Body that the policy had been discussed numerous times, and did not believe that tabling the issue, again, would be beneficial. A robust discussion ensued, debating the merits of those positions.

MOTION: CMBR MADIGAN MOVED AND CMBR RAGLOW SECONDED TO TABLE THE TREE PRESERVATION POLICY UNTIL THE RESIDENT SUREVEY RESULTS WERE IN AND BRING BACK AT THE FIRST MEETING IN AUGUST. (MOTION FAILED 3-4 WITH CMBR FAIDLEY, HILL, REBNE AND MAYOR POPPA VOTING NO.)

MOTION: CMBR FAIDLEY MOVED AND CMBR REBNE SECONDED TO APPROVE ORDINANCE 1046 ESTABLISHING A TREE PRESERVATION POLICY WITH 180 DAYS LEAD TIME FOR COMMUNITY EDUCATION PRIOR TO ORDINANCE GOING INTO EFFECT. (MOTION ULTIMATELY FAILED 4-3 WITH CMBR MADIGAN, RAGLOW AND CASTAGNA-HERRERA VOTING NO.) **Per City code Sec.1-214, the adoption of an ordinary ordinance requires 5 affirmative votes of the Council.**

IX. Reports of City Officials

Adjourn:

MOTION: CMBR RAGLOW MOVED AND CMBR REBNE SECONDED TO ADJOURN. (MOTION CARRIED 6-0.)

(Roeland Park City Council Meeting Adjourned at 7:05 p.m.)

Kelley Nielsen, City Clerk

Michael Poppa, Mayor

CITY OF ROELAND PARK, KANSAS
CITY COUNCIL MEETING MINUTES
Roeland Park City Hall
4600 W 51st Street, Roeland Park, KS 66205
Monday, December 19, 2022, 6:00 P.M.

- | | | |
|--|---|--|
| <ul style="list-style-type: none">○ Mike Kelly, Mayor○ Trisha Brauer, Council Member○ Benjamin Dickens, Council Member○ Jan Faidley, Council Member○ Jennifer Hill, Council Member | <ul style="list-style-type: none">○ Tom Madigan, Council Member○ Michael Poppa, Council Member○ Kate Raglow, Council Member○ Michael Rebne, Council Member | <ul style="list-style-type: none">○ Keith Moody, City Administrator○ Erin Winn, Asst. City Administrator○ Kelley Nielsen, City Clerk○ John Morris, Police Chief○ Donnie Scharff, Public Works Director |
|--|---|--|

Admin
Raglow
Dickens

Finance
Rebne
Hill

Safety
Poppa
Madigan

Public Works
Brauer
Faidley

(Roeland Park Council Meeting Called to Order at 6:00 p.m.)

Pledge of Allegiance

Mayor Kelly called the City Council meeting to order and led everyone in the Pledge of Allegiance.

Roll Call

City Clerk Nielsen called the roll. CMBR Rebne was absent. All other Governing Body members were present. Staff members present were City Administrator Moody, City Attorney Mauer, Public Works Director Scharff, Police Chief Morris, and City Clerk Nielsen.

Modification of Agenda

There were no modifications to the agenda.

I. Citizen Comments

Judy Hyde (5113 W. 58th) Ms. Hyde, a representative from the City’s Sustainability Committee, said the committee gave considerable thought to the different options for the City’s protection of its tree canopy. The committee voted to protect all the trees in Roeland Park. They realize that is not a popular idea and understand the rationale behind it as they themselves are homeowners. She added that there are some things that people do not feel they should be regulated on, but they do believe in this instance that protection of the trees is for the greater good of the City.

Ms. Hyde also thanked Mayor Kelly for his service to the city and for being an advocate for all things climate related and she is looking forward to his service as Johnson County Commission Chair.

Joel Marquardt (5021 Clark) Mayor Emeritus Marquardt thanked them for following up on the Buena Vista sidewalk project and is glad he will not be seeing baby strollers in the street anymore. He is also happy to see at the house across the street from the school does not have trees covering the sidewalk any longer and noted that Wade Holtkamp from Codes is always helpful and receptive. He also added that the art projects in the City are amazing and appreciates the efforts from the Arts Committee and the Governing Body. Mr. Marquardt added that he is looking forward to the development at the Rocks

and that it has been a long time coming. He noted that he lives close to Southridge Presbyterian and is looking forward to development going in on that site, but the neighbors are concerned about the final plans and he is looking forward to seeing those. He concluded by expressing his thanks and appreciation to Mayor Kelly and what he has done, and what the staff and the Governing Body have accomplished through their dedication and focus. He said he is looking forward to the peaceful transition of power.

Mayor Kelly thanked Mr. Marquardt for his service and ongoing dedication to the City.

II. Consent Agenda

- A. Appropriations Ordinance #1010**
- B. City Council Meeting Minutes December 5, 2022**

MOTION: CMBR HILL MOVED AND CMBR FAIDLEY SECONDED TO APPROVE THE CONSENT AGENDA AS PRESENTED. (MOTION CARRIED 7-0.)

III. Business from the Floor - Proclamations/Applications/Presentation

There was no Business from the Floor.

IV. Mayor's Report

No report was given, but the Mayor made some closing comments at the end of the meeting.

V. Reports of City Liaisons and Committee

No reports were given.

VI. Unfinished Business

There was no Unfinished Business

VII. New Business

Mayor Kelly provided some background on The Rocks development project on which they would be discussing and voting. There was a public hearing held December 5, 2022. The Planning Commission made a finding that the TIF 4 project plan is consistent with the City's Comprehensive Plan and staff is recommending approval of the plan.

City Attorney Mauer provided additional project information and was available for questions along with Jeff White from Columbia Capital and Kevin Wempe, Special Finance Counsel, from Gilmore Bell.

Mr. Mauer said The Rocks was originally a part of TIF 3. A special taxing district was created carving out only The Rocks property to become TIF 4. The property within TIF 4 is the Rocks, and TIF 4 only applies to The Rocks. It does not affect any other taxes or jurisdictions in the City.

The Community Improvement District (CID) is a 2 percent sales tax that is only applied within the TIF 4 district. These monies will go into a special fund to help reimburse the developer for their extraordinary development costs.

The City will also issue Industrial Revenue Bonds (IRBs) for the limited purpose of owning the property until such time as the materials to build The Rocks project have been acquired. The materials will be purchased with no sales tax.

Mr. Mauer noted that the Development Agreement was presented at the Council's last meeting. The version presented tonight reflects some minor stylistic changes throughout. The most significant change is that Evergy has preliminarily agreed to relocate the duct bank, the transmission lines parallel to Roe Avenue and along The Rocks towards the future extension of Roe Parkway. He noted this will be a huge cost savings to the taxpayers.

There is also a remedy section that includes penalty numbers and financial impacts. Following discussions, they settled on a strong incentive for the developer to fully comply. They want to avoid the situation that if the developer did not build something, then they would be in a better off position. There is also included what Mr. Mauer calls the "Mission Gateway Clause" giving the City the right to repurchase the site if the developer does nothing from the beginning, does not start, or if the development stalls.

The requirements for the restaurant have stayed the same and will be there at the beginning. It will be up to the patrons of the restaurant to determine if it will stay.

The Governing Body will need to rezone and establish a plat to create a new district for the property as well as approve acceptance of the easements and conveyances within.

There is a modification to the land purchase contract. The final development plan has been pushed back and will come before the Governing Body later in March. The due diligence has been extended until they get their final approvals.

Mayor Kelly thanked Mr. Mauer for his diligent work on this project noting that the Roeland Park team has worked hard. He also thanked Mr. White and Mr. Wempe who were in attendance at the meeting as well as Brendan O'Leary from EPC, Austin Bradley and Bob Johnson from the Polsinelli firm. He thanked everyone for trusting them with the process and he is looking forward to the good times ahead.

CMBR Hill asked what they are anticipating pulling in tax-wise other than from the restaurant. Mr. Mauer said the retail space of 3,500 square feet for the restaurant will provide the sales tax.

City Administrator Moody added that both the commercial and residential spaces will capture the TIF increment. The commercial space is taxable at a higher percentage. The majority of the value will lie around the 300,000 square feet of residential to capture the most tax. Over the anticipated 20-year life, they expect to capture about \$16.4 million in TIF revenue. The restaurant is anticipated to capture \$1 million over its 22-year CID life. Sales tax on materials through the IRBs is expected to be about \$2.1 million and is part of the incentive package being offered, not to exceed 25 percent.

CMBR Hill asked how the taxes are collected on the housing units. City Administrator Moody said the property owner pays the property tax to the county. The county then tracks the increment capture. The City takes those funds and uses them to refund the developer for reimbursable expenses.

CMBR Poppa said he is excited about the project. He noted in the development agreement the annual \$5,000 from the developer for community support to the Northeast Johnson County Chamber or an alternative community initiative. Mr. Poppa asked what those initiatives were and if there weren't any, to maybe remove that phrase as the Chamber does help them continue their business growth.

City Administrator Moody said that they cannot guarantee that the Chamber will stay in place the entire length of time, and would bring into question the \$5,000. By adding alternative community initiative, they can designate the funds to another entity.

CMBR Faidley asked about the electrical duct work by Evergy. City Administrator Moody said that must be completed by October 1, 2023.

A. Ordinance 1036 - Approving TIF 4 Project Plan

A roll call vote was taken for this ordinance motion.

MOTION: CMBR HILL MOVED AND CMBR DICKENS SECONDED TO ADOPT ORDINANCE 1036 - APPROVING THE TIF 4 PROJECT PLAN. (MOTION CARRIED 8-0 WITH MAYOR KELLY VOTING YES.)

B. Ordinance 1037 - Creating the Rocks CID and Levying a CID Sales Tax

MOTION: CMBR DICKENS MOVED AND CMBR HILL SECONDED TO APPROVE ORDINANCE 1037, CREATING THE ROCKS COMMUNITY IMPROVEMENT DISTRICT AND LEVYING A CID SALES TAX. (MOTION CARRIED 7-0.)

C. Resolution 700 - Intent to Issue IRBs for Sales Tax Exemption for EPC Project

MOTION: CMBR FAIDLEY MOVED AND CMBR RAGLOW SECONDED TO APPROVE RESOLUTION 700 - INTENT TO ISSUE INDUSTRIAL REVENUE BONDS FOR SALES TAX EXEMPTION FOR THE EPC PROJECT. (MOTION CARRIED 7-0.)

D. Resolution 701 - Approving Development Agreement with EPC

MOTION: CMBR POPPA MOVED AND CMBR RAGLOW SECONDED TO APPROVE RESOLUTION 701 - APPROVING THE DEVELOPMENT AGREEMENT WITH EPC. (MOTION CARRIED 7-0.)

E. Ordinance 1038 - Rezoning The Rocks Site

MOTION: CMBR HILL MOVED AND CMBR DICKENS SECONDED TO APPROVE ORDINANCE 1038 REZONING THE ROCKS SITE. (MOTION CARRIED 7-0.)

F. Accept Easements, Public Infrastructure, and Right-of-Way Dedication and Vacation for The Rocks Final Plat and Approve Payment in Lieu of Parkland Dedication

CMBR Faidley asked what the standard easement is along Roe Boulevard south of 48th Street. City Administrator Moody responded the right-of-way width continues to vary until 51st Street and tends to be wider north of 51st. They are establishing a commercial standard 11 foot back of curb to the right-of-way line, and is a consistent width adjacent to areas around the site.

MOTION: CMBR DICKENS MOVED AND CMBR BRAUER SECONDED TO APPROVE ACCEPTING THE EASEMENTS, PUBLIC STORM DRAINAGE INFRASTRUCTURE, ROE PARKWAY RIGHT-OF-WAY DEDICATIONS, AND THE ROE BOULEVARD RIGHT-OF-WAY VACATION INCORPORATED INTO THE ROCKS FINAL PLAT. (MOTION CARRIED 7-0.)

G. First Amendment to Land Purchase Agreement with EPC

MOTION: CMBR MADIGAN MOVED AND CMBR HILL SECONDED TO APPROVE THE AMENDMENT TO THE LAND PURCHASE AGREEMENT WITH EPC WHICH CLARIFIES THE END OF THE DUE DILIGENCE PERIOD AND RESETS THE DEADLINE FOR PUTTING A LEASE IN PLACE FOR THE PUBLIC WORKS SITE. (MOTION CARRIED 7-0.)

Mayor Kelly thanked everyone for their diligence and hard work as well as the dedication of staff and their partners at EPC. He said they have been working toward this day and they should be proud of the efforts they have put in thus far.

CMBR Brauer also thanked those who do not live in Roeland Park for their work in putting this project in their community. She asked the developers to remember this means a lot to the residents here in the City and represents a project that has been decades in the works. CMBR Brauer said this will truly change the lives of every person who lives in Roeland Park. She knows that construction is hard and delays happen, and there are unforeseen setbacks, but she asked them to please not throw in the towel and remember that people are counting on them to finish and they as a City are committed to helping them make that happen.

H. Approve Task Order with SFS for Architectural Service Related to Renovations at New Public Works Facility

Mayor Kelly said they have until October 21, 2023, to complete the relocation of Public Works. Phase 1 is the title insurance commitment, building condition assessment, and the ALTA survey has been completed. No issues have been seen that would deter the City from moving forward with the purchase of the site. This task order allows them to complete the renovations and will get them closer to closing at the beginning of next year.

City Administrator Moody said this allows them to continue to make progress for relocation. There will be some prioritization of different components of renovation. Staff will be briefing the Council as they go along. The RFP construction manager at risk process has begun and they will be bringing back a recommendation to the Governing Body and from there, they will be putting together cost numbers and order of construction projects.

MOTION: CMBR DICKENS MOVED AND CMBR POPPA SECONDED TO APPROVE A TASK ORDER WITH SFS FOR ARCHITECTURAL AND PROJECT MANAGEMENT SERVICES RELATED TO THE PUBLIC WORKS FACILITY RENOVATIONS. (MOTION CARRIED 7-0.)

VIII. Ordinances and Resolutions

A. Ordinance 1039 - Establishing a Tree Preservation Policy

CMBR Madigan said he received an email from Ardie and Gretchen Davis, and is in agreement with them, that there is a compelling need for more education regarding the role of trees and the environment. He said the citizenry is responsible for the planting and care of trees and that does not seem to be understood by the public, nor the role the Governing Body takes in this. He motioned that the item needs to be tabled until the concerns were addressed and the public was better informed.

MOTION: CMBR MADIGAN MOVED AND CMBR POPPA SECONDED TO TABLE THE ITEM UNTIL THE PUBLIC IS MORE INFORMATION IS GIVEN TO THE PUBLIC. (MOTION CARRIED 5-2 WITH CMBRS HILL AND FAIDLEY VOTING NO.)

MOTION: CMBR HILL MOVED AND CMBR FAIDLEY SECONDED TO ACCEPT ORDINANCE 1039, VERSION 1 TO GO INTO EFFECT 90 DAYS FOLLOW ITS PASSAGE, TO COVER TREES IN THE FRONT YARD, SIDE YARD, AND THOSE IN THE RIGHT-OF-WAY. (NO VOTE WAS TAKEN AS THE ITEM WAS TABLED.)

IX. Reports of City Officials

A. Mayor's Comments

Mayor Kelly said this was his last formal Council meeting as mayor. He thanked his fellow Governing Body members for their time, trust, and even disagreements, which has made the City a better place. He hoped that change and progress will continue. He asked them to utilize him as a resource and a sounding board, and as a colleague, he will be available to them. He also thanked the staff as the backbone of the City noting that as governing bodies change, they dedicates their lives to the community, and he thanked them for their passion and friendships. He also recognized his family who supports him as he has given up free times and weekends to do the job. Mayor Kelly noted the kindness and generosity of his family and the family of Roeland Park. He said when you take time to get to know your neighbors, good things happen. He said it all started in 2014 with the Citizens Academy, then joining the Sustainability Committee and the Community Foundation Advisory Board. He said it is amazing what citizens and neighbors can do when they collectively work together. He said there is a lot of talent in Roeland Park that already exists and it has been his honor to help and offer his service.

Adjourn:

MOTION: CMBR HILL MOVED AND CMBR RAGLOW SECONDED TO ADJOURN. (THE MOTION CARRIED 7-0.)

(Roeland Park City Council Meeting Adjourned at 6:48 p.m.)

Kelley Nielsen, City Clerk

Michael Poppa, Mayor

III. Business from the Floor - Proclamations/Applications/Presentation

A. Continue Discussion of Tree Preservation Policy

Chris Brewster from Gould Evans updated the proposed tree preservation policy since the last meeting and went over some of the highlights. Included updates are a cap on the fee with no excessive penalties or fees on very large trees. Options for mitigation have been added. Lots with significant front trees can be individually evaluated. There is a clarification that a protected tree can be removed for disease or safety issues and a fee will not be charged. Also, a replacement of one to one for a tree has been added. The City Administrator's office will maintain a species list for what is appropriate to plant as a replacement.

City Administrator Moody said the policy is based on Fairway's program and with input from their own Sustainability Committee. He said their preference is for education over regulation. A decision will need to be made whether the policy will pertain to public right-of-way trees or those trees in addition to private frontage trees. Mr. Moody said that most trees of concern are on private property with one-third in the right-of-way and two-thirds on private property.

Mr. Brewster said the possible areas to protect along with the frontage and public right-of-way trees are also perimeter trees or all trees in the City. Trees that are older and more established have a greater impact than less established and they need to decide how to protect them if removed, removed with mitigation, or removed with payment. He suggested having a base of taking one out and planting three in its place. If the homeowner does not want to replace, they can pay a fee of \$1,000 maximum unless the tree is diseased or is creating a safety hazard. Mr. Brewster said the policy will help them target unnecessary tree removals.

Mayor Kelly said he appreciated the diligent work on this. He added that when they speak about a fee being waived for disease or public safety reasons that public safety can also be a nuisance such as tree roots growing into a water line, for example. Mr. Brewster said the ordinance is flexible in that regard and that a tree manager can make that decision. He also added that tree roots generally grow in search of water and do not break pipes to look for it. If there are tree roots in the pipes, then there was a problem not caused by the trees.

CMBR Hill said on page 5, regulating front yard trees, she would like the potential caliper size versus the actual size. City Administrator Moody said the approach wasn't anticipating that the ultimate girth would be replaced. Tree replacement would be to provide for a variety and provide guidance to get the right tree in the right place.

CMBR Faidley asked about the tree survey. Mr. Brewster said it will be good to know the number of frontage trees and right-of-way trees, as well as who the tree belongs to as some might assume a right-of-way tree is on their property. He added that MARC has

been doing research on the tree canopy and studying the urban tree forest over the last ten years. CMBR Faidley said as a Tree City that is good to know.

CMBR Raglow asked about trees that are damaged by weather related incidents and the unsightly utility tree trimmings. Mr. Brewster said a tree expert can tell whether tree is diseased and dying. As for the utility companies, he said they are not concerned about the tree at all. They have a broad view of what they want to do and that their trimmings can expose the trees to disease.

CMBR Brauer said she is in support of protecting their trees, but she does have reservations about people on their property not being able to remove them or have an ability to add solar panels or a garden. She also asked about people looking to expand their home. She notes that homes in Roeland Park are smaller, and they are wanting to keep their residents in the City. She said it gives her pause fining people for cutting down a tree.

CMBR Rebne said he was raised and taught to honor private property and their right to say what happens with it. He noted that there is a significant degree of tension and noted that the ordinance does include education. He asked what commitment they are willing to make to help a homeowner maintain his trees.

Mr. Brewster said a lot of the fee cap was based on the private/public tension. He also noted that trees are often underappreciated in what they do for a property. Not only do they raise the property value of the lot they are, but they also add value to the properties around them.

CMBR Rebne asked if property owners will know up front which trees are protected. Mr. Brewster said as part of the public education piece of this will be explaining the benefits and what is protected. He also added that many times a tree canopy provides more benefits than solar, but people will be able to explore the cost and benefits of different options.

City Administrator Moody said the tree inventory would be available for public review and incorporated into their City website as well as the educational information. He said there needs to be an effort on behalf of the City to try to raise awareness. In creating these standards, they are also creating consistency among their neighborhoods and consistency of use. He added that a property owner has the right to use their land, but it is common for a city to develop regulations to guide the development and use of the land.

CMBR Madigan said he is having a hard time understanding why they are discussing this when two-thirds of the people are not supportive of City authorization or the preservation fund. He said that NextDoor has been very active on this topic, and he has reviewed the comments and people do not support interference on their property. He

said that people were surprised to find the fund went to help the City plant trees and not to help the residents plant trees.

CMBR Faidley asked what the rationale was to not include the perimeter trees. City Administrator Moody said it was a compromise.

CMBR Hill said the reason this all came about is when trees were cut down on Reinhart to allow for a sidewalk because they couldn't get an easement. She said there is a want and a need to continue this conversation.

There was majority consensus to continue the conversation at a future date.

Mayor Kelly said he sees the value of doing both types of trees, and also the need for education. He added that this would need to become a budget objective. His recommendation would be to begin with the public trees and look to include private front yard trees in the future.

CMBR Faidley said she agreed with the Mayor and that they need to do for both public and private trees. She agrees it is a big price tag, but first they need to do the education component.



Roeland Park Sustainability Committee

Tree Protection Policy & Ordinance

City Council Work Session
December 20, 2021

gouldevans

Why Do This?

Economic benefits

- Increase property values
- Promote more active civic and commercial spaces
- Civic / neighborhood pride and aesthetics

Transportation benefits

- Slower, safer streets
- More comfortable and inviting walk / bike

Public health benefits

- Less heat-related illness
- Improved air quality and less respiratory illness
- Increased active living

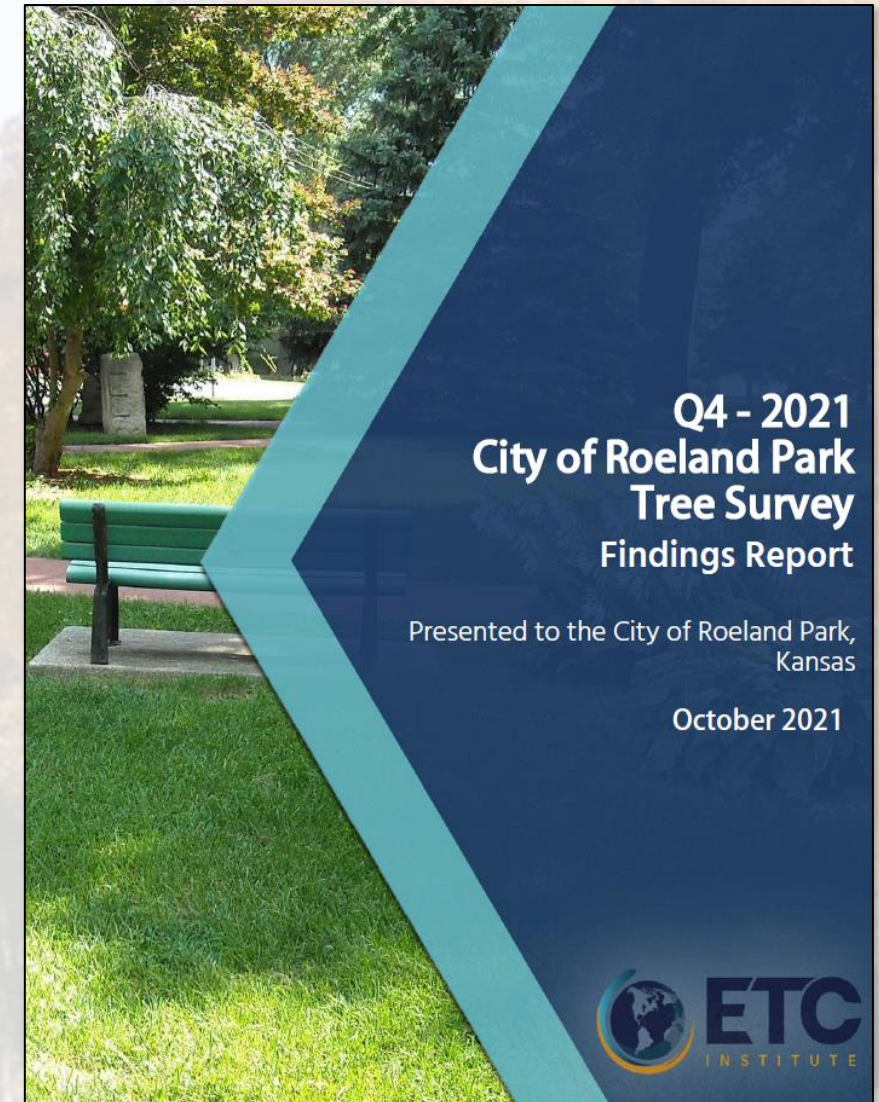
Climate adaptation & ecosystem services

- Protect against flooding
- Reduce heat island effects
- Reduce greenhouse gas and absorb pollutants in runoff

All trees produce these benefits, but **older and larger trees produce them at far higher levels.** Therefore, it is important to protect older and more established trees

Survey Results:

- Less support for required authorization to remove
- More support for requiring replacement vs. fees
- <https://www.goulddevans.com/studio/pi/treedist/> Concern over cost implications
- Preference for education over regulation
- Distinction between public and private trees



3 Key Questions:

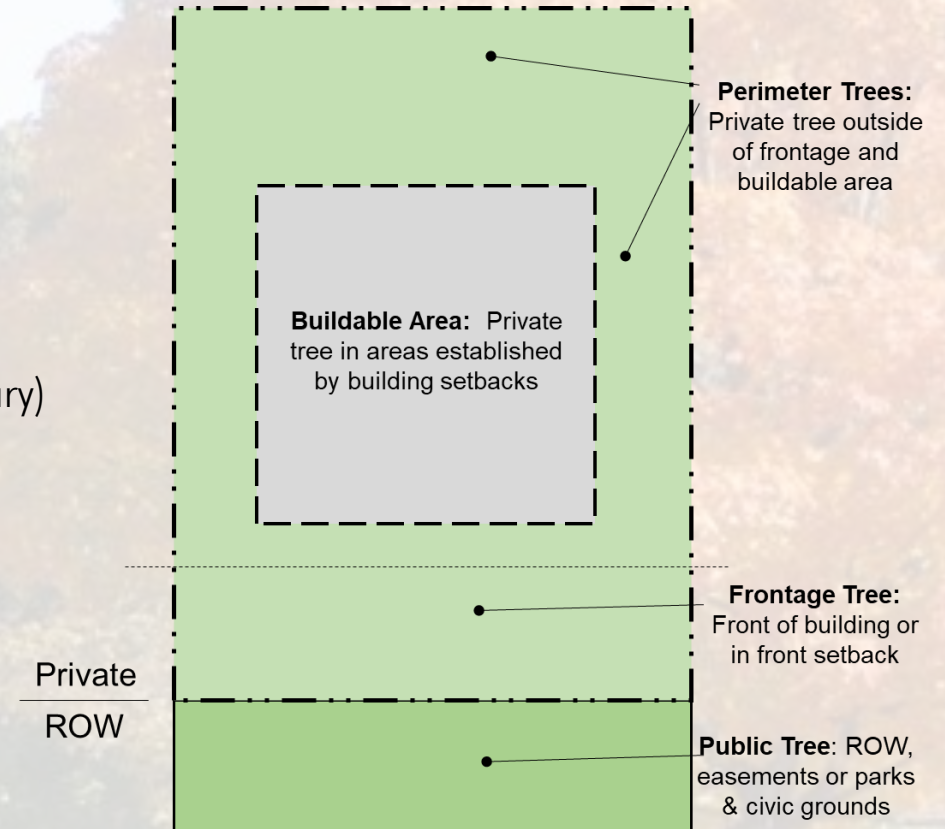
What areas to protect?

What is protected (size)?

How is protected (removal / mitigation requirements)?

What areas to protect:

- ☐ Public trees only? (*right-of-way, easements, parks, civic grounds*)
- ☐ Frontage trees? (*front of building or in front setback*)
- ☐ Perimeter trees? (*side and rear setbacks or w/in 10' of property boundary*)
- ☐ All trees? (*including potentially buildable areas of private lots*)

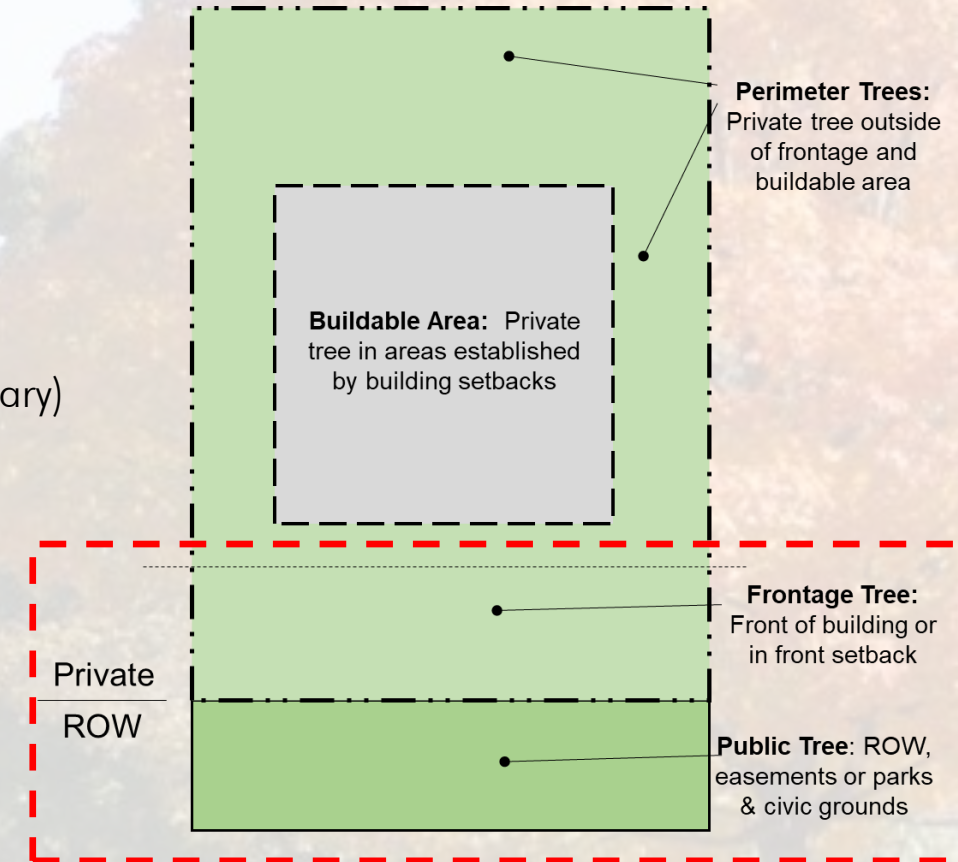


What areas to protect:

- ☒ **Public trees only?** (*right-of-way, easements, parks, civic grounds*)
- ☒ **Frontage trees?** (*front of building or in front setback*)
- ☐ **Perimeter trees?** (*side and rear setbacks or w/in 10' of property boundary*)
- ☐ **All trees?** (*including potentially buildable areas of private lots*)

Staff Draft:

- Option 1 - Public & Frontage Trees
- Option 2 – Public Trees Only



What size is protected:

- ☐ Only very large trees? (30" dbh) 90 yr 200 yr+
- ☐ Large trees? (18" - 24" dbh) 50 yr 150 yr+
- ☐ Medium trees? (12" dbh) 20 yr 85 yr+
- ☐ Established trees? (6" -8" dbh) 5 yr 50 yr+
- ☐ All trees? (any dbh) 0 yr 10 yr+

** Most trees are 5 to 10+ years at planting*

Approximate sizes based on range of growth factors; size is highly dependent on species and whether it is a fast or slow growth species

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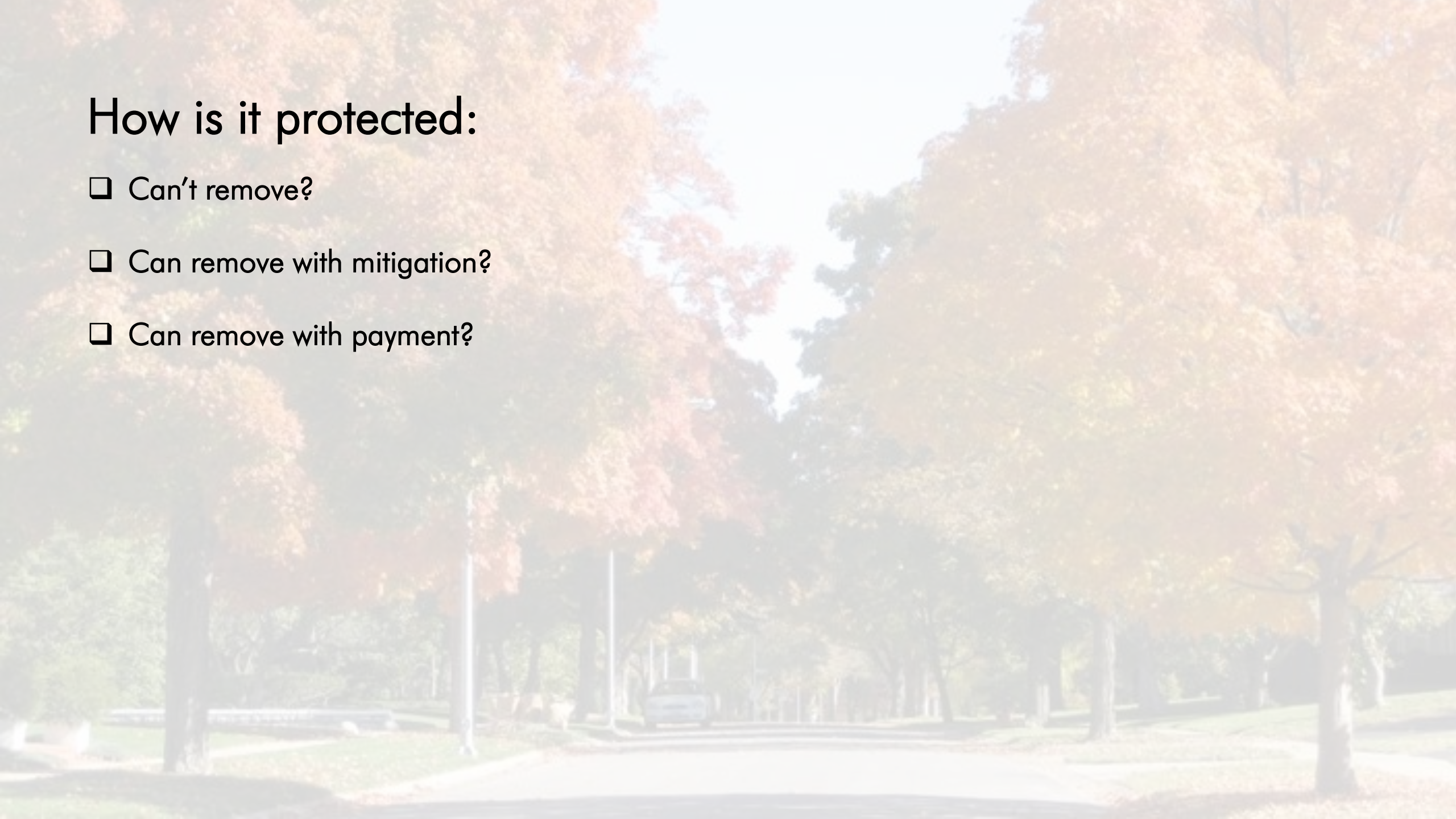
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Staff Draft

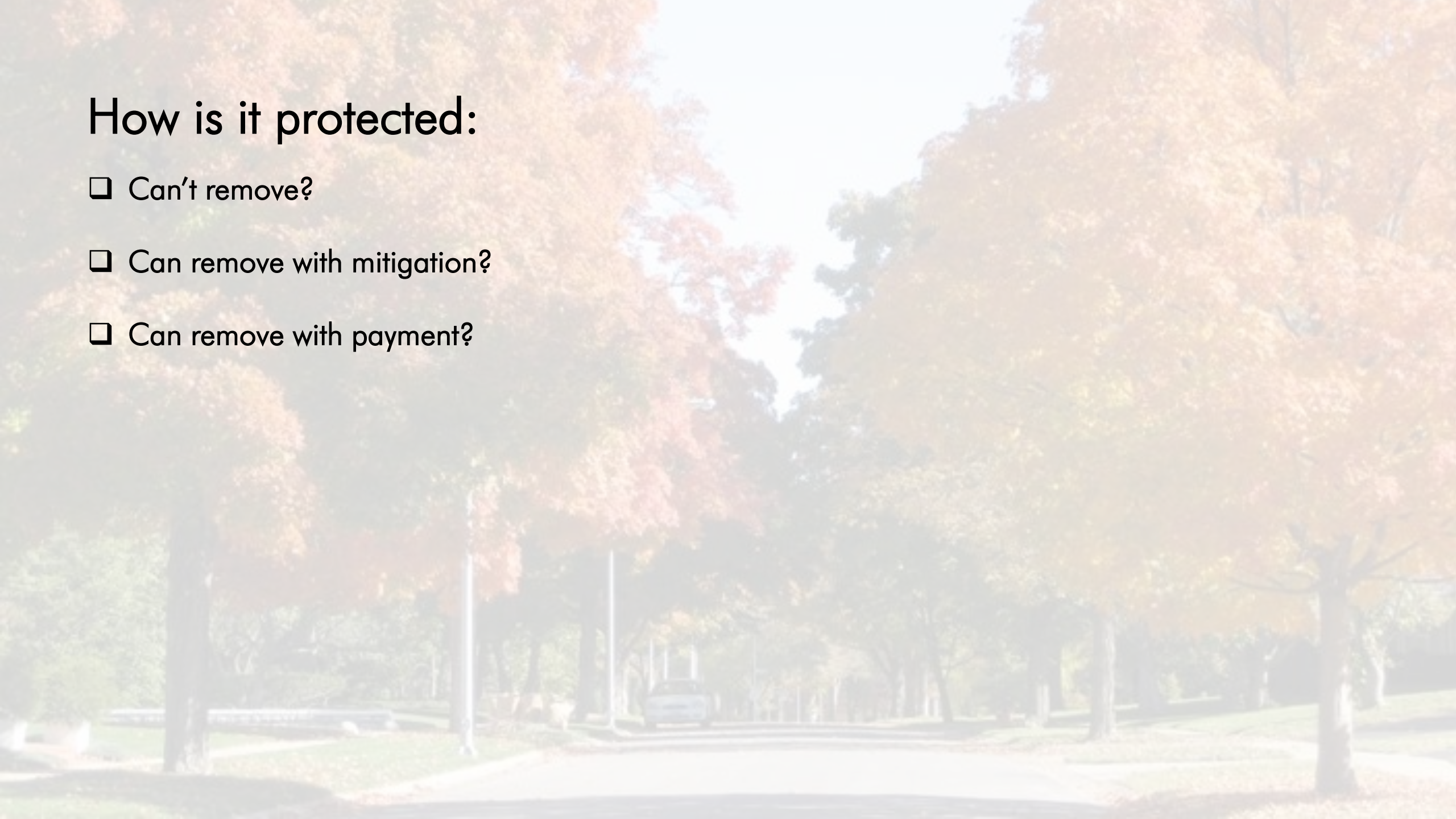
How is it protected:

- ☐ Can't remove?
- ☐ Can remove with mitigation?
- ☐ Can remove with payment?



How is it protected:

- ☐ Can't remove?
- ☐ Can remove with mitigation?
- ☐ Can remove with payment?



How is it protected:

☑ Can't remove?

•----- For any tree 30" dbh+ ; City Council approval

☑ Can remove with mitigation?

☑ Can remove with payment?



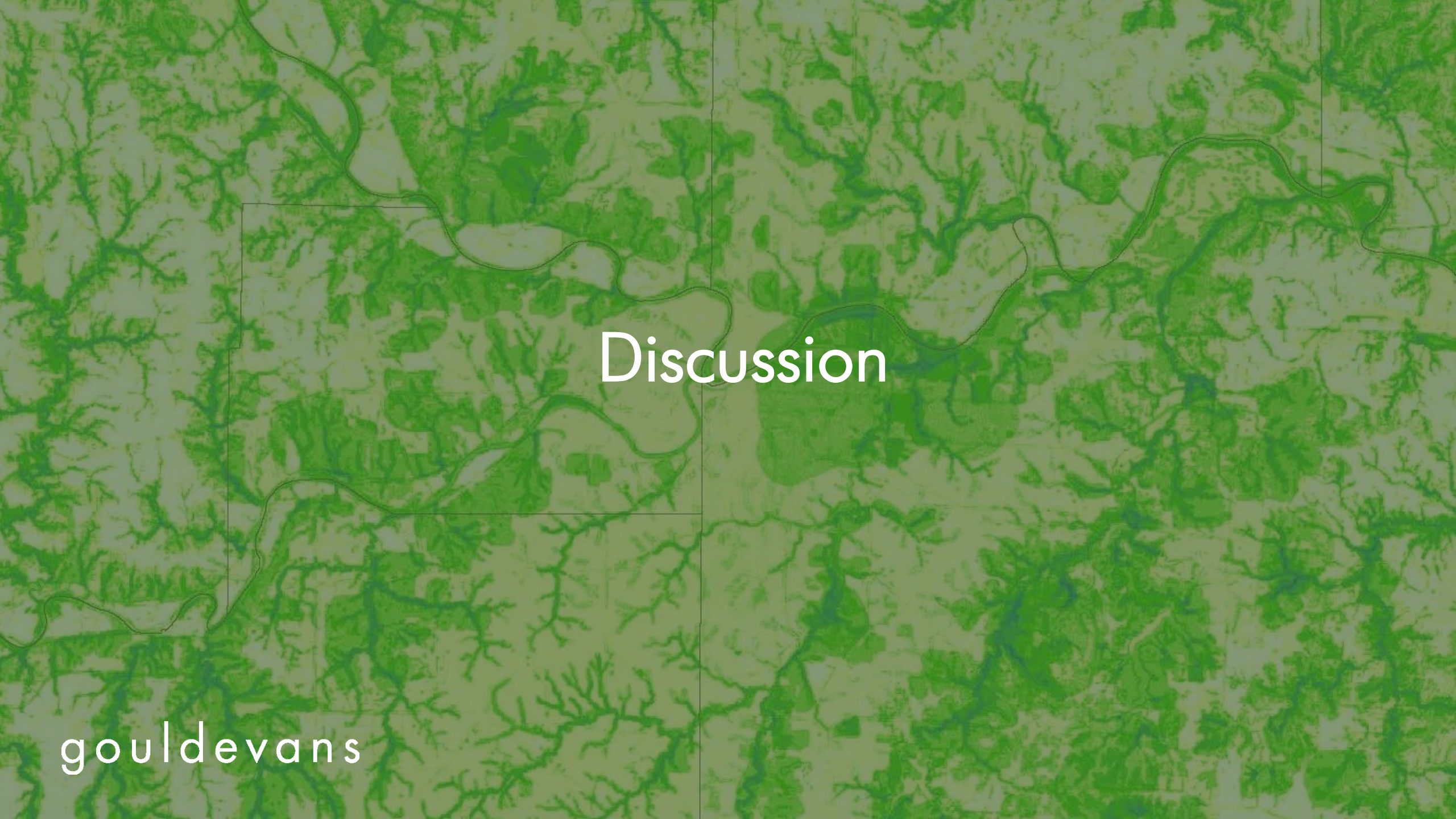
Revised Mitigation Approach:

- Replace with 1 tree = \$500 fee
- Replace with 2 trees = \$250 fee
- Replace with 3 trees = No fee
- No mitigation if more than 3 covered trees remain
- Option for no replacement = \$ 1,000 fee.
- Fee waived if tree replaced due to diseases or public safety reasons.

Staff Draft

Rationale:

- *Based on “replacement value,” not the value of the loss of older trees:*
 - *Encourages planting more trees for long-term health of canopy.*
 - *Fees based on value of new trees, not the loss of older growth trees.*
 - *Fees / mitigation capped at 3 per lot frontage.*
 - *Should corresponded with public education component – proactive tree planting and/or public street tree program.*
- *Fee only applies if trees unnecessarily removed. No fee if:*
 - *Tree removed for disease or public safety reasons; OR*
 - *Tree removed and lot frontage retains sufficient “covered trees” (3 or more trees); OR*
 - *3 trees planted back (mitigating entirely with re-planting).*
- *Owner option for no trees, with removal fee:*
 - *\$1,000 reflects loss of public / neighborhood benefit and replacement value at other locations.*

An aerial photograph of a river network, likely a delta or a large estuary, with a semi-transparent green overlay. A white rectangular box is drawn over the central part of the image, highlighting a specific area. The word "Discussion" is written in white text within this box.

Discussion

gouldevans

Degrees of protection / options....

What is protected? (combinations of the following...)

- Public vs. Private (and private can be further refined – frontage, lot, buildable area)
- Distinctions in sizes as to if they are protected. (and based on area, different sizes can be protected._
- Only at some critical mass of development activity vs. all time (or a variation of ranges / activities / trigger events)

How is it protected?

- Can't remove (without permission... public private distinction...)
- If you remove you mitigate
 - Replace with equal inches
 - Replace with at least one and pay a fee for the rest
 - Replace with at least one, but up to ## additional trees based on size.
 - Pay a fee and not have a tree... (who would decide if this is an option since you are losing the objective)...

How is protection measured...

- Against removing an existing tree.
- Against removing so that property is deficient... but deficient to what standard (i.e. need a street tree or property landscape standard to measure against.)
- How is on-going enforcement addressed – formal obligation to keep in place or replant if removed, diseased, or dying.

Cost issues... comes up in 3 places;

- Cost to do the work (remove / plant / etc.) (mitigation)
- Cost for mitigation (fee for not putting it in OR fee for making up the difference for what went out vs. what went in) (mitigation / deterrent)
- Penalty – either for violating the ordinance OR for choosing to remove larger and/or priority trees. (deterrent)
- Exceptions: can the fees / mitigation be waived for reasonable removals or lessor priority trees? (could get complex)
- Exceptions: can the fees / mitigation be capped above some certain point for any removal... (could undermine purpose / deterren)



The Economics of Urban Forestry

TREE CITY USA®
BULLETIN

November/December 2021 • Editor: Dr. James R. Fazio



***T**he benefits of urban trees have been quantified in numerous ways in recent years. Now a new study provides important information about yet another contribution that tree planting and care provides for America.*

We all know intuitively that trees in our communities are economically important. But just important? To answer this question, the Arbor Day Foundation, in cooperation with the USDA Forest Service, contracted with the College of Business at the University of Nebraska–Lincoln to conduct a formal, nationwide study of this aspect of urban and community forestry.

The 2021 study was conducted by researchers Drs. Eric Thompson, Mitch Herian, and David Rosenbaum. All 50 states and the District of Columbia are included and the goal is to help determine what economists call the economic footprint of both the private and public sectors involved in urban forestry. For purposes of this project, urban forestry is defined as “growing, planting, maintaining, removing, disposing,

and studying trees that are usually located in cities, towns, and other human settlements and that are used primarily to meet needs and enable activities of people.” Data used in the study are from the 2017 Economic Census conducted by the U.S. Department of Commerce, the most recent data available for analysis, and information compiled by the Arbor Day Foundation from participants in the Tree City USA®, Tree Campus® Higher Education and Tree Line USA® programs. These data are supplemented with surveys of non-participating cities, campuses, and companies. Consistent, industry-accepted methodology provides the advantage of enabling replication by future researchers to track the growth of urban forestry and its impacts.

The study also includes a section called Quality-of-Life Benefits. This will be of special interest to homeowners because it highlights how landscape trees affect property values. All in all, this new package of information will be a useful addition in the arsenal of tree board members and others who often must defend the importance of landscape trees.



Arbor Day Foundation®

211 N. 12th Street • Lincoln, Nebraska 68508

The National Perspective

The economic footprint of urban forestry is like the concentric rings in a pond. Not only is there the direct value of business sales or agency spending, but there is also a multiplier effect that widely spreads the economic benefits. Here is a summary of findings for the various industries that are part of urban forestry.



THE PRIVATE SECTOR

For the purposes of this study, there are six relevant industry segments, as identified in the federal government's North American Industry Classification System. Some 322,931 people are employed in these industries with the total economic footprint being an impressive \$61.9 billion. Only activities related to growing, distributing, planting, and maintaining of urban trees were included in the data collection. For example, in the landscape services industry, lawn maintenance was excluded.

The direct economic footprint in the following table is based on

Services to maintain the landscape lead all other categories in providing economic benefits.

annual sales and \$15.1 billion in employee wages, salaries, and benefits. IMPLAN, an economic impact assessment software system, calculated the multiplier for each industry segment.

INDUSTRY	DIRECT ECONOMIC FOOTPRINT OUTPUT*	MULTIPLIER*	TOTAL ECONOMIC FOOTPRINT OUTPUT*
Nursery and Tree Products	\$2,617.0	\$2,105.6	\$4,722.6
Support Activities for Forestry	\$354.8	\$295.5	\$650.3
Nursery and Florist Wholesale	\$2,426.6	\$1,846.3	\$4,273.0
Lawn and Garden Equipment and Supply Stores	\$1,693.0	\$1,472.8	\$3,165.9
Landscape Architecture Services	\$2,093.7	\$2,388.6	\$4,482.3
Landscaping Services	\$25,074.5	\$19,510.2	\$44,584.7
TOTALS	\$34,259.6	\$27,619.1	\$61,878.7

*\$ in millions

LOCAL GOVERNMENTS AND UTILITIES

This table shows the economic contributions from public entities, such as cities, counties, and some universities, as well as private utilities and colleges. The Arbor Day Foundation provided data for entities participating in its recognition programs, while researchers sampled non-participating entities by questionnaire. Together, these institutions contributed nearly \$2.1 billion in 2017.

ENTITIES	DIRECT ECONOMIC FOOTPRINT OUTPUT*	MULTIPLIER*	TOTAL ECONOMIC FOOTPRINT OUTPUT*
Tree City USA Communities	\$688.2	\$520.4	\$1,208.5
Other Cities	\$117.8	\$92.4	\$210.2
County Governments	\$52.1	\$40.4	\$92.5
Tree Campus USA Higher Education Schools	\$33.7	\$25.5	\$59.3
Tree Line USA Utilities	\$294.3	\$216.8	\$511.1
TOTALS	\$1,186.1	\$895.5	\$2,081.5

*\$ in millions

EMPLOYMENT

The growing and care of urban forests provides jobs for a large number of employees. The multipliers in this case are the number of people not directly employed in the industries listed, but those workers who benefit and receive part of

their support from individuals who are in fields related to urban forestry. Total direct compensation amounts to nearly \$16 billion, and \$25 billion when considering a multiplier.

INDUSTRY	EMPLOYEE COMPENSATION FOOTPRINT*			NUMBER OF JOBS		
	Direct	Multiplier	Total	Direct	Multiplier	Total
Nursery and Tree Products	\$1,315.8	\$977.6	\$2,293.4	35,585	23,503	59,087
Support Activities for Forestry	\$322.0	\$97.4	\$419.4	4,745	1,173	5,918
Nursery and Florist Wholesale	\$1,135.3	\$883.1	\$2,018.4	20,272	24,283	44,555
Lawn and Garden Equipment and Supply Stores	\$748.7	\$565.2	\$1,313.9	19,440	12,035	31,474
Landscape Architecture Services	\$1,089.7	\$843.3	\$1,933.0	13,421	17,866	31,287
Landscaping Services	\$10,568.8	\$5,328.2	\$15,897.0	229,469	72,760	302,229
TOTALS	\$15,180.4	\$8,694.8	\$23,875.2	322,931	151,619	474,550

ENTITY	EMPLOYEE COMPENSATION FOOTPRINT*			NUMBER OF JOBS		
	Direct	Multiplier	Total	Direct	Multiplier	Total
Tree City USA Communities	\$492.1	\$205.5	\$697.6	8,773	3,436	12,209
Other Cities	\$84.9	\$42.2	\$127.1	1,833	684	2,517
County Governments	\$30.5	\$15.4	\$45.8	660	246	906
Tree Campus Higher Education Schools	\$25.8	\$11.5	\$37.3	573	184	757
Tree Line USA Utilities	\$115.4	\$171.9	\$287.3	2,473	8,222	10,693
TOTALS	\$748.8	\$446.4	\$1,195.2	14,313	12,769	27,082

*\$ in millions



QUALITY-OF-LIFE BENEFITS

Landscape trees impact property values, but they also provide external benefits to society, such as improved air and water quality. In this study, the benefit to homeowners was based on a count of urban homes in each state, average tree coverage on private property, and a review of literature quantifying the relationship between tree cover and property values. External benefits were calculated using the i-Tree Landscape program developed by the USDA Forest Service. Results show that tree cover in the U.S. increased the value of private homes by more than \$604 billion in 2017, based on the present value of annual services provided — the aesthetics, shading, and related energy cost savings over a 50-year lifespan for mature trees. On an annual basis, \$31.5 billion worth of services are provided to homeowners, and an additional \$73 billion in benefits are delivered to society in the form of air pollution and stormwater runoff mitigation.

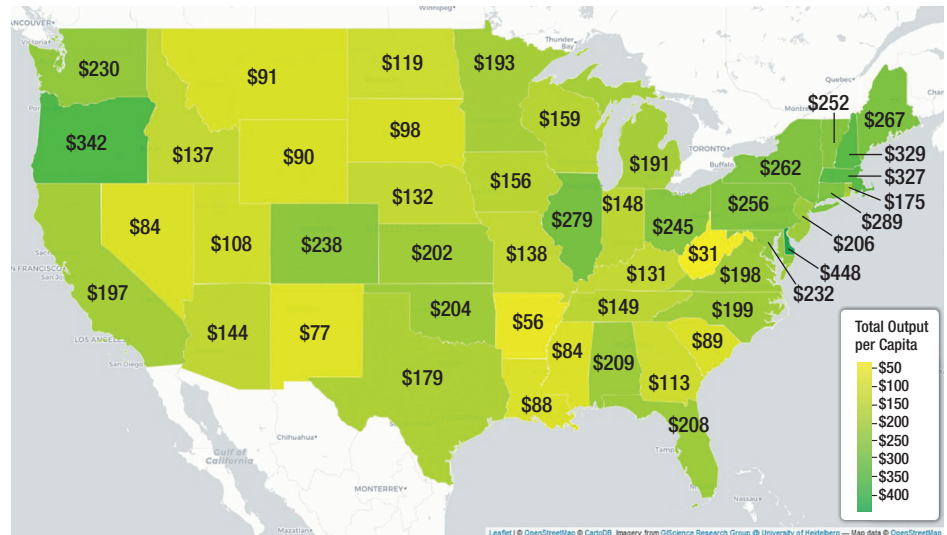
ECONOMIC BENEFITS (MEASURED IN 2017)	VALUE
Property Value Impact	\$604,167.4 million
Annual Value of Services by Trees to Property Owners	\$31,518.4 million
Annual Value of Pollution and Runoff Mitigation	\$73,436.5 million
TOTAL ANNUAL VALUE	\$104,954.9 million

Economic Benefits State by State

In the University of Nebraska study, basically the same methodology was applied on a state and regional basis. A summary is shown here with the economic values displayed per capita.

URBAN FORESTRY OUTPUTS PER RESIDENT IN 2017

The map at right shows total economic output, per capita, for each state. This includes both direct and indirect economic impact of the various industries associated with urban forestry, and the multiplier effect for each. As you can see on the map, the largest total economic footprints are found in the Northeast, coastal Northwest, and industrial Midwest of the country. The strong influence of the nursery industry accounts for much of the impact in Oregon and New Jersey. In the government sectors, cities that participate in the Tree City USA program account for the largest share of the economic footprint.



QUALITY OF LIFE BENEFITS

In economic terms, trees and urban forestry play a large role in the lives of urban residents. In the full study report, urban and rural counties are reported separately. In the table on page 5, however, the data is aggregated. The first column reports the contribution of tree cover to property values in each state. The other columns are the quantified values of some of the ecoservices trees provide.

STATEWIDE IMPACT OF TREE COVER ON PROPERTY VALUES AND ENVIRONMENTAL AMENITIES					
		Value* from i-Tree			
State	Property Value *	Carbon	Pollution	Hydrology	Total
Alabama	\$17,995	\$3,367	\$193	\$114	\$3,675
Alaska	\$29	\$0	\$0	\$0	\$0
Arizona	\$877	\$181	\$3	\$1	\$184
Arkansas	\$9,984	\$2,439	\$71	\$84	\$2,594
California	\$17,570	\$3,023	\$136	\$62	\$3,221
Colorado	\$6,989	\$577	\$16	\$10	\$603
Connecticut	\$10,285	\$285	\$122	\$64	\$472
Delaware	\$2,110	\$73	\$13	\$6	\$93
District of Columbia	\$805	\$2	\$6	\$1	\$9
Florida	\$38,657	\$3,889	\$303	\$240	\$4,432
Georgia	\$33,688	\$4,141	\$344	\$254	\$4,739
Hawaii	\$15	\$0	\$0	\$0	\$0
Idaho	\$1,564	\$740	\$22	\$15	\$777
Illinois	\$10,725	\$500	\$111	\$66	\$676
Indiana	\$7,092	\$576	\$47	\$29	\$652
Iowa	\$1,624	\$295	\$7	\$11	\$314
Kansas	\$1,991	\$328	\$12	\$12	\$351
Kentucky	\$12,123	\$1,235	\$83	\$71	\$1,388
Louisiana	\$12,387	\$2,981	\$110	\$130	\$3,222
Maine	\$6,701	\$1,474	\$55	\$54	\$1,583
Maryland	\$15,417	\$407	\$114	\$46	\$567
Massachusetts	\$21,426	\$390	\$249	\$160	\$799
Michigan	\$20,380	\$1,799	\$123	\$125	\$2,047
Minnesota	\$5,301	\$760	\$26	\$26	\$812
Mississippi	\$11,356	\$3,983	\$110	\$84	\$4,176
Missouri	\$10,370	\$935	\$91	\$67	\$1,094
Montana	\$1,628	\$874	\$28	\$25	\$927
Nebraska	\$472	\$114	\$3	\$3	\$121
Nevada	\$549	\$254	\$9	\$2	\$265
New Hampshire	\$6,833	\$388	\$36	\$35	\$458
New Jersey	\$20,267	\$298	\$173	\$71	\$543
New Mexico	\$1,508	\$592	\$11	\$3	\$606
New York	\$33,723	\$1,484	\$302	\$135	\$1,922
North Carolina	\$36,577	\$3,921	\$248	\$157	\$4,326
North Dakota	\$108	\$60	\$2	\$1	\$62
Ohio	\$21,698	\$954	\$202	\$118	\$1,274
Oklahoma	\$5,823	\$1,106	\$62	\$33	\$1,201
Oregon	\$11,579	\$1,785	\$115	\$101	\$2,001
Pennsylvania	\$37,746	\$1,780	\$313	\$125	\$2,218
Rhode Island	\$3,667	\$56	\$45	\$26	\$127
South Carolina	\$20,470	\$2,498	\$114	\$85	\$2,698
South Dakota	\$509	\$58	\$4	\$2	\$63
Tennessee	\$20,513	\$1,467	\$154	\$107	\$1,727
Texas	\$30,786	\$5,624	\$297	\$231	\$6,153
Utah	\$3,238	\$390	\$21	\$13	\$423
Vermont	\$2,923	\$363	\$15	\$23	\$400
Virginia	\$27,033	\$2,208	\$151	\$110	\$2,469
Washington	\$21,099	\$1,588	\$83	\$119	\$1,790
West Virginia	\$9,036	\$1,264	\$48	\$42	\$1,354
Wisconsin	\$8,738	\$1,295	\$49	\$41	\$1,386
Wyoming	\$184	\$433	\$4	\$3	\$440
TOTALS	\$604,167	\$65,234	\$4,857	\$3,345	\$73,437

*\$ in millions

More on Economic Benefits

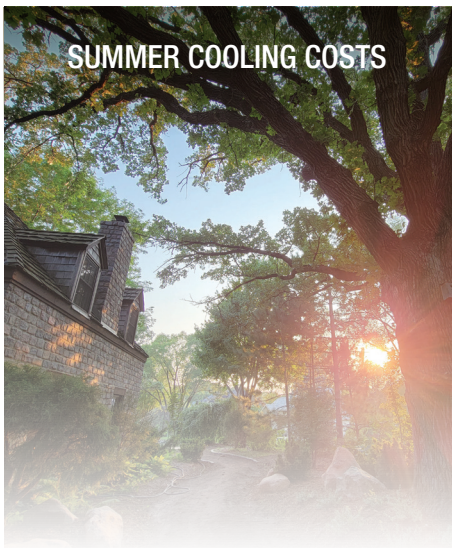
There are many more findings from a variety of research studies about the positive economic impact of trees. Even when weighed against the costs of planting and maintenance, trees make good sense as investments — both for individuals and communities.

TREES AT HOME AND IN THE COMMUNITY

While values will vary depending on climate and local conditions, the contribution of trees will still be significant. Here are some examples.



SUMMER COOLING COSTS



FOUR STRATEGICALLY PLACED TREES at a home in Sacramento, California save up to 30% on energy costs each year after the trees gain some size.

If 1 million more trees were planted in Sacramento, \$10 million would be saved annually.

ONE WELL-PLACED TREE can reduce air conditioning costs alone up to 50%.

Reduced energy demand means reduced need for power plants, which can result in less air pollution.

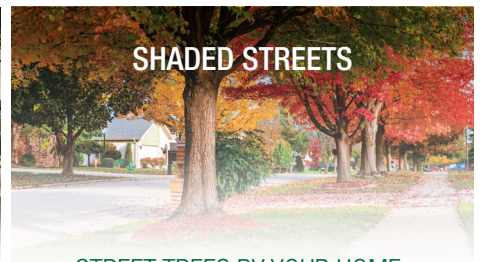
PROPERTY VALUES



YARD TREES IN GOOD CONDITION may add 10% to 20% to the resale value of your home.

In Portland, Oregon, street trees in front of or near a home added an average of \$8,870 to sale prices — and reduced time on the market.

SHADED STREETS



STREET TREES BY YOUR HOME beautify the neighborhood, provide safety from traffic, and add summer comfort — as well as contribute to resale value.

Shade protects asphalt surfaces, with the potential of reducing repaving costs by as much as 58% over a 30-year period.

WINTER SAVINGS



TREES USED AS WINDBREAKS can save 20% to 50% in energy used for heating.

Windbreaks can also control blowing snow, saving on plowing costs.

CLIMATE CHANGE



GLOBALLY, TREES HELP by removing fossil fuel emissions.

A USDA Forest Service study found that trees removed about one-third of fossil fuel emissions each year from 1990 to 2007.



TREES ARE GOOD FOR BUSINESS. TREES IN A SHOPPING DISTRICT:

- \$ Attract customers
- \$ Lower utility costs
- \$ Cool parking spaces
- \$ Increase resale value
- \$ Stimulate economic development
- \$ Increase tourism
- \$ Ease stress

TREES IN THE BUSINESS DISTRICT

Considerable research on trees in business districts has been done by Dr. Kathleen Wolf at the University of Washington. She concludes, “Trees are a positive atmospheric for business districts. They create a retail mood that appeals to shoppers and visitors. Trees greet shoppers with a message of welcome even before entering a merchant’s door.” Her studies have found that when trees are present:

- Customers perceive merchants in a much more positive light. Trees send a message of care and service commitment.
- Customers tend to stay longer and visit more frequently.
- Shoppers say they are willing to pay higher prices — as much as 12% more.
- Visitors rate pedestrian-oriented pocket parks highly and prefer trees that are large with enclosing canopies.

PARKS AND OPEN SPACE

Americans value their parks and open spaces, most of which are enhanced with trees and other vegetation. Studies have shown that homebuyers prefer to be near such spaces and are often willing to pay 8% to 20% more for the privilege.

OTHER VALUES

In addition to cash values and major external (societal) benefits quantified in the University of Nebraska study, there are many others. For example, numerous studies have shown how trees reduce human stress and contribute to better health and even longevity. Then there are the famous studies by Dr. Kuo at the University of Illinois at Urbana-Champaign that link trees to improved child development and the reduction of domestic violence. These and others go beyond dollars when viewed in terms of human happiness.



Beneficiaries — The Bottom Line

The ultimate benefits of urban forestry are the contributions trees make to the comfort, health, and happiness of people. The Arbor Day Foundation has collected examples from every state, and you can see all of them at arborday.org/faces.



WHEN ALMA GAUL turns off Bettendorf, Iowa's, four-lane thoroughfare and enters her neighborhood, the world around her changes. The noise, lights, and bustle of the city are left behind. "It's like driving into a park," Alma says. "It's calm and quiet — very surreal."

Alma and her neighbors are the beneficiaries of forward-thinking city officials and developers of long ago. When the area was transformed from cornfields into houses, they planted oaks, maples, river birches, and a diverse mixture of other species along the streets of the development. Alma appreciates the results. "Trees make my neighborhood," she says.

Carrying on the tradition is Trees Are Us, a dedicated group of volunteers who work under the direction of Bettendorf's Parks and Recreation Department. In cooperation with the city's tree board and supported with funds from the local utility, corporations, and gaming authorities, more than 2,000 trees have been added to Bettendorf's streets.

Neighbors of Alma Gaul, newspaper feature writer in Bettendorf, Iowa, add more trees to the streets of their city.



FOR MORE INFORMATION

For links to the entire report of the Economics of Urban Forestry and other information related to this issue, please visit arborday.org/treereport.



AS AN INVESTOR who renovates neglected homes, Evelyn Ware-Jackson looks at blighted areas a little differently than most people. Where others see despair, Evelyn sees opportunity. She also realizes restoring one home alone is not enough. You must redevelop the whole neighborhood. Nowhere has she been more successful than in Melrose East, a once thriving neighborhood in Baton Rouge, Louisiana, that has suffered years of disinvestment, neglect, crime, and disillusionment.

This turned around when Evelyn accepted an offer from Baton Rouge Green for 300 trees funded by a USDA Forest Service grant through the Louisiana Office of Forestry. The trees enabled Evelyn and residents of the neighborhood to complete a community reforestation program. The residents and other volunteers worked together to plant the trees.

The trees not only added shade and beauty, but the planting project served as a catalyst for other neighborhood improvements and provided a way for citizens to get involved with their neighborhood's turnaround.



THE UNIVERSITY OF IDAHO is located in Moscow, Idaho, a small city surrounded by some of the nation's most productive acreages of winter wheat. As early as 1909, university officials recognized the importance of trees as part of campus education, and a 36-acre arboretum was planted. The site became so popular for community recreation that an additional 63 acres of farm land adjoining the university was acquired to plant a variety of trees and shrubs from all over the world.

In cooperation with community leaders, foresters, and private donors, the farmland has become a diverse and nationally accredited arboretum. And despite economic hard times at the state university, state funds have consistently been allocated to the arboretum's maintenance and improvement. The expanded arboretum has become a place where on any day of the year, community residents of all ages can be found walking, watching birdlife, meditating, and enjoying the benefits of a bit of wooded area between the wheat fields and the city.

The site so affected Jim and Cindy Fisher that when it came time to buy a house, they sought one within an easy walk to the arboretum. "We became enamored with that part of town," they said, and like so many others, this oasis of trees is now an important part of their daily lives.



2022 PUBLIC ROW/FRONT YARD TREE INVENTORY ROELAND PARK, KS

AUGUST, 2022

Scope of Work

Wiregrass Ecological was the selected contractor to perform the inventory for all Public ROW Trees within 11' from back of curb as well as Front Yard Trees from 11' to the front face of residential homes, full width of the lot. The inventory included all trees that measured a diameter of 12" or larger.

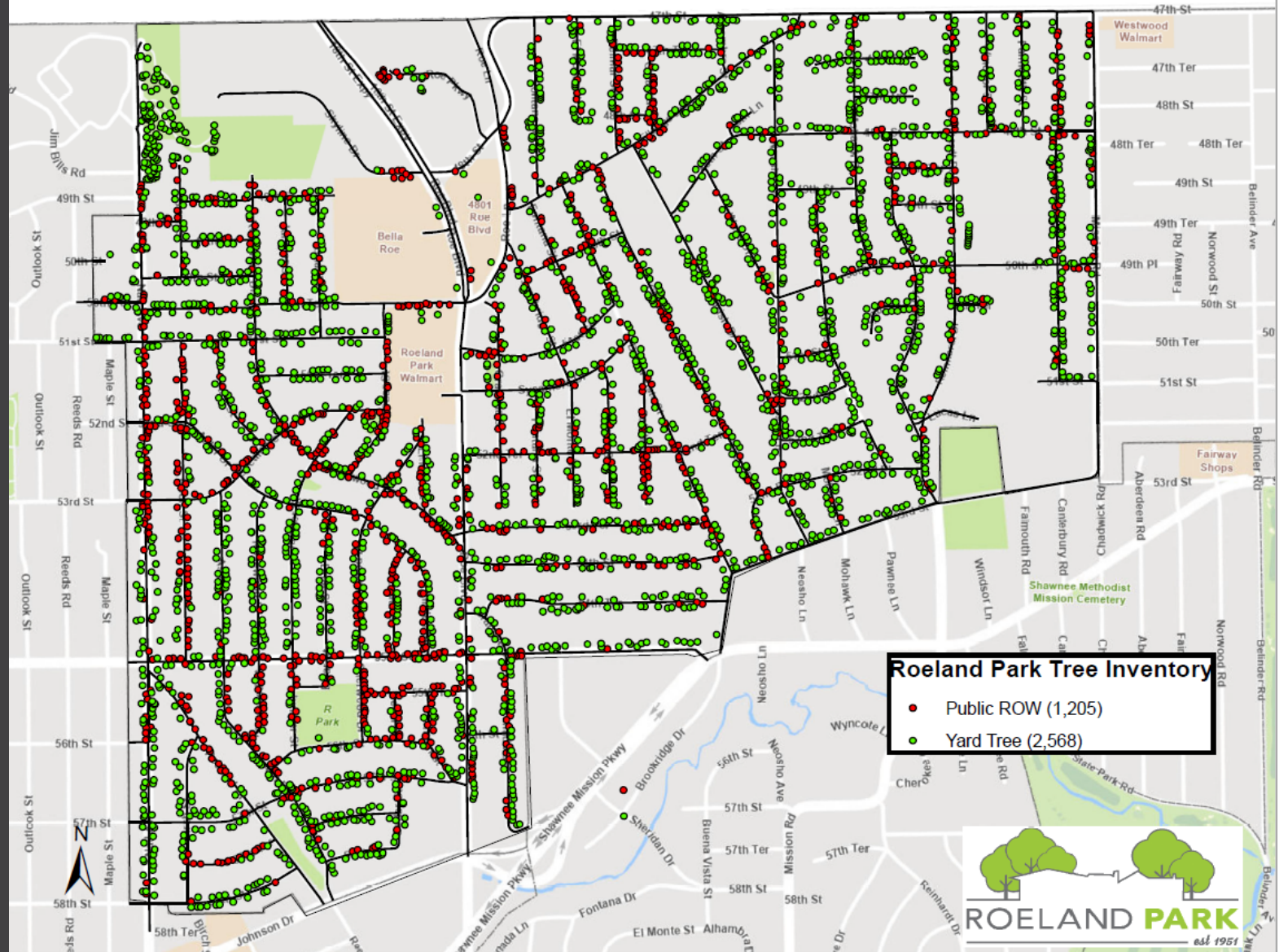
The inventory took place in June and was completed in 10 days. Total cost of inventory was \$27,000

The data fields collected for each tree included:

- Location (point file with latitude/longitude recorded automatically with sub-meter precision through use of the ESRI Field Maps mobile application paired with a BadElf™ GPS Bluetooth receiver)
- The tree species (common and scientific name)
- Diameter at breast height (DBH) in inches
- Estimated height (in 5 foot increments)
- Tree spread (in 5 foot increments)
- The overall condition of the tree (Excellent, Good, Fair, Poor, or Removal)
- Photographs of each tree inventoried to record a visual inspection of the tree for posterity,
- The impact of insect or disease on the tree, and a general notes field to record observations not covered within the other fields or any ancillary observations.

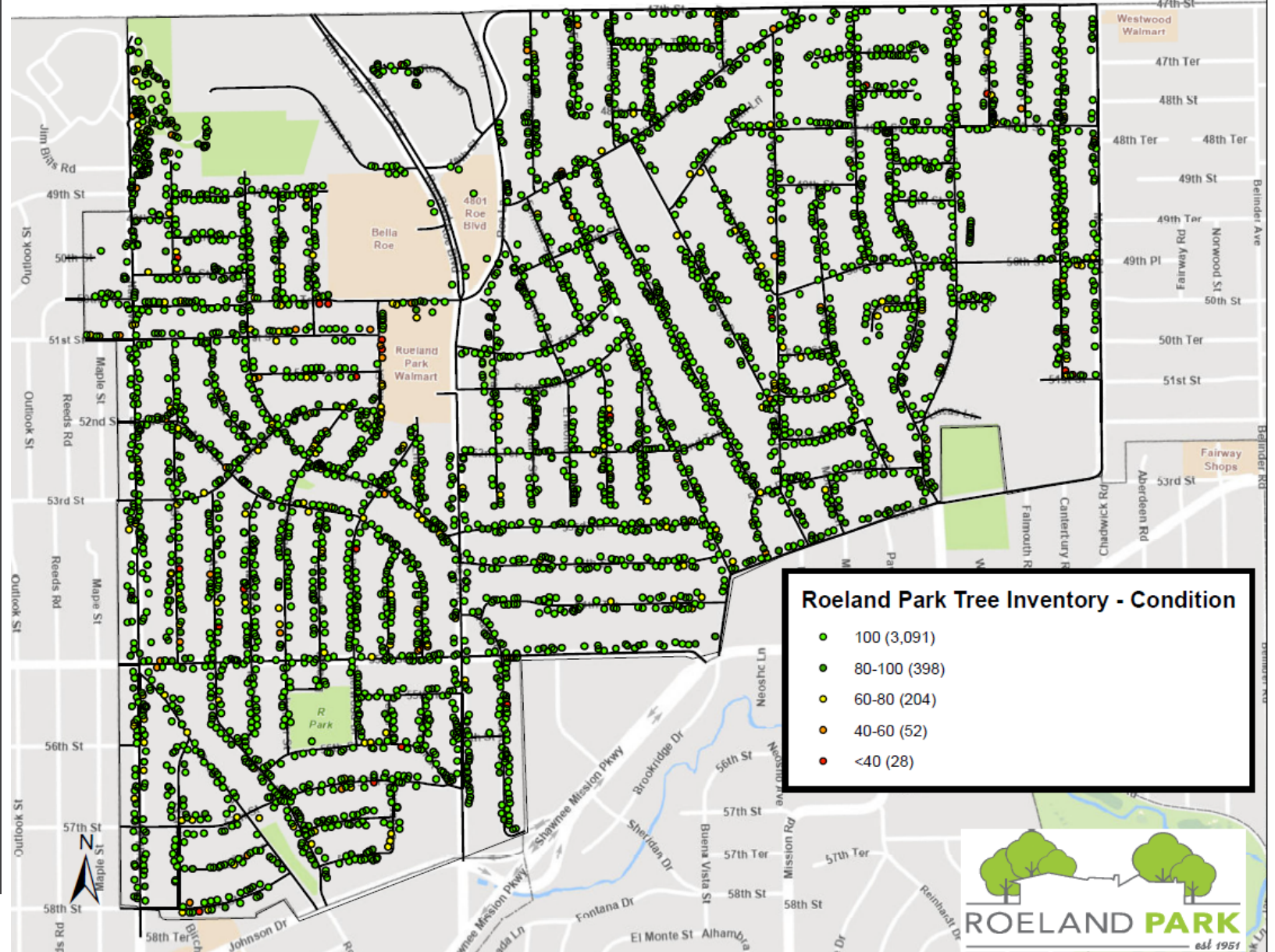
ROELAND PARK TREE INVENTORY LOCATIONS

- 32% of the trees inventoried are located within the **Public ROW**
- 68% of tree inventoried are in the **Front Yards**



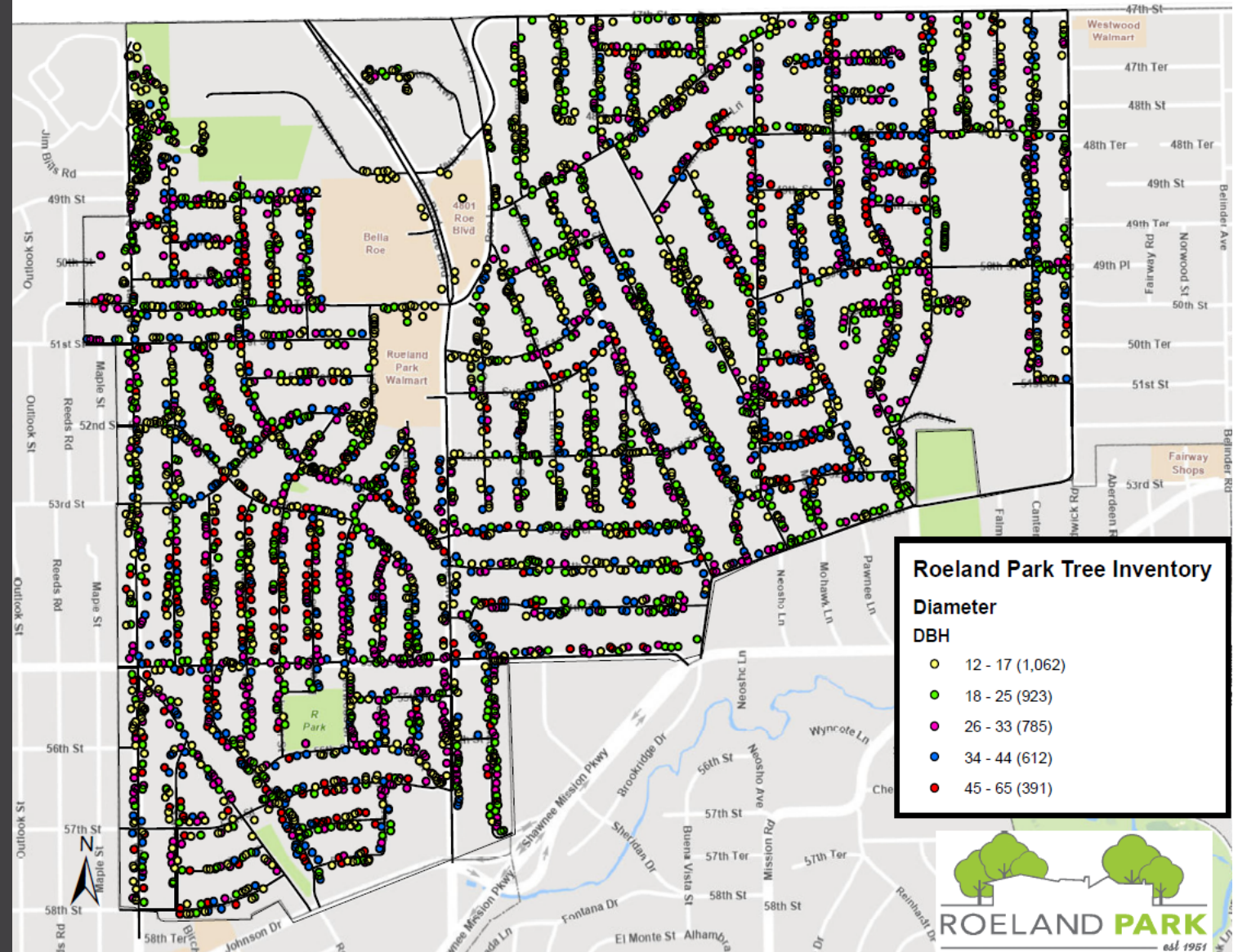
ROELAND PARK TREE INVENTORY - CONDITION

- 82% of the trees inventoried are shown to be in **Excellent** shape
- 10% of the trees inventoried are shown to be in **Good** shape
- 6% of the trees inventoried are shown to be in **Fair** shape
- 1% of the trees inventoried are shown to be in **Poor** shape
- .07% of the trees inventoried are shown to be **Removed**



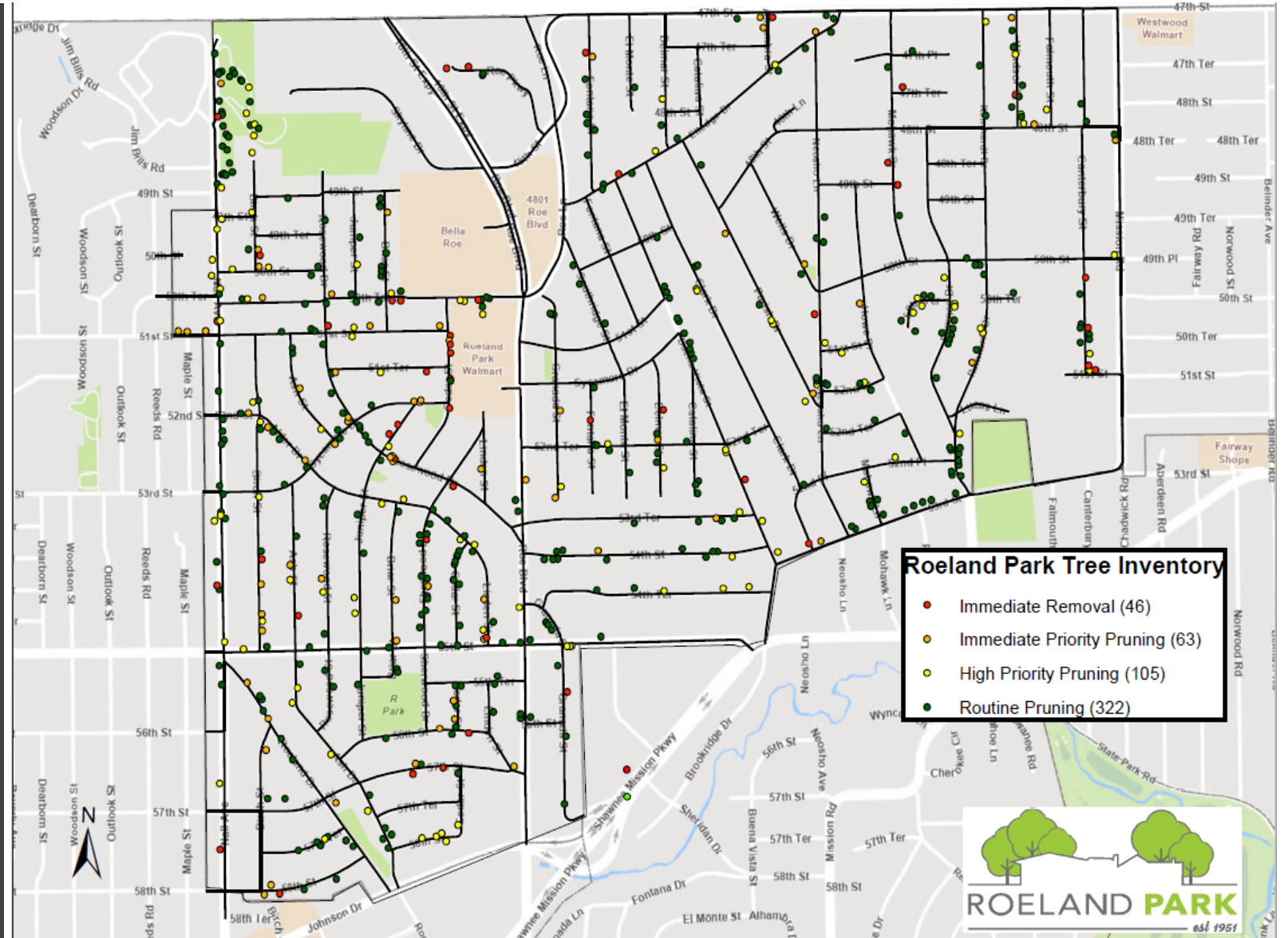
ROELAND PARK TREE INVENTORY – DBH(DIAMETER AT BREAST HEIGHT)

- 28% of the trees have a DBH between 12-17
- 24.5% of the trees have a DBH between 18-25
- 21% of the trees have a DBH between 26-33
- 16% of the trees have a DBH between 34-44
- 10% of the trees have a DBH between 45-65



ROELAND PARK TREE INVENTORY – MAINTENANCE MAP

- 1% of the tree's shown need Immediate Removal(22 trees in public ROW & 24 private front yard trees)
- 1.5% of the trees shown need Immediate Priority Pruning(46 private yard trees & 17 public ROW trees)
- 2.75% of the trees shown need High Priority Pruning
- 8.5% of the trees shown need Routine Pruning



ROELAND PARK TREE INVENTORY

- Each tree that was inventoried has a picture associated with the data point on the map
- Data can be edited or updated if a tree has been removed and/or maintenance was completed
- Provides specific notes and details about each tree

Identify

Identify from: <Top-most layer>

Location

Elm (American)

Location: 2,267,334.914 273,982.497 Feet

Attachments (1)

Field	Value
Condition	80-100
CreationDate	6/12/2022 4:36:38 PM
Creator	sbourgoin_sfc
Damage_Des	Normal dead upper branches
Damage_Yes	Yes
Date_Creat	<null>
Date_Last_	<null>
DBH	20
EditDate	6/22/2022 8:55:37 PM
Editor	<null>
Editor	sbourgoin_sfc
GlobalID	<null>
GlobalID_2	{9C858271-0AEF-484C-A2C0
Height	45
Last_Edit	<null>
Latitude	-94.637142
Longitude	39.036949
Notes	Normal dead upper branches
OBJECTID	2102

Identified 1 feature



CONCLUSIONS

- 92% of the trees inventoried are in great shape
- 3,773 trees inventoried; we have the information needed to discuss next steps
- Maintaining tree canopy is vital to the reduction of greenhouse gases & promotes clean oxygen

ANY
QUESTIONS?



Item Number: **Ordinances and Resolutions:- IX.-**
 E.
Committee **9/16/2024**
Meeting Date:



City of Roeland Park

Action Item Summary

Date: 9/2/2024
Submitted By: Jennifer Jones-Lacy, Assistant City Administrator/Finance Director
Committee/Department: Admin
Title: **Ordinance - Chapter 5 Business Licenses**
Item Type: Ordinance

Recommendation:

To approve the ordinance amending Chapter 5 of the City Code

Details:

Please see attached Ordinance amending chapter five as well as the redlined review from prior meetings. The changes recommended by staff and approved by Council are incorporated in the ordinance.

On the fine for violations of the short-term rental ordinance - we increased it to up to a \$5,000 per month fine if found in violation from the \$750/month as proposed. This was at Council's recommendation and after having a discussion with Judge Torline about the applicability. Providing the language "up to" \$5,000 allows for some determination by the judge based on the case, which was her preference.

Community Impact: Utilizing a lens of intersectionality, illustrate how this item would promote the city's commitment to equity, including improving social determinates of health:

What are the implications to intersectionality?

- Does this item benefit all racial groups?
- Does this item benefit Community for All Ages?
- Does this item exclude or disproportionately impact any social identities? If yes, what populations and why?
- What (if any) social determinants of health are impacted by this item?
- What (if any) are the unintended economic and environmental impacts of this item?
- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

Financial Impact

Amount of Request:	
Budgeted Item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

REVIEWERS:

Department	Reviewer	Action	Date
Administration	Jones-Lacy, Jennifer	Approved	9/12/2024 - 5:55 PM

Goals/Objectives & Terms

ATTACHMENTS:

Description	Type
▣ Chapter 5 - Business Licensing Part 2 - redlines	Cover Memo
▣ Chapter 5 Business Licensing Part 1 Redlines	Cover Memo
▣ Chapter 5 Ordinance	Ordinance

ARTICLE 8. ADULT BUSINESSES

Sec. 5-801. Definitions.

For the purposes of this section and unless the context plainly requires otherwise, the following definitions are adopted:

- (a) *Adult entertainment* means any live exhibition, performance, display or dance of any type, including but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.
- (b) *Adult entertainment business* means any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member.
- (c) *Employee* means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to, the operation of an adult entertainment business.
- (d) *Entertainer* means any person who provides adult entertainment within an adult entertainment business as defined in this section, whether or not a fee is charged or accepted for entertainment.
- (e) *Manager* means any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity at any adult entertainment premises.
- (f) *Operator* means any person operating, conducting or maintaining an adult entertainment business.
- (g) *Person* means any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group of persons however organized.
- (h) *Server* means any person who serves food or drink at an adult entertainment business.
- (i) *Specified anatomical areas* means (1) uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola encircling the nipple; or any combination of the foregoing; or (2) human male genitals in a discernibly erect state, even if completely and opaquely covered.
- (j) *Specified sexual activities* mean sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(Ord. No. 588, § 2)

Sec. 5-802. License Required for Adult Entertainment Businesses.

- (a) It shall be unlawful for any person to operate or maintain an adult entertainment business in the City unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the City, or to operate such business after such license has been revoked or suspended by the City.
- (b) It is unlawful for any entertainer, server employee, or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.
- (c) It shall be prima facie evidence that any adult entertainment business that fails to have posted, in the manner required by this section, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.

(Ord. No. 588, § 3)

Sec. 5-803. License Required for Managers, Servers and Entertainers.

It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining an license to do so from the City, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended.

(Ord. No. 588, § 4)

Sec. 5-804. License, Classification and Fees.

- (a) The license year for all fees required under this article shall be from each January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order. No application shall be considered complete until such fee is paid. There shall be no proration of the license for partial years.
- (b) All licenses shall be issued for a specific location and shall be nonrefundable and nontransferable.
- (c) Annual fees for adult business entertainment licenses, adult entertainment manager's licenses, adult entertainer's licenses and adult entertainment server's licenses shall be an in amount established by resolution adopted by the Governing Body.

(Ord. No. 588, § 5; Code 2012)

Sec. 5-805. License Applications.

- (a) *Adult entertainment business license.* All persons desiring to secure a license to operate an adult entertainment business under the provisions of this article shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:
 - (1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.

-
- (2) The name of the adult entertainment business, a description of the adult entertainment to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.
 - (3) The names, residence addresses, Social Security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10% or greater interest in the corporation.
 - (4) The residence addresses of the applicant, or of all partners, or of all such corporate officers and directors for the five years immediately prior to the date of application.
 - (5) A statement from the applicant, or from all partners, or from all such corporate officers and directors whether any such person or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.
 - (6) A statement of the business, occupation or employment of the applicant, or of all partners, or of all such corporate officers and directors for the three years immediately preceding the date of the application.
 - (7) A statement from the applicant, all partners or from each corporate officer and director that each such person has not been convicted of, or released from confinement for conviction of or diverted from prosecution on:
 - (A) A felony criminal act within five years immediately preceding the application; or
 - (B) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
 - (8) A full set of fingerprints and a photograph, to be taken by the Police Department, of the applicant, or of all partners or of all such corporate officers and directors.
 - (9) If the applicant is a corporation, a current certificate of registration issued by the Kansas Secretary of State.
 - (10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this article regulating adult entertainment businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

- (b) *Adult entertainment manager, server or entertainer license.* All persons desiring to secure a license under the provisions of this article to be an adult entertainment manager, server or entertainer shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be an adult entertainer manager, server or entertainer. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:

-
- (1) The applicant's name, home address, home telephone number, date and place of birth, Social Security number, and any stage names or nicknames used in entertaining.
 - (2) The name and address of each adult entertainment business where the applicant intends to work as a manager, server or entertainer, and an "intent to hire" statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this article, indicating the adult entertainment business intends to hire the applicant to manage, serve or entertain on the premises.
 - (3) A statement from the applicant, that the applicant has not been convicted of, or released from confinement for conviction of or diverted from prosecution on:
 - (A) A felony criminal act within five years immediately preceding the application; or
 - (B) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, indecent exposure, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
 - (4) A full set of fingerprints and a photograph of the applicant to be taken by the police department, of the applicant.
 - (5) The applicant shall present to the City Clerk who shall copy documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
 - (A) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
 - (B) A state-issued identification card bearing the applicant's photograph and date of birth;
 - (C) An official and valid passport issued by the United States of America;
 - (D) An immigration card issued by the United States of America;
 - (E) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
 - (F) Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

- (c) *Application processing.* Upon receipt of a complete application for an adult entertainment business or adult entertainment manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the City ~~Engineer-Building Official~~ and the fire department. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the City Clerk not later than 15 working days from the date the application is received by the City Clerk. It shall be the duty of the City

Engineer and the fire department to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The City ~~Engineer Building Official~~ and the fire department shall report the results of their investigation to the City Clerk not later than 15 fifteen working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police, the City ~~Engineer Building Official~~ and the fire department, the City Clerk shall schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult entertainment business and for an adult entertainment business manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the City Clerk's office. The applicant shall be notified in writing of the date when the Governing Body can consider the application.

(Ord. No. 588, § 5)

Sec. 5-806. Examination of Application, Issuance Of License, Disapproval.

- (a) If the application for an adult entertainment business license or an adult entertainment business manager, server or entertainer is in proper form and accompanied by the appropriate license fee, the Governing Body shall examine the application, and after such examination, the Governing Body shall, if the applicant is qualified, approve a license as provided for by law, provided a license shall not be approved to any person ineligible pursuant to section 5-807.
- (b) The record of the Governing Body shall show the action taken on the application, and if the license is granted the Governing Body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons or entities and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.
- (c) If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the letter of notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Roeland Park Municipal Court by filing a notice of appeal with the Clerk of the Municipal Court within 30 days of the date of the letter of notification. A copy of the notice of appeal shall be immediately filed with the City Clerk. A memorandum of points and authorities in support of the appeal shall be served and filed concurrently with the appeal, and appellant shall immediately serve a copy of the appeal and the memorandum of points and authorities upon the City Attorney. Within 15 days of receipt of a copy of the notice of appeal, the City Clerk shall prepare and file the administrative record with the Clerk of the Municipal Court. Counsel for the City shall serve and file a memorandum of points and authorities in opposition to the appeal within 15 days after service of the appellant's appeal and memorandum of points and authorities. Appellant may serve and file a reply memorandum of points and authorities not later than three days after service of the City's opposition memorandum. Within 25 days after the appeal and accompanying memorandum of points and authorities are filed with the Clerk of the Municipal Court and served upon the City Clerk and the City Attorney, the Municipal Court shall conduct a hearing on the appeal. The Municipal Court shall rule on the appeal within 30 days after the appeal and Accompanying memorandum of points and authorities are filed with the Clerk of the Municipal Court and served upon the City Clerk and the City Attorney. If the Municipal Court has not decided the validity of the license denial within 30 days after the appeal and accompanying memorandum or points and authorities is filed with the Clerk of the Municipal Court and served upon the City Clerk and the City Attorney, the City Clerk shall immediately issue a temporary license to the appellant. The temporary license shall remain in effect only until the Municipal Court has rendered its opinion concerning the validity of the license denial. In the event that the last day of any time period set forth above falls upon a Saturday, Sunday or a legal holiday (as

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(Supp. No. 16, Update 1)

defined by K.S.A. 60-206), the time period shall run until the end of the next day which is not a Saturday, Sunday or a legal holiday. Appeals of the decision of the Municipal Court may be taken as authorized and in the manner provided by Chapter 12, Article 46, of the Kansas Statutes Annotated, as amended.

(Ord. No. 727, § 1; Code 2007)

Sec. 5-807. License—Ineligibility and Disqualification.

No person is eligible nor shall a license be issued to:

- (a) An adult entertainment business applicant if one or more of the following conditions exist:
 - (1) The applicant's business premises is located within 1,000 feet of any school, church, or licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, church, or licensed day care center;
 - (2) The applicant's premises is located within 1,000 feet of any other adult entertainment business for which there is a license issued. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult entertainment business;
 - (3) The applicant failed to supply all of the information requested on the application;
 - (4) The applicant gave materially false, fraudulent or untruthful information on the application;
 - (5) The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City; provided, that upon a showing that the premises meets the requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Governing Body.
 - (6) The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in subsection 5-805(a) during the time period set forth in the subsection.
 - (7) The applicant has had an adult entertainment license revoked or suspended in this or any other city during the past five years.
- (b) An applicant for an adult entertainment manager, server or entertainer if one or more of the following conditions exist:
 - (1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (a) above;
 - (2) The applicant has been convicted, released from incarceration for conviction, or diverted on any of the crimes set forth in subsection 5-805(b) during the time period set forth in the subsection;
 - (3) The applicant failed to provide all of the information required on the application;
 - (4) The applicant gave materially false, fraudulent or untruthful information on the application;
 - (5) The applicant has had a manager, server or entertainer license revoked or suspended in this or any other city during the past five years.

(Ord. No. 588, § 7)

Sec. 5-808. Standards of Conduct.

The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business:

- (a) *Age restriction.* Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment business.
- (b) *Exterior observation.* The premises of all adult entertainment businesses will be so constructed as to include an anteroom, foyer, partition or other physical barrier on all customer entrances, that will insure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
- (c) *Exterior display.* No adult entertainment business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance of any material or persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein, from any exterior source by display, decoration, sign, show window or other opening.
- (d) *Nudity prohibited.* No employee, server or entertainer in an adult entertainment business shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.
- (e) *Certain acts prohibited.*
 - (1) No employee, server, entertainer or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.
 - (2) No employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.
 - (3) No employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.
 - (4) No entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this chapter and no adult entertainer shall receive any payment or gratuity from any customer or patron for any entertainment except as follows:
 - (A) While such entertainer is on the stage a customer or patron may place such payment or gratuity into a box affixed to the stage; or
 - (B) While such entertainer is not on the stage and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.
 - (5) No owner, operator, manager or other person in charge of the premises of an adult entertainment business shall:

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- (A) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises;
 - (B) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or legal drug or narcotic on the premises;
 - (C) Knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;
 - (D) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises; or
 - (E) Knowingly allow or permit a violation of this article or any other City ordinance provision or state law.
- (f) *Signs required.* All adult entertainment businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on which uppercase letters shall be at least two inches high, and lower case letters at least one inch high, which shall read as follows:

**THE ADULT ENTERTAINMENT BUSINESS IS REGULATED
AND LICENSED BY THE CITY OF ROELAND PARK**

ENTERTAINERS ARE:

- Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer or to permit any employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of said entertainer.
- Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and or genitals.
- Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:
 - O While such entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage; or
 - O While such entertainer is on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

CUSTOMERS ARE:

- Not permitted to be upon the stage at any time.
 - Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.
- (g) *Lighting required.* The premises of all adult entertainment businesses shall be equipped with overhead lighting of every place to which customers are permitted access at an illumination of not less than one foot candle as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.
- (h) *Closed booths or rooms prohibited.* The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.

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- (i) *Ventilation and sanitation requirements.* The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and restrooms for men and women shall at all times be maintained and kept in a sanitary condition.
 - (j) *Hours of operation.* No adult entertainment business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 2:00 a.m. and 12:00 ~~p.m.~~ ~~noon.~~

(Ord. No. 588, § 8)

Sec. 5-809. License; Posting or Display.

- (a) Every person, corporation, partnership, or association licensed under this article as an adult entertainment business shall post such license in a conspicuous place and manner on the adult entertainment business premises.
- (b) Every person holding an adult entertainment server, manager or entertainer license shall post ~~his or her~~ their license in ~~his or her~~ their work area on the adult entertainment business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this article.

(Ord. No. 588, § 9)

Sec. 5-810. Manager on Premises.

- (a) An adult entertainment manager shall be on duty at all adult entertainment businesses at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.
- (b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainer license or an adult entertainment servers license and that such licenses are prominently posted.

(Ord. No. 588, § 10)

Sec. 5-811. Suspension, Revocation, or Non-Renewal of License.

Whenever the City Clerk has information that:

- (a) The owner or operator of an adult entertainment business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this article;
- (b) There have been recurrent violations of provisions of this article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed;
- (c) The adult entertainment business license or the adult entertainment manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof;
- (d) The adult entertainment business licensee or the manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof;

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- (e) The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in section 5-805(a);
 - (f) The holder of an adult entertainment manager, server or entertainer license has become disqualified from having a license by a conviction as provided in section 5-805(b); then the City Clerk shall make this information known to the Governing Body, which upon five days' written notice to the person holding the license shall conduct a public hearing to determine whether the license should be suspended or revoked. The Governing Body may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the Governing Body may take any of the following actions:
 - (1) Suspend the license for up to 90 days.
 - (2) Revoke the license for the remainder of the license year.
 - (3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the article occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred the license will be revoked for the remainder of the license year.

(Ord. No. 588, § 11)

Sec. 5-812. Renewal.

- (a) A license may be renewed by making application to the City Clerk on application forms provided for that purpose. Licenses shall expire on December 31st of each calendar year, and renewal applications for such licenses shall be submitted between December 16th and December 31st.
- (b) Upon timely application and review as provided for a new license, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided in this article.
- (c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected, and a new application shall be required.

(Ord. No. 588, § 12)

Sec. 5-813. Judicial Review—Stay of Enforcement of Orders.

Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this article, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in the Roeland Park Municipal Court by filing a notice of appeal with the Clerk of the Municipal Court within 30 days of the date of the letter of notification. A copy of the notice of appeal shall be immediately filed with the City Clerk. A memorandum of points and authorities in support of the appeal shall be served and filed concurrently with the appeal, and appellant shall immediately serve a copy of the appeal and the memorandum of points and authorities upon the City Attorney. The City Clerk shall stay enforcement of any such order pending the final disposition of the appeal by the Municipal Court. Within 15 days of receipt of a copy of the notice of appeal, the City Clerk shall prepare and file the administrative record with the Clerk of the Municipal Court. Counsel for the City shall serve and file a memorandum of points and authorities in opposition to the appeal within 15 days after service of the appellant's appeal and memorandum of points and authorities. Appellant may serve and file a reply memorandum of points and authorities not later than three days after service of the City's opposition memorandum. Within 25 days after the appeal and accompanying memorandum of points and authorities are filed with the Clerk of the Municipal Court and served upon the City Clerk and the City Attorney, the Municipal Court shall conduct a hearing

on the appeal. The Municipal Court shall rule on the appeal within 30 days after the appeal and accompanying memorandum of points and authorities are filed with the Clerk of the Municipal Court and served upon the City Clerk and the City Attorney. In the event that the last day of any time period set forth above falls upon a Saturday, Sunday or a legal holiday (as defined by K.S.A. 60-206), the time period shall run until the end of the next day which is not a Saturday, Sunday or a legal holiday. Appeals of the decision of the Municipal Court may be taken to the Johnson County District Court as authorized and in the manner provided by Chapter 12, Article 46, of the Kansas Statutes Annotated, as amended. In the event of such an appeal to the District Court, the City Clerk need not stay enforcement of any order pending the final disposition of proceedings for judicial review unless ordered to do so by the District Court.

(Ord. No. 727, § 2; Code 2007)

ARTICLE 9. PAWNBROKERS AND PRECIOUS METAL DEALERS

Sec. 5-901. Regulations.

The provisions of K.S.A. 16-706 through K.S.A. 16-722 concerning the regulation of pawnbrokers and precious metal dealers are hereby adopted by reference.

(Ord. No. 526, § 1)

Sec. 5-902. Pledge or Purchase; Weapons.

No pawnbroker shall receive as a pledge or purchase any revolver, pistol, blackjack or sawed-off shotgun and no pawnbroker shall display in such pawnbroker's store window or place of business and such weapon for sale or offer any such weapon for sale.

(Ord. No. 526, § 2)

Sec. 5-903. Special Use Permit.

Before any pawnbroker's or precious metal dealers business shall be conducted within the City limits of the City, the applicant shall obtain from the City Council a special use permit as provided herein.

(Ord. No. 526, § 3)

Sec. 5-904. Same; Issuance.

Upon receipt of a properly completed application for a license, the City Clerk shall place the issuance of such license on the agenda for the City Council meeting next following the date of the receipt of the application.

The applicant shall be advised of the time and place at which the City Council shall hear the applicant's request for a special use permit and the applicant shall be given the opportunity to be heard concerning the request.

If the City Council makes the findings required in section 5-905 hereof, the City Council shall grant a special use permit allowing the location described in the application to be used to conduct the business described in the application. In the event that the City Council grants such special use permit, the City Clerk shall issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the

licensee, the date of the issuance and length of time the license shall be operative, and the nature of the business involved.

The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The person to whom such license is issued shall have the license in ~~his or her~~their possession at all times while conducting any business within the City.

In the event that the City Council fails to grant the special use permit, the applicant shall be advised that the special use permit has not been granted and the applicant's application shall be denied.

(Ord. No. 526, § 4)

Sec. 5-905. Same; Application.

The City Council shall grant the applicant a special use permit if the City Council finds all of the following:

- (a) The use, as proposed by the applicant, if permitted, will comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.
- (b) The use, as proposed by the applicant, if permitted, would be in harmony with the intent and purpose of the City's zoning law or comprehensive plan.
- (c) The use, as proposed by the applicant, if permitted, would be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.
- (d) The use, as proposed by the applicant, if permitted, will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood, and will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity.
- (e) The use, as proposed by the applicant, if permitted, would have no detrimental effect on vehicular or pedestrian traffic.
- (f) The use, as proposed by the applicant, if permitted, would not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area.
- (g) The use, as proposed by the applicant, if permitted, would not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements.

In addition to the foregoing findings required to grant a special use permit the City Council may deny a special use permit for the particular business, if the City Council finds any of the following:

- (i) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.
- (ii) The applicant, if an individual, or any of the stockholders holding more than ten percent of the stock of the corporation, any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime involving fraud, deceit, theft of property, possession of stolen property or similar crime, unless such conviction occurred at least five years prior to the date of the application.
- (iii) The applicant has had a similar permit denied, suspended revoked by any City, state or local agency within five years the date of the application.

(Ord. No. 526, § 5)

ARTICLE 10. REGULATING BUSINESSES' HOURS OF OPERATION

Sec. 5-1001. Definitions.

For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise:

- (a) *Business* means any person or entity conducting business within the City which is required to obtain a license or permit pursuant to the provisions of Article 1, Article 3, Article 5, Article 6, Article 8, ~~or Article 9, Article 13, or Article 14~~ of Chapter 5 of the Code. Notwithstanding the foregoing, the term business shall not apply to persons engaged in the business of owning and renting residential property and required to pay an annual occupation fee pursuant to section 5-104(c) of this chapter where such activity is operated on residential property.
- (b) ~~Existing business means a business, as defined above and existing on May 26, 1999, and for which all licenses or permits required by Chapter 5 of this Code have been obtained.~~
- (c) *Residential property* means any property zoned Single Family Residence District, Duplex Residence District or Multiple Residence District under the City's zoning regulations.

(Ord. No. 687, § 1)

Sec. 5-1002. Restrictions on Hours of Operation.

Except where a waiver has been granted pursuant to section 5-1004, it shall be unlawful for any business located within 200 feet of residential property to conduct business on its premises between the hours of ~~8:11:00 p.m. and 7:5:00 a.m.~~ For purposes of determining whether the business premises are located within 200 feet of residential property, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the business enterprise to the nearest point on the property line of the residential property.

(Ord. No. 687, § 2)

~~Sec. 5-1003. Application.~~

~~This article shall apply to all businesses established within the City after May 26, 1999. Except as otherwise provided below, this article shall not apply to existing businesses. Where there is a change in operation on any business premises, the business established after the change in operation shall be subject to the provisions of this article. For purposes of this section, the phrase change in operation shall include both a change from one type of a business to a different type of business, regardless of ownership, and a change in ownership of the business. The determination that a change in operation has occurred shall be made by the City Administrator, whose decision shall be appealable by the business owner to the Governing Body. Upon any such appeal, the determination of the Governing Body shall be final.~~

~~(Ord. No. 687, § 3)~~

RESERVED

Commented [JJ1]: Alex, okay to delete this?

Commented [AF2R1]: Yes, but should just delete the whole definition then. The only other reference to "existing businesses" in this Section 5-1003, which is also being deleted in its entirety.

Commented [JJ3]: This is not followed, recommend removal. Maybe 11 p.m. - 5 a.m.?

Commented [AF4R3]: Do we have any 24-hour businesses that would violate 11p-5a? (Thinking of Wal-Mart shopping center). If not, then 11p-5a works if it works for the Council.

Commented [JJ5]: No longer relevant

Sec. 5-1004. Waivers.

The owner of any business to which this article applies may request a waiver of the provisions of this article from the Governing Body. The Governing Body may grant a waiver when it determines, in its sole discretion, that the application of the provisions of this article to such business would result in undue hardship to the business and that the grant of a waiver would not be detrimental to the neighborhood or the community at large. Provided, however, that the Governing Body may revoke any such waiver if it determines, following a hearing, that (i) the person receiving the waiver provided false or misleading information to the Governing Body at the time the waiver was approved, or (ii) the person receiving the waiver has violated any condition imposed at the time the waiver was approved. Written notice of any waiver revocation hearing shall be hand-delivered or sent by certified mail, return receipt requested, at least 10 days prior to the date of the hearing.

(Ord. No. 687, § 4)

ARTICLE 11. PAYDAY AND TITLE LOAN BUSINESSES

Sec. 5-1101. Legislative Findings.

These businesses should be regulated by the City because certain payday and title loan lending practices have proven detrimental to the financial security of individuals and families residing in the City. Payday and title loan lending practices often have an unreasonably adverse effect upon the elderly, the economically disadvantaged and other residents of the City. Frequently, taking a payday or title loan puts borrowers in much worse financial shape than before they took the loan. Therefore, the purpose of this ordinance is to require licensing for the purpose of regulating certain payday and title loan lending practices to minimize the detrimental effects of such practices on the citizens of the City by regulating payday and title loan lending practices occurring in the City, consistent with the laws of the State of Kansas. Furthermore, the City finds there is a need to regulate the placement and location of Payday and Title Loan businesses throughout the City. A clustering of these businesses can have a detrimental effect on the neighborhood and create the appearance of a commercial district in decline. These businesses do not create much foot traffic for adjacent businesses and a proliferation of them at particular locations can overwhelm a neighborhood and can be a disincentive for the location of other neighborhood businesses in close proximity to them. Finally, the fact that many surrounding communities in the metropolitan area are adopting or considering adopting restrictions on the location of such businesses could result in the City having an undue concentration of these businesses in the City unless location regulations are enacted.

(Ord. No. 829, § 2)

Sec. 5-1102. Definitions.

The term "payday loan business" shall refer to any business regulated by K.S.A. 16a-2-404, as the same may be amended from time to time. The term "title loan business" shall refer, except as provided below, to a consumer loan transaction, including a loan made pursuant to K.S.A. 16-706 et seq., and amendments thereto, secured by a vehicle. It shall not include a purchase money consumer loan or a loan made pursuant to subsection (2) of K.S.A. 16a-2-401 and amendments thereto. The term "vehicle," for the purposes of this section, means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway and the ownership of which is evidenced by a certificate of title.

(Ord. No. 829, § 3)

Sec. 5-1103. Permit Required.

Within 60 days of the effective date of this ordinance, it shall be unlawful for any person or business:

- (a) To operate or maintain a payday or title loan business in the City unless the owner, operator or lessee thereof has applied for and obtained a payday loan and title loan business permit from the city; or
- (b) To operate such business after such permit has expired or has been revoked or suspended by the city.

Permits shall be required for each location a lender operates in the City, shall be valid for a one-year period of time and may be renewed annually. The application shall be in a form to be determined by the City Clerk. The annual cost for the permit shall be in an amount established by resolution adopted by the Governing Body. This permit shall be in addition to any other permit or license required by other local, state or federal government agencies. No permit shall be issued for any business seeking to operate at a location prohibited by any applicable local, state or federal law, statute, ordinance, rule or regulation; provided, however, that a business lawfully in existence on the date of adoption of such prohibition may be issued a permit if allowed by such provisions.

(Ord. No. 829, § 4; Code 2012)

Sec. 5-1104. Separation Requirements.

No permit shall be issued for any payday or title loan business that is located within 5,280 feet of any other payday or title loan business or within 200 feet of any property used primarily for a single-family residence, a two-family residence, a town home, or an apartment building. The separation distances shall be measured from or to the outer wall of the payday or title loan business, and from or to the property line of the property containing the residential use. However, this separation provision shall not apply to any payday or title loan business that can demonstrate to the City that it was in operation at the location requested in the permit application prior to the effective date of this ordinance, and that it has operated continuously under the same business name since that time.

(Ord. No. 829, § 5)

Sec. 5-1105. Posting Required.

Any business that applies for and receives a payday or title loan business permit from the City shall keep such permit posted on a wall within their business in a prominent location clearly visible to potential customers. Failure to keep the permit posted in the manner required shall be prima facie evidence that the business has not obtained such a permit. It shall also be prima facie evidence that any person who performs any business or service as part of the payday or title loan business had knowledge that such business was not permitted. In addition, any business that applies for and receives a payday or title loan business permit from the City shall post a sign in the business at a location clearly visible to potential customers that informs customers of their rights under federal, state or local laws, in a form approved by the City Attorney.

(Ord. No. 829, § 6)

Sec. 5-1106. Unlawful to Work Without Permit.

It shall be unlawful for any person to knowingly perform any work or service directly related to the operation of a payday or title loan business that does not have a valid payday or title loan business permit.

(Ord. No. 829, § 7)

Sec. 5-1107. Periodic Inspection.

Any business that applies for and receives a payday or title loan business permit from the City shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate City officials, including the inspection of only those business records necessary for the limited purpose of determining whether such business enterprise is in compliance with this ordinance or any other applicable state or federal law or regulation. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

(Ord. No. 829, § 8)

Sec. 5-1108. Suspension or Revocation.

Any permit issued pursuant to this article shall be subject to suspension or revocation for the violation of any provision of this ordinance or any applicable local, state or federal law, statute, ordinance, rule or regulation. Prior to suspension or revocation of any permit, the City Clerk shall schedule a hearing for the proposed suspension or revocation on the agenda of any regular or special meeting of the City Council and shall mail notice of such hearing to the permittee at least ten days prior to the date of the hearing. At such hearing, the permittee shall show cause to the City Council why the permit should not be suspended or revoked.

(Ord. No. 829, § 9)

Sec. 5-1109. Penalty.

Any violation of any provision of this article by a person or business shall be a public offense and shall be subject to the penalties, fines and civil remedies as set forth in section 1-117 of the Code.

(Ord. No. 829, § 10)

ARTICLE 12. PROHIBITED DISCRIMINATION IN EMPLOYMENT, HOUSING, AND PUBLIC ACCOMMODATIONS¹

Sec. 5-1201. Definitions.

The definitions contained within the Kansas Acts Against Discrimination, K.S.A. 44-1001 et seq., the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 et seq., and the Discrimination Against Military Personnel Act, K.S.A. 44-1125 et seq., and amendments thereto, shall apply to this article unless specifically defined herein. For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise.

- (a) *Aggrieved individual* means any individual who has a good faith belief that such individual has been injured by an unlawful discriminatory practice.

¹Editor's note(s)—Ord. No. 990, §§ 1, 2, adopted Mar. 2, 2020, repealed the former Art. 12, §§ 5-1201—5-1204, and enacted a new Art. 12 as set out herein. The former Art. 12 pertained to similar subject matter and derived from Ord. No. 979, § 1, adopted May 20, 2019.

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- (b) *City* means the City of Roeland Park, Kansas.
 - (c) *Code* means the Code of the City of Roeland Park, Kansas.
 - (d) *Days* means calendar days. If a deadline falls on a day city hall is not open (e.g. a weekend, a holiday recognized by the city, emergency closure) the deadline will be extended to the next day city hall is open.
 - (e) *Employee* means any individual employed by an employer, but does not include any individual employed by such individual's parents, spouse or child or in the domestic service of any individual. Employee also does not include an independent contractor.
 - (f) *Employer* means any individual or entity (e.g. corporation, partnership, limited liability company, association, labor organization, mutual company, joint-stock company, trust, unincorporated organization) employing one or more employees, the city (including all departments, boards, agencies), and any city contractor. For purposes of this article, no religious organization or non-profit fraternal or social association/corporation shall be considered to be an employer.
 - (g) *Familial status* means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or have resided together in the past, and persons who have a child in common regardless of whether they have been married or have lived together at any time.
 - (h) *Gender identity* means an individual's actual or perceived (by the individual or another) gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics regardless of the individual's designated sex at birth.
 - (i) *Hearing officer* means the City of Roeland Park Municipal Judge.
 - (j) *Homeowners Association* means an organization in a subdivision, planned community or condominium that makes and enforces rules for the properties and their residents.
 - (k) *Investigator* means the City of Roeland Park, Kansas Prosecutor.
 - (l) *Military status* means a person who is serving or has served in the uniformed services, and who, if discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2), or amendments thereto. Uniformed services is defined as set forth in 20 C.F.R. 1002.5(o), or amendments thereto.
 - (m) *Nonprofit fraternal or social association/corporation* means an association or corporation that meets all of the following requirements:
 - (1) It is organized in good faith for social or fraternal purposes;
 - (2) Membership entails the payment of bona fide initiation fees or regular dues;
 - (3) There exists a regularly established means of self-government by the members thereof clearly set forth in a constitution or by-laws adopted by the membership;
 - (4) There is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates; and
 - (5) It is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.
 - (n) *Place of public accommodation* shall include every establishment within the city that is open to the public and offers any product, service or facility. The term place of public accommodation shall include, but not be limited to, all taverns, hotels, motels, apartment hotels, apartment houses with one or more tenant units, restaurants or any place where food or beverages are sold, retail and wholesale

establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof. The term place of public accommodation shall not, however, include:

- (1) A religious organization;
 - (2) Any hotel, motel, restaurant or theater operated by a nonprofit fraternal or social association/corporation which restricts its facilities and services to the members of such association/corporation and their guests; or
 - (3) Any nonprofit fraternal or social association/corporation, or bona fide civic, political or religious organization, when the profits of such association/corporation or organization, above reasonable and necessary expenses, are solely for its benefit or mission.
- (o) Protective Hairstyles means inclusive, but not limited to, such hairstyles as braids, afros, bantu knots, cornrows, curls, locs, twists, or hair that is tightly coiled or tightly curled.
- (p) Race means inclusive of traits including, but not limited to, skin color, certain facial features, hair texture and protective hairstyles.
- (q) Religious organization means a church, mosque, temple, synagogue or other entity principally devoted to religious practice or religious teaching.
- (r) Rent means to lease, to sublease, to let or otherwise to grant the right to occupy premises not owned by the occupant in exchange for payment or other consideration.
- (s) Rental housing means any real property, consisting of one or more dwelling units, which is required to obtain a license or permit pursuant to the provisions of Article 7 of Chapter 5 of the Code.
- (t) Respondent means the individual or entity against whom a complaint alleging discrimination or retaliation has been filed with the city.
- (u) Sexual orientation means an individual's actual or perceived (by the individual or another) emotional, romantic, or sexual attraction to other people, such as heterosexual, homosexual, bisexual, pansexual or asexual.

(Ord. No. 990, §§ 1, 2, 3-2-2020)

Sec. 5-1202. Declaration of Policy.

- (a) The right of an otherwise qualified individual to be free from discrimination because of that individual's race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status or military status is hereby recognized. This right shall include, but not be limited to, any of the following:
- (1) The right to pursue and hold employment and the benefits associated therewith without wrongful discrimination.
 - (2) The right to the full enjoyment of any of the services, advantages or privileges of any place of public accommodation without wrongful discrimination.
 - (3) The right to engage in property transactions, including obtaining housing for rent or purchase and credit therefor, without wrongful discrimination.
 - (4) The right to exercise any right granted under this article without retaliation.
- (b) To protect these rights, it is hereby declared to be the purpose of this article to extend the law to:
- (1) Prohibit discrimination and retaliation based upon sexual orientation and gender identity;

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- (2) Prohibit the enforcement of restrictive covenants that discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status or military status; and
 - (3) Provide a local process for the acceptance, investigation and resolution of complaints of discrimination and retaliation arising hereunder.
- (c) To protect these rights, it is hereby declared that any construction after enactment of this article shall ensure individual privacy in all restrooms, public shower spaces and dressing rooms.

(Ord. No. 990, §§ 1, 2, 3-2-2020)

Sec. 5-1203. Unlawful Practices.

- (a) It shall be an unlawful discriminatory practice for an employer, because of the sexual orientation or gender identity of an otherwise qualified individual, to refuse to hire or employ such individual, to bar or discharge such individual from employment or to otherwise discriminate against such individual in compensation or in terms, conditions or privileges of employment without a valid business necessity. This article shall not apply to employment by a religious organization that consists of religious teaching, ministry, or other religious duties or practices.
- (b) It shall be an unlawful discriminatory practice for an individual or entity to discriminate against any individual in the terms, conditions or privileges of the sale or lease of real property or the lease of rental housing, or in the provision of services or facilities in connection therewith, because of sexual orientation or gender identity or to discriminate against any individual in such individual's use or occupancy of rental housing because of the sexual orientation or gender identity of individuals with whom such individual associates. Nothing in this article shall prohibit a religious organization or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, from limiting the sale, rental or occupancy of real property or rental housing which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals.
- (c) It shall be an unlawful discriminatory practice for the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, privileges, advantages and accommodations to any individual because of sexual orientation or gender identity.
- (d) It shall be an unlawful discriminatory practice for any homeowners association or owner of real property, including any agent of the owner, to enforce or seek to enforce or comply with any provision in a written instrument relating to the real property which purports to forbid or restrict the conveyance, encumbrance, leasing, ownership, occupancy or mortgaging of such real property to any person of a specified race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status or military status.
- (e) It shall be a defense to any allegation of an unlawful discriminatory practice:
 - (1) That the individual or entity did not know the aggrieved individual's sexual orientation or gender identity;
 - (2) That the individual or entity acted in good faith and had reasonable grounds for believing that an act or omission was not a violation of this article; or
 - (3) That any adverse action taken against the aggrieved individual would have been taken regardless of the individual's sexual orientation or gender identity (i.e. the aggrieved individual violated the law, a workplace rule, a lease provision or policy applicable to all similarly situated individuals, such as employees, lessees, customers, etc.).

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(Supp. No. 16, Update 1)

(f) Nothing in this article shall:

- (1) Prohibit a fraternal or social association/corporation in fact not open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members;
- (2) Prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law;
- (3) Require an employer to hire unqualified individuals or to retain employees when there is a legitimate non-discriminatory or non-retaliatory reason to terminate employment;
- (4) Be construed to prohibit an employer from requiring all of its employees, as a condition of employment, to utilize the employer's applicable established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace. The fact that employer requires an employee to utilize the employer's applicable established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace shall not, in itself, be deemed a violation of this article. However, an employee may simultaneously file a complaint with the city as provided in this article; completion of the employer's procedures is not a pre-requisite to filing a complaint with the city;
- (5) Be construed to require any person or entity subject to this article to make changes requiring a building permit to any existing facility, except as otherwise required by law;
- (6) Be construed to prohibit an employer or place of public accommodation to post signs for restrooms and dressing rooms based on gender; or
- (7) Be construed to make it lawful to discriminate or retaliate against individuals on the basis of race, color, religion, national origin, sex, age, disability, marital status, familial status or military status. Such discrimination and retaliation is not addressed in this article because federal and state law consistently address unlawful discriminatory and retaliatory practices related to those characteristics and provide a complaint, investigation and enforcement process for such discrimination and retaliation.

(Ord. No. 990, §§ 1, 2, 3-2-2020)

Sec. 5-1204. **Enforcement.**

- (a) Any aggrieved individual by an alleged violation of this article may file a written complaint with the City Clerk that the individual has been, or is being, subject to an alleged unlawful discrimination practice as set forth in this article (or if a minor, through the minor's parent, legal guardian or attorney) by completing and signing the form provided by the city. The complaint shall state the names and contact information of the aggrieved individual, the individual(s) and/or business/businesses alleged to have committed the unlawful discriminatory practice(s), a description of the alleged unlawful conduct and all other information as may be required by the city. The name(s) and contact information of the aggrieved individual(s) may be redacted before publication, pursuant to a public records request, and upon request of the complainant, as authorized by K.S.A. 45-221(11) (30).
- (b) The complaint form shall be submitted to the investigator via hand-delivery, certified mail, email or fax, and shall only be considered complete if all information required by the city's form has been provided to the extent such information is reasonably available to the aggrieved individual.

Commented [JJ6]: Question: Can this be anonymous?

Commented [AF7R6]: Yes, the Kansas Open Records Act allows records of "administrative adjudication" to be closed if disclosure would "reveal the identity of a confidential source[.]" KORA also allows closure of "public records containing information of a personal nature where public disclosure would constitute a clearly unwarranted invasion of privacy." Please see my included language.

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- (c) The complaint form must be filed within 60 days of the alleged unlawful discriminatory practice, unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it must be filed within 60 days of the last act of discrimination.
 - (d) Upon receipt of a complete complaint, the investigator shall notify the respondent(s) of the complaint, providing sufficient details related to the complaint so the respondent(s) may respond. The investigator shall give the respondent(s) 30 days to file a written answer to the complaint, and to provide any documentation or evidence related to the complaint. The investigator may, at the request of respondent(s), extend the answer period an additional 30 days. If the respondent(s) charged with violating the provisions of this article is the city, the city will engage an independent investigator who shall not otherwise be an employee, agent, or contractor of the city and shall not have any association with the complainant or the respondent(s).
 - (e) Following the conclusion of the answer period, the investigator may initiate an investigation period, requesting that the complainant and/or respondent(s) provide additional information, documentation or testimony as needed to facilitate the investigation of the complaint. The investigator shall have the power to issue process and compel the production of documents. Such process shall be executed by the chief of police and shall be enforced as in all cases of city ordinances. This investigation period shall be concluded within 60 days of the investigator's last request for information, unless the investigator notifies the complainant and the respondent(s) in writing of the need for additional time and reason(s) therefore.
 - (f) Within 30 days of the conclusion of the investigation period, the investigator will review all evidence received during the investigation and make a determination whether probable cause exists that the respondent(s) committed an unlawful discriminatory practice. The investigator will maintain all evidence received during the investigation for a period of two years after the deadline for appeal or completion of appeal, whichever is later.
 - (g) If the investigator finds that probable cause does not exist, then the investigator shall notify the complainant and the respondent(s), and no further action shall be taken by the city. The complainant may appeal the investigator's determination to the District Court of Johnson County, Kansas, in accordance with K.S.A. 60-2101(d), and amendments thereto. Within 30 days of service of the notice of appeal pursuant to K.S.A. 60-2101(d), or within further time allowed by the court or by other provision of law, the city shall transmit to the court a certified copy of the investigator's written determination and a certified copy of all evidence received by the investigator during the investigation.
 - (h) If the investigator finds that probable cause exists that an unlawful discriminatory practice was committed by respondent(s), the investigator shall notify the complainant and respondent(s) and request conciliation and settlement. If a party refuses to participate in conciliation and settlement, or if a settlement agreement is not executed within 60 days of the date of the finding of probable cause, the matter shall be referred to the hearing officer for a hearing. The investigator may extend the time for signing a settlement agreement for good cause and with written notice to the parties.
 - (i) Upon referral to the hearing officer, the hearing officer shall schedule a hearing on the complaint. The parties shall be given at least ten days' written notice of the date, time and place of the hearing. At such hearing, the parties shall be entitled to call witnesses and to present such other evidence as appropriate. The hearing shall be conducted in accordance with such procedures as may be established by the hearing officer, but the rules of evidence used in courts of law need not be strictly enforced. The hearing officer shall have the power to administer oaths and to issue process and compel the attendance of any party or witness. Such process shall be executed by the chief of police and shall be enforced as in all cases of city ordinances.
 - (j) Following the conclusion of the hearing, the hearing officer may announce a determination or may take the matter under advisement for determination at a later date. Any determination of the hearing officer shall be in writing, shall be based upon preponderance of the evidence, and shall set forth the essential elements of the determination.

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- (k) If the hearing officer finds that a violation of this article has occurred, the hearing officer may award to the complainant actual damages, or a civil penalty in the amount of up to \$500.00, whichever is greater, for each violation. Each party is to bear their own attorneys' fees, if any.
 - (l) The hearing officer shall preserve all evidence presented at the hearing for a period of two years after the deadline for appeal or completion of appeal, whichever is later.
 - (m) Any party aggrieved by a determination of the hearing officer under this section may appeal that determination to the District Court of Johnson County, Kansas, in accordance with K.S.A. 60-2101(d), and amendments thereto. Within 30 days of service of the notice of appeal pursuant to K.S.A. 60-2101(d), or within further time allowed by the court or by other provision of law, the city shall transmit to the court a certified copy of the written determination of the hearing officer and a certified copy of all evidence presented at the hearing. On appeal, the district court may enter such order or judgment as justice shall require, and may award the prevailing party court costs and reasonable attorney fees incurred to prosecute or defend the appeal.
 - (n) The filing of a complaint for the alleged violation of this article or a response thereto shall in no way preclude any party from seeking other relief under state or federal law.
 - (o) Any individual making false, malicious, or unfounded accusations against an entity subject to this article is guilty of a violation and upon conviction thereof shall be punished by a fine of \$100.00 for each such violation.

(Ord. No. 990, §§ 1, 2, 3-2-2020)

Sec. 5-1205. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

(Ord. No. 990, §§ 1, 2, 3-2-2020)

ARTICLE 13. SMALL-BOX DISCOUNT RETAILERS AND THRIFT STORES

Sec. 5-1301. Legislative Findings.

The Governing Body desires to regulate small-box discount retailers and thrift stores as set forth in this article. hereby finds that small box discount retailers and thrift stores have a deleterious impact on neighboring properties by lowering property values and adversely affecting rental rates of nearby commercial properties.

(Ord. No. 927, § 1, 1-25-2016)

Sec. 5-1302. Definitions.

The term "small-box discount retailer" shall refer to a retail business that offers a wide range of inexpensive household goods out of a small storefront, with a building footprint of usually less than 15,000 square feet. The term "thrift store" shall refer to a retail business selling second-hand clothes and other household goods, with the majority of the merchandise priced at less than \$5.00 per item.

(Ord. No. 927, § 2, 1-25-2016)

Commented [JJ8]: DEI recommends removal

Commented [AF9R8]: Replaced with anodyne language. We'd rather there be *something* here. If Council does not like this language, recommend removal and "Reserved for Future Use" to avoid re-numbering the Sections.

Sec. 5-1303. Permit Required.

It shall be unlawful for any person to own or operate a small-box discount retailer or a thrift store in the City without first receiving a permit from the City Clerk. Permits shall be required for each location that such person intends to own or operate a small-box discount retailer or a thrift store within the City, and shall be valid for a one-year period of time and may be renewed annually. The application for the permit shall be in a form to be determined by the City Clerk. The annual cost for the permit shall be in an amount established by resolution adopted by the Governing Body. This permit shall be in addition to any other permit or license required by the City, other local, state or federal agencies. No permit shall be issued for any business seeking to operate at a location prohibited by any applicable local, state or federal law, statute, ordinance, rule or regulation; provided, however, that a business lawfully in existence on the date of adoption of the ordinance from which this section derives may be issued a permit without regard to the provision of section 5-1304 if allowed by other local, state or federal law.

(Ord. No. 927, § 3, 1-25-2016)

Sec. 5-1304. Separation Requirements.

No permit shall be issued for a small-box discount retailer or a thrift store that is located within 5,000 feet of any other small-box discount retailer or any other thrift store, whether such other small-box discount retailer or thrift store is located within the City or outside of the City. The separation distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's proposed business to the nearest point on the property line of such other small-box discount retailer or thrift store.

(Ord. No. 927, § 4, 1-25-2016)

ARTICLE 14. FOOD TRUCKS

Sec. 5-1401. Mobile Food Unit Licensing.

It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility within the corporate limits of the City of Roeland Park, Kansas without first obtaining a mobile food unit license from the City, in addition to any other state, federal, or county permits, certifications, and licenses.

- (a) A mobile food unit license is an annual license that expires on ~~April 15~~ November 30 each year and must be renewed prior to the first event after that date.
- (b) Each mobile food unit shall be licensed separately. No license transfer is allowed.
- (c) Although certain activities may be exempt from the licensing requirements of this Article, any food service to the public in the City of Roeland Park shall comply with all other local, county, state and federal requirements including, but not limited to; health inspections, licensing, safety, and fire code requirements.
- (d) The following shall be exempt from the requirements of this Article:
 - (1) Catering businesses.
 - (2) Grilling and food preparation activities of brick-and-mortar establishments on the establishment's premises for immediate consumption by patrons or employees.

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- (3) Concession stands associated with sports or recreational venues that have been approved as part of a site plan or permitted conditional use permit for the venue.
 - (e) For use in this Article the following terms are defined:
 - (1) *Mobile Food Unit* means any type of annually licensed food establishment that is a readily movable vehicle (on wheels), that is self-propelled (driven), or can be pulled or pushed to a location and used for the vending of food or beverage items to the public.
 - (2) *Mobile Food Vendor* means a person engaged in the business of selling food or beverages from a mobile food unit.
 - (3) *Pushcart* means a mobile food unit that is pushed or pulled by the mobile food vendor to a location and serves a limited offering of food or beverage items.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1402. License/Inspection Fees.

At the time of the submittal of a license application, the applicant shall pay to the City Clerk the applicable license fee in addition to any applicable inspection fee(s).

- (a) The amount of the license and applicable inspections fee(s) shall be determined in accordance with an established fee schedule, which fee schedule may be modified from time to time with approval of the City Council. The City's fee schedule is incorporated in this Article as if fully stated herein.
- (b) Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.
- (c) Any licensee who is denied a mobile food unit license shall not be entitled to a refund of any portion of the fee.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1403. Johnson County Fire District #2 Inspection.

- (a) All mobile food units that have cooking facilities or use products with grease laden vapors shall be inspected by the Johnson County Fire District #2 prior to initiation of business operations within the City.
- (b) Inspections are required annually and prior to issuance of a mobile food vending license. It shall be the obligation of the mobile food vendor to schedule the inspection with the Johnson County Fire District #2, if required.
- (c) All mobile food units that have cooking facilities or use products with grease laden vapors shall have an acceptable fire suppression system, as determined by the Johnson County Fire District #2.
- (d) Upon completion of the annual fire inspection, a certificate shall be issued to the applicant to verify completion of the fire inspection. Said certificate shall be kept in the vehicle during operation and presented to whomever may request to view the certificate.
- (e) At the discretion of the Johnson County Fire District #2, the City may accept the inspection of the mobile food unit by another city's fire inspector to satisfy the annual inspection requirement. The applicant is obligated to contact the Fire District to verify whether another city's inspection is adequate to fulfill obligation of these inspection requirements.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1404. Mobile Food Unit Licensing Application.

- (a) *Filing.* Application requests shall be filed with the City Clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this Article. This includes a complete and true application, all required materials and information prescribed, and submittal of the appropriate fees.
- (b) *Timely Submittal.* Unless otherwise provided herein, applications must be submitted not less than 14 calendar days prior to the proposed start date of the mobile food unit activities. The City reserves the right to reject any applications that have not been submitted in a timely manner.
- (c) *Applicant's Responsibility.* Receiving approval of a mobile food unit license from the City shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state, and federal regulations.
- (d) *Application Contents.* Application shall be made on a form provided by the City and shall include:
 - (1) Full name of the applicant;
 - (2) Applicant's contact information including mailing address, phone numbers, and e-mail address;
 - (3) A current health inspection certificate from the State of Kansas;
 - (4) The applicant's valid Kansas sales tax number;
 - (5) Description of the kitchen facilities, cooking facilities, preparation area, safety features (such as, but not limited to, fire suppression system) of the mobile food unit;
 - (6) Photographs of the mobile food unit from the front, side and back;
 - (7) Make, model, and year of vehicle to be used and the license plate number;
 - (8) Overall size of the vehicle; length, width, height, and weight;
 - (9) Copy of Fire District or equivalent inspection certificate, if required;
 - (10) Fee; and
 - (11) Such other information as the City of Roeland Park may require for purposes of conducting a background check and fingerprinting. If it is determined that a nationwide background check is required, the applicant may be responsible for the expense to complete the background check(s).
- (e) *Applications Deemed Withdrawn.* Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within 30 days from the last written notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fee(s) to begin a new review and approval process.
- (f) *Issuance of License.* Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk will issue a mobile food unit license.
- (g) *Modification of License After Issuance.* Should the mobile food vendor change the mobile food unit, or the food and beverage offerings during the term of an issued license, that would change the designation of the mobile food unit to a higher licensing level, a new application and fire inspection shall be required.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1405. Mobile Food Units on Public Property.

No mobile food unit may be operated on public property except as part of an approved event under a public property special event approved by the City. A special event permit is required to operate a mobile food unit on public property. Mobile food units shall be responsible for providing their own power, water, wastewater collection, and garbage collection.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1406. Mobile Food Units on Private Property.

Mobile food units shall not be parked, or operate, on an individual property or site for more than 12 hours within a 24-hour period, except as part of an approved public property special event, approved residential block party, or private catering arrangement. Any mobile food unit not exempted above that wishes to occupy a site for more than a 12-hour period must obtain special exemption from the Building Official for cause.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1407. Unattended Mobile Food Unit.

No mobile food unit shall be left unattended or stored on any site overnight, unless the mobile food unit is a participant in a multiple (contiguous) day, city permitted, public property special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, towing, or any other action the City deems proper.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1408. Music and Sound Making Devices.

The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1409. Mobile Food Unit Performance Standards.

Persons conducting business from a mobile food unit must do so in compliance with the following standards:

- (a) The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate and that the employees and customers of the mobile food unit have access and permission to use the restroom facilities located on the property. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit the violation of any other imposable regulations.
- (b) The operator of the mobile food unit shall display their City license in full view of the public in or on the mobile food unit.
- (c) Mobile food units shall only be allowed on nonresidential, commercially or industrially zoned properties that contain an active business use, except in the case of an approved residential block party or private catering arrangement, so long as it is in compliance with all other City code requirements related to residential property.

-
- (d) Mobile food units that are within 300 feet of a residential use or residentially zoned property, shall be limited to hours of operation between 7:00 a.m. and 10:30 p.m.
 - (e) A mobile food unit operating on nonresidential property (excluding those operating as part of City permitted "public property special event") may only do so during the usual posted business hours of the consenting business(es) of the property the mobile food unit is utilizing or during the posted hours of the City Park being utilized. Mobile food units may enter a nonresidential property in order to set up to conduct business up to one-half hour (30 minutes) prior to the usual posted opening time of the corresponding business or City Park and must depart from the property no later than one-half hour (30 minutes) after the posted closing time of the corresponding business or City park. In the case of operating a mobile food unit on nonresidential property where the corresponding business(es) does not have usual posted business operating hours or operates on a 24-hour type basis, the mobile food unit may not remain on the premises for longer than 12 hours and must depart for at least 12 hours before reentering unless operating under an approved public property special event.
 - (f) A mobile food unit operating on nonresidential property as part of a City permitted public property special event may only do so during the granted time period for the event.
 - (g) Mobile food units must maintain a minimum separation between units of 15 feet.
 - (h) Mobile food unit operation is a generally acceptable use of a nonresidential parking lot. It is the joint responsibility of the property owner or lessee and mobile food unit owner to ensure that adequate parking stalls and loading berths are available for normal operations of the food truck and primary use(s) of the property.
 - (i) Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.
 - (j) A mobile food unit may not serve alcoholic beverages unless they obtain the appropriate state and City licenses in addition to the mobile food unit license.
 - (k) The mobile food unit must be located on a paved surface, unless approved as part of a public property special event.
 - (l) No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by City staff after a review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.
 - (m) No mobile food unit may operate within 100 feet of a permanent restaurant or business offering food or beverage services unless they receive the express written consent of the restaurant or property owner.
 - (n) All mobile food units shall maintain a minimum separation of ten feet, as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.
 - (o) The window or area where a patron orders and receives their purchase shall be located to not require a patron to stand or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate safe space for patrons waiting for their order must be available on the property where the mobile food unit is located.
 - (p) With the exception of pushcarts as allowed herein, no mobile food unit shall be placed on a public or private sidewalk. Pushcarts may locate on or adjacent to a private sidewalk or public sidewalk only as part of an approved public property special event. However, a minimum 48-inch open walkway must

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be maintained for passing pedestrians. The placement of the pushcart shall be in such a manner so as to minimize encroachment into the 48-inch walkway by patrons waiting in line for service from the pushcart.

- (q) Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six inches from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.
- (r) During business hours, the mobile food vendor shall provide a trash and recycling receptacle for use by customers.
- (s) The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.
- (t) All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1410. License Revocation.

A mobile food unit license is revokable upon the violation of any requirement set out in this Article or violation of any local, state, or federal law or regulation.

(Ord. No. 1019, § 1, 11-15-2021)

Sec. 5-1411. Property Owner/Lessee Responsibility.

By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this Article and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being party to any enforcement actions or penalties allowed by law.

(Ord. No. 1019, § 1, 11-15-2021)

Commented [JJ10]: DEI: Can we also include recycling?

Commented [AF11R10]: Of course, it is a policy decision for the Council, but the Governing Body can place reasonable requirements on the operation of Food Trucks.

CHAPTER V. BUSINESS LICENSES AND REGULATIONS

ARTICLE 1. OCCUPATION FEES

Sec. 5-101. Definitions.

As used in this article:

- (a) *Person* means any individual, partnership, corporation, firm, organization, association, joint stock company or syndicate who or which is engaged in any business, trade, occupation or profession, or rendering or furnishing any service for profit of livelihood and subject to the provisions of this article; provided, any individual in the direct employ of any person licensed under the provisions of this article is not a person unless such individual operates as a subcontractor; but is if such individual performs any service or practices a skill for compensation for any person other than ~~his or her~~ the licensed employer, ~~he or she is a person and must~~ they shall pay the fee and obtain a license if such be required by the terms of this article.
- (b) *Business* means and includes businesses, trades, occupations, professions, the renting of property for residential or business use, and also callings rendering or furnishing a service: Provided, that the name of business, trade, occupation, profession or calling may be used, and when so used, shall refer to the particular business, trade, occupation, profession or calling.
- (c) *Fee* means an occupation fee or license fee for City revenue for the privilege of engaging in business as herein defined.
- (d) *License* means the document issued by the City acknowledging payment of the required amount of fee, and stating the name of the licensee, the kind of business and where located, the period which the fee covers, and such other matters as may be required and signed by the proper officer.
- (e) *Employee* means all persons engaged in the operation or conduct of any business, whether as owner, any member of the owner's family, partner, agent, manager, solicitor and any and all other persons employed or working in the business.

(Code 1977, § 7-502; Code 1986)

Sec. 5-102. Business Categories.

A business shall be classified for purposes of payment of fees within the following categories:

- (a) Retail establishments and administrative offices;
- (b) Home occupations;
- (c) Leasing operations;
- (d) Non-~~domiciled~~ domicile businesses.

(Code 1986)

Sec. 5-103. Exemptions.

- (a) Nothing in this article shall be construed as applying to or taxing:
- (1) The interstate portion of any business;
 - (2) Instrumentalities of the government of the United States, unless authorized by laws of the United States;
 - (3) Organizations of any kind or the employees thereof wholly for charitable, religious, benevolent, fraternal, civic, educational, military, municipal or similar purposes, and from which profit is not derived, either directly or indirectly, by any individual.

The City Clerk may require any business, instrumentality of organization claiming to be exempt under this section to file with him or her a verified statement stating the facts upon which exemption is claimed.

- (b) *Appeal.* If the City Clerk disapproves any application, the City Clerk shall give the reasons therefore in writing, file the same for public view and mail a copy to the applicant. The applicant may appeal such disapproval by filing a written notice thereof with the City Clerk within 15 days after the Clerk files the statement of reasons for the disapproval. A hearing on such appeal shall be held by the Governing Body no more than 30 days after the applicant files such notice of appeal. The Governing Body, after a hearing, may reverse or affirm the decision of the City Clerk by a majority vote. Nothing in this section shall prejudice the right of the applicant to reapply at a later date for a license or permit.

(Code 1977, § 7-503; Code 1986)

Sec. 5-104. Occupation Fee Levied.

An occupation fee is levied on business categories as follows:

- (a) *Retail establishments and administrative offices.* Any person engaged in any type of business or profession that leases or owns any space located within the city that is zoned [MXD \(Mixed Use District\)](#), Office Building District, Retail Business District, or CP-~~04~~ (Planned Office Building District), CP-1 (Planned Restricted Business District), CP-2 (Planned General Business District), or P-1 (Planned Industrial Park District) shall pay an occupational fee computed on the basis of interior space footage of the leased or owned space. The amount of such fees shall be established by resolution adopted by the Governing Body.
- Such fees shall be based upon total square feet of space regardless of use; except that basement or second-story space that is used exclusively as storage or utility space shall be excluded in determining the total square feet of space.
- (b) *Home occupations.* All businesses conducted from a residential structure which is zoned residential shall pay an annual occupation fee in an amount established by resolution adopted by the Governing Body; provided, however, that nothing in this section shall be construed to convey the right to use any residential structure for a business use otherwise prohibited under the provisions of this Code including the applicable zoning provisions.
- (c) *Rental property.* Persons, firms, partnerships or corporations engaged in the business of owning and renting property located in the City shall pay an annual occupational fee in an amount established by resolution adopted by the Governing Body. The procedure for payment of occupation fees and issuance of licenses for rental property shall be set forth in Article 7 of this chapter.

- (d) *Non-domiciled business.* Any person who is required by any law of this City to obtain a permit to do business in the City shall pay an occupation fee in an amount established by resolution ~~a~~ adopted by the Governing Body even if the person does not lease or own property within the City limits.
- (e) *Solid waste disposal.* Any person engaging in the business of collecting, transporting, processing or disposing of solid waste within the corporate City limits shall first obtain a license to do business in the City as required by this Code.
- (f) *Commercial pesticide business.* The license required by this section for commercial pesticide business should coincide with that term set forth by the state licensing of a pesticide business as stated in the Kansas Pesticide Law, K.S.A. 2-2438(a) et seq.

(Ord. No. 743, § 1; Code 2012)

Sec. 5-105. License Required.

Persons or firms shall secure an occupational license in accordance with this Article before beginning business. Except as otherwise provided herein, the license period shall be from December 1st to November 30 in each year and the fees required to be paid in one annual payment on the first day of December of each year. ~~A late payment charge of six percent per month shall be added in case of failure to pay the required fees when due for each month or fraction thereof that the fees have remained unpaid. A late fee may be assessed, pursuant to the City's Schedule of Fees and Charges.~~

(Code 1977, § 7-537; Code 2012)

Commented [KN1]: We do not charge a late payment fee.

Commented [JJ2R1]:

Commented [AF3R1]: Recommend removal of this language and to relegate it to the Schedule of Fees and Charges.

Sec. 5-106. Application.

Any person shall, before engaging in any business or before continuing such business after a license has expired, make application for a license and pay the proper fee. Application shall be made to the City Clerk, giving the name of the licensee and any other name under which such business is to be conducted, the kind and address of the business so licensed, and the interior square footage or such other information as may be necessary to determine the amount to be paid. The City Clerk may, in ~~his or her~~ their discretion, cause an investigation to be made to verify the accuracy of the information. The City Clerk shall advise the Building Inspector for the City that an application for an occupation license has been made and the Building Inspector may cause an inspection of the premises to be made as provided in the applicable building Codes of the City and as further authorized under section 5-112 hereof.

(Code 1977, § 7-538, Code 1986; Ord. No. 523, § 1; Code 2012)

Sec. 5-107. License Nontransferable.

There shall be no transfers of license from one person to another except that where a business, including stock, if any, is sold and the new owner continues the business at the same location and under the same name, the license shall continue to expiration. If the holder of a license moves a stock of goods from the location stated on the license to another location and begins business at the new location, ~~he or she~~ they may return the license to the City Clerk and secure a substitute license upon payment of a fee of \$10.00 and any additional prorated amount for the unexpired term, should a greater amount be required at the new location.

(Code 1977, § 7-540, Code 1986)

Sec. 5-108. License Period Calculation.

Every person or firm commencing business shall first secure an occupational license covering the period from the date from which the business is to be started until the next succeeding November 30th. No refunds for businesses ceasing during the year shall be made.

(Code 1977, § 5-136, Code 1986)

Sec. 5-109. Issuance of License.

The City Clerk shall issue the occupation license required hereunder upon receipt of a properly completed application, the payment of the proper sum as calculated under the provisions of this article and receiving notification from the Chief Building Inspector that the premises complies with the applicable building and life safety codes of the City. All licenses shall be signed by the City Clerk and the City Clerk shall affix thereto the seal of the City.

(Ord. 523, § 3; Code 2012)

Sec. 5-110. City Shall Record Licenses.

The City Clerk shall keep records in which shall be entered the names and addresses of each and every person or firm licensed, the date of the license, the amount paid therefore, and the time when the license shall expire. ~~The City Clerk shall make a quarterly report to the Council at the first meeting in March, June, September and December.~~

(Code 1977, 7-542)

Sec. 5-111. Display of License.

All persons or firms doing business in a permanent location are hereby required to have their license conspicuously displayed in their place of business, and all persons or firms to whom licenses are issued not having a permanent place of business are hereby required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any ~~citizen-resident~~ or officer of the City.

(Code 1977, 7-543)

Sec. 5-112. Right of City to Inspect Premises.

Any authorized official of the City shall have the right to enter upon the premises and determine the square footage of the premises for the purpose of calculating the proper occupation fee under the provisions of section 5-104 hereof, and to inspect the premises for the purpose of determining whether or not the premises comply with the applicable building and life safety codes of the City.

(Ord. 523, § 2)

Sec. 5-113. Unlawful Acts; Penalty.

Any person, firm or corporation which conducts, pursues, carries on, or operates, within the City limits, any trade, profession or occupation for which a certificate for the payment of the occupation fee is required by this

chapter, or assists directly or indirectly in so doing, in any manner or to any extent, either as owner or proprietor, or as officer of any corporation, or as manager, superintendent, agent, servant, or employee of any person, firm, or corporation, after an occupation, is deemed to do so unlawfully, and for such violation of this chapter is guilty of a municipal violation and upon conviction shall be fined not less than \$5.00 nor more than \$499.00. Each and every day such violation continues constitutes a separate offense.

(Code 1986)

Sec. 5-114. Payment of Fine Does Not Pay Fee; Civil Action.

The payment of fine for failure to pay the fee and secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the City may proceed by civil action to collect the fee.

(Code 1977, 7-547)

Sec. 5-115. Suspension or Revocation of Occupation License(s).

- (a) Any person, firm, or corporation which conducts, pursues, carries on, or operates, within the City limits, any trade, profession, or occupation for which a certificate for the payment of the occupation fee is required by this Chapter may have its occupation license suspended or revoked for:
 - (1) Failure to comply with, or any violation of, any provision of this Chapter;
 - (2) Failure to comply with, or any violation of, the City's Resolutions and Ordinances;
 - (3) Failure to comply with, or any violation of, State and Federal laws and regulations;
 - (4) Fraud, misrepresentation or false statement made in the course of carrying on business within the City;
 - (5) Conducting of business in an unlawful manner so as to constitute a breach of the peace, a menace to health, safety or general welfare of the public.
- (b) Any failure to comply with or any violation of the above authorities may be cause for suspension or revocation of the license(s) granted under this Article. The administrative authority shall have the sole discretion in determining if a suspension or revocation of a business license is warranted.
- (c) The City shall provide notice to the offending party(ies) via U.S. Registered Mail to immediately cease all illegal or unsafe business practices. The offending party(ies) shall abate the illegal or unsafe business practices within seven days of the date of the notice. Failure to abate the illegal or unsafe business practices within the seven days provided herein may result in the suspension or revocation of the business license(s) of the offending party(ies).
- (d) Any person, firm, or corporation that has had its occupation license(s) suspended or revoked may appeal to the Municipal Court for a hearing on the suspension or revocation. Said appeal must be made in writing, filed with the City Clerk no later than 14 days after the decision of the administrative authority. The decision of the Municipal Court at the hearing shall be final.
- (e) If an appeal is requested, the City shall draft a notice of the hearing setting forth specifically the grounds of the complaint and the time and place of the hearing. Said notice shall be mailed to the licensee or applicant at least five days prior to the date set for hearing.
- (f) Any failure to comply with or any violation of any provision of this Article shall be punishable, upon conviction thereof, by a fine of not less than \$100.00 nor more than \$500.00 for each such offense. Each day such failure or non-compliance shall continue shall constitute a separate offense, to the extent permitted by Kansas law.

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(Supp. No. 16, Update 1)

- (g) In the event any person, firm, or corporation continues to operate after suspension or revocation of the occupation license occurs, the City Administrator or any other official authorized to enforce City ordinances may seek injunctive relief from the District Court or the Municipal Court to restrain, correct, abate or prevent such continued operation. In the event of the issuance of any injunction or order by the District Court to prevent continued operation of the business, costs of such enforcement proceedings may be taxed against the offending party. The remedies provided in this Chapter shall be in addition to all other costs and penalties available at law.

(Ord. No. 1020, § 1, 12-6-2021)

ARTICLE 2. SOLICITORS AND TRANSIENT MERCHANTS

Sec. 5-201. Legislative Findings.

The Governing Body hereby finds and determines as follows:

- (a) Crimes have been committed by persons acting or posing as solicitors, peddlers and transient merchants, and a great variety of frauds and misleading devices are employed by such persons;
- (b) Solicitors, peddlers and transient merchants present a continuing danger of fraud, robbery and other crimes to the residents of this City;
- (c) Uninvited solicitors and peddlers frequently are an annoyance to residents of this City;
- (d) Peddlers and transient merchants frequently create traffic and parking problems; and
- (e) Protecting citizens from crime and preserving private property and the peace comfort of occupants of private residences are substantial interests of the City.

Sec. 5-202. Definitions.

For the purpose of this article, the following words shall be considered to have the following meanings:

- (a) *Canvassing* means engaging in opinion sampling, poll-taking, proselytizing, or similar activity from house to house, door to door, street to street, or from place to place.
- (b) *Charitable* means any activity represented as carried on from unselfish, civic or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical or religious activities, either actual or implied.
- (c) *Commercial solicitation* means selling or offering for sale, or taking orders for the sale, of goods or services of any kind, character or description, for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether he or she is they are collecting advance payments on such sales or not.
- (d) *Commercial solicitor* means any peddler or any person who engages in commercial solicitation.
- (e) *Individual dwelling unit* means a portion of a building containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.
- (f) *Mobile Food Vendor* means a person engaged in the business of selling food or beverages from a mobile food unit.

Commented [JJ4]: @Alex - FYI - we wanted to recommend not allowing transient merchants, but I saw this on PV's website:

In the past, City ordinances strictly prohibited any form of door-to-door solicitation. While many residents supported the blanket ban, legal counsel advised the City that several courts had declared ordinances nearly identical to the Prairie Village ordinance as unconstitutional. The impact of these court rulings rendered the City's ordinance unenforceable, providing no protection to Prairie Village residents.

Therefore, I think we make some adjustments to our ordinance.

Commented [AF5R4]: I would agree; the City cannot outright ban transient sales, but it can place significant barriers to entry. These barriers are typical, and are found in nearly every Johnson County municipality.

Commented [JJ6]: DEI Committee finds this language problematic

Commented [AF7R6]: This language can be removed. This Section 5-201 simply serves as the in-code version of our "Whereas" clauses in Resolutions and Ordinances. Subsections (a), (c), (d), and (e) adequately explain the City's reason for this ordinance.

(g) *Multi-family dwelling complex* means a building or grouping of individual buildings which are arranged, intended or designed for occupancy by three or more families, commonly referred to as apartments, town homes or condominiums.

(h) *Non-commercial solicitor* means any person who engages in canvassing or who directly or indirectly requests contributions of funds on the plea or representation that such contributions will be used for a charitable purpose.

(i) *Peddler* means any person who operates from a temporary stand, display or similar facility or who travels from house to house, door to door, street to street or from place to place, carrying, conveying or transporting goods, wares or merchandise for the purpose of offering and exposing the same for sale.

(j) *Solicitor* means either a commercial solicitor or a non-commercial solicitor.

(k) *Transient merchant* means any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. For the avoidance of doubt, this definition shall not include Mobile Food Vendors which are regulated in Article 14 of this Chapter.

Commented [JJ8]: This definition gets confused with a mobile food vendor, which is regulated in article 14 of this chapter. Can we restrict this definition to more closely align with door-to-door sales?

Commented [AF9R8]: The included language at the end is the cleanest/quickest way of excluding MFVs.

(Code 2014)

Sec. 5-203. License Required.

No commercial solicitor or transient merchant shall operate within the corporate limits of the City without first obtaining a certificate of registration and license therefore. Section 5-203 shall not apply to Mobile Food Vendors. Mobile Food Vendors are excluded from this Section and shall adhere to the regulations in Article 14 of Chapter 5. Any applicant for a license under this article shall file with the City Clerk a sworn application on a form furnished by the City Clerk. Each application shall be accompanied by the payment of a non-refundable application fee in an amount established by resolution adopted by the Governing Body. Each application shall, at a minimum, require the following information:

- (a) Name, date of birth, physical description of applicant, and applicant's Kansas Sales Tax number.
- (b) Address of applicant and address of location where applicant intends to offer goods, wares, merchandise or personal property for sale.
- (c) A brief description of the name of the business to be conducted and the goods to be sold.
- (d) If applicant is employed, name and address of the employer, together with credentials establishing applicant's relationship to such employer.
- (e) Length of time for which the right to do business is desired.
- (f) If a vehicle is to be used, a description of the same, together with the state vehicle license number carried on such vehicle.

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- (g) A statement as to whether or not the applicant has (1) within five years prior to the date of the application been convicted of any felony; (2) within two years prior to the date of the application been convicted of any crime involving deceit, fraud or theft; and (3) within two years prior to the date of the application been found to have violated any municipal ordinance regulating solicitors or transient merchants.
 - (h) If applicable, each application shall be accompanied by the written permission of the owner, or tenant in possession of the location described in the application, from which or in front of which the application intends to offer goods, services, merchandise or personal property for sale.
 - (i) Submit a copy of a paid personal property tax receipt from the Johnson County Treasurer or another county ~~treasurer in the State of Kansas~~ for all goods or merchandise brought into Johnson County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale.
 - (j) As a condition precedent to the issuance of a license as provided herein, any applicant wishing to sell firearms or previously owned (used) merchandise, including automobiles, shall agree on his behalf and on the behalf of all employees and agents engaged by him in the conduct of such business to make available for inspection by any law enforcement officer any and all such merchandise being sold in the course of the applicant's business. At the request of any law enforcement officer, the applicant shall provide serial numbers or other identification numbers for such merchandise marked with serial numbers or identification numbers as is being offered for sale by such applicant, ~~his or her~~ their employees or agents.

(Ord. No. 523, § 4; Code 2012)

Sec. 5-204. Issuance of License.

- (a) Upon receipt of a properly completed application for certificate and license, the City Clerk shall place the issuance of such certificate and license on the agenda for the City Council meeting next following the date of the receipt of the application. The applicant shall be advised of the time and place at which the City Council shall hear the applicant's request for a license and the applicant shall be given the opportunity to be heard concerning the request.
- (b) No license shall be issued to any person who:
 - (1) Has made a material misrepresentation or false statement on the application for the license;
 - (2) Has been convicted of any felony within five years prior to the date of the application;
 - (3) Has been convicted of any crime involving deceit, fraud or theft within two years prior to the date of the application; or
 - (4) Has been found to have violated any municipal ordinance regulating solicitors or transient merchants within two years prior to the date of the application.
- (c) Prior to approving an application for a transient merchant license, the City Council must make the findings required in section 5-207 hereof. Upon doing so, the City Council shall grant a special use permit allowing the location described in the application to be used to conduct the business described in the application.
- (d) In approving any application for a license, the City Council may impose reasonable conditions.
- (e) Each license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of the issuance and length of time the license shall be operative, and the nature of the business involved.

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- (f) The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The person to whom such license is issued shall have the license in ~~his or her~~their possession at all times while conducting any business within the City.
- (g) In the event that the City Council denies any license, the City Clerk shall notify the applicant of such denial and the reasons therefor.
- (h) No license fee shall be required of: any person selling products of the farm or orchard actually produced by the seller; any businesses, trades or occupations which are part of fairs or celebrations sponsored by the City or any other governmental subdivision, or the state, or when part of all of the expenses of the fairs or celebrations are paid for by the City, any other governmental subdivision, or the state.

(Ord. No. 523, § 5; Code 2012)

Sec. 5-205. Prohibited Acts.

- (a) It shall be unlawful for any solicitor to solicit between the hours of 8:00 ~~am~~.m. and ~~69:00~~ pm.m.
- (b) It shall be unlawful for any solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at any single-family residence, duplex or any individual dwelling unit in a multi-family dwelling complex at which a sign bearing the words "No Soliciting," "No Trespassers," or words of similar import indicating that such person is not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence or dwelling at the invitation or with the consent of the occupant thereof. For purposes of this subsection, a "No Solicitors" decal ~~issued by the City Clerk~~ and all similar signs prominently displayed on the door shall constitute sufficient notice to all ~~solicitors~~.
- (c) It shall be unlawful for any solicitor to attempt to solicit at an individual dwelling unit in a multi-family dwelling complex when all street entrances to the multi-family complex have been clearly posted with signs marked "No Solicitors." This subsection shall not apply to solicitation in any individual dwelling unit when the solicitor has been invited onto the property to solicit there by the occupant of the individual dwelling unit.
- (d) It shall be unlawful for ~~any~~ solicitor to engage in soliciting upon any premises or in any residence, duplex or any individual dwelling unit after having been asked by the owner or occupant thereof to leave the premises.
- (e) It shall be unlawful for any commercial solicitor to make more than one solicitation call at the same residential premises for identical or substantially similar goods, services, or contributions within any consecutive fourteen-day period, without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.
- (f) It shall be unlawful for any commercial solicitor to fail to provide, at the request of the purchaser, a written receipt, for purchases exceeding five dollars in cash or tangible property which receipt shall be signed by the solicitor making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any non-commercial solicitor or organization accepting any contribution exceeding \$5.00 in cash or tangible property to fail to provide at the request of the donor a written receipt acknowledging such contribution and personally signed by the solicitor accepting such contribution.
- (g) It shall be unlawful for any solicitor to fail at the outset to truthfully disclose to the prospective buyer, prospective donor, or canvasser ~~his/her~~their name and the name of the company, product or organization he/she represents.

Commented [KN10]: We don't give out No Solicitor signs.

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- (h) It shall be unlawful for any solicitor to make any assertion, representation or statement which misrepresents the purpose of ~~his/her/their~~ call, or use any plan, scheme, or ruse which misrepresents such purpose.
- (i) It shall be unlawful for any solicitor to conduct ~~his/her/their~~ business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.
- (j) It shall be unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence.
- (k) It shall be unlawful for any transient merchant to operate or conduct business or activities in violation of any zoning requirements of the City, including but not limited to, set back requirements.
- (l) It shall be unlawful for any transient merchant to operate or conduct business or activities except in areas zoned Retail Business District, CP-1, CP-2 or MXD and where the conduct of such business or activities shall be within 200 feet of any residentially zoned property used for residential purposes.
- (m) ~~It shall be unlawful for any transient merchant to operate or conduct business or activities until one-half hour before sunrise or after one-half hour past sunset or at any time that would cause the need for the use of artificial lighting other than existing lighting.~~
- (n) It shall be unlawful for any transient merchant to fail to provide safely accessible and sufficient parking for customers and employees of the transient merchant. For the purposes of this subsection, "safely accessible" parking means a parking area configured so that the transient merchant's employees and customers can safely enter and exit the public and private right-of-way without creating a traffic, sight distance or any other type of hazard or danger. For the purposes of this subsection, "sufficient" parking means a number of parking spaces equal to or exceeding the number of employees on site plus customer parking in a quantity that is reasonably likely to prevent customer parking overflows given the nature of the transient merchant's business or activities.
- (o) It shall be unlawful for any transient merchant to locate the transient merchant business or activities, including business vehicles, structures, signs and parking, in a manner that causes congestion, interferes with the traffic flow, or prevents the normal use of parking facilities by existing businesses in the same area. In no event shall a transient merchant located entirely or partly in a parking lot used by an existing business reduce the number of available parking spaces to a level more than ten percent below the total number of parking spaces required by the zoning regulations.
- (p) ~~It shall be unlawful for any transient merchant to use any electronic device for sound amplification in an outdoor area, or to otherwise violate any applicable noise ordinance or regulation.~~
- (q) It shall be unlawful for any transient merchant to fail to obtain permission of the property owner or property manager where such business or activity is being conducted.
- (r) It shall be unlawful for any transient merchant to fail to provide at the request of a customer a written receipt for purchases exceeding five dollars in cash or tangible property which receipt shall be electronically printed or signed by the transient merchant making the sale and shall set forth: the name and contact information of the transient merchant, a brief description of the goods, wares, merchandise or services sold, the total purchase price, the amount of applicable sales tax, the amount of payment, and the balance due and terms of payment (if any).
- (s) It shall be unlawful for any transient merchant to fail to provide any person the transient merchant's name, the name of the company or organization represented, or the name of the goods, wares, merchandise or services sold, or to make any representation as to identity which is false or misleading.

Commented [KN11]: Section a says between 8-6. When can they?

Commented [AF12R11]: Good point, recommend removal as we already have allowable hours.

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- (t) It shall be unlawful for any transient merchant to fail to allow authorized law enforcement officers or city officers to enter into or upon the premises or to otherwise interfere with any inspection of the premises or business.
 - (u) It shall be unlawful for any transient merchant to fail to remove any structure, device, trash, or debris caused, created or associated with the transient merchant's business or activities in an outdoor area.
 - (v) It shall be unlawful for any transient merchant to erect or display more than one sign or any sign greater than 16 square feet in total area. When approved with the license, a separate sign permit shall not be required. Any attention attracting device or any other prohibited sign as set forth in Code section 16-906 (as may be amended) are prohibited from use.
 - (w) It shall be unlawful for any transient merchant to erect or construct any structure, tent, or building greater than one hundred and 120 square feet.
 - (x) It shall be unlawful for any transient merchant to operate or conduct business or activities within 50 feet of any driveway entrance or access lane from a public street to an existing business.
 - (y) It shall be unlawful for any transient merchant to operate or conduct more than one transient merchant business or activity on the same property at any one time.
 - (z) It shall be unlawful for any transient merchant to operate or conduct business or activities in the public right-of-way or in or upon any park or other public property.
 - (aa) It shall be unlawful for any transient merchant to operate or conduct business or activities that create a traffic or sight distance hazard or any other type of public hazard or danger.
 - (bb) It shall be unlawful for any transient merchant to fail to display the license issued under this article while any business or activities pursuant to the license are being conducted. The license shall be posted in plain view to all persons, including law enforcement officers.
- (Ord. No. 743, § 2; Code 2012)

Sec. 5-206. Revocation of License.

- (a) The Chief of Police may revoke any license issued under this article, for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on the business.
 - (3) Any violation of this article.
 - (4) Conducting the businesses as defined in section 5-201 in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the City.
 - (5) Any violation of any condition imposed upon the issuance of a license.
- (b) Notice of the revocation of a license shall be in writing to the licensee and the City Clerk and shall set forth the grounds for revocation.
- (c) Any person aggrieved by the action of the Chief of Police revocation of a license as provided in this article, shall have the right of appeal to the Governing Body. Such appeal shall be taken by filing with the City Clerk within 14 days after notice of revocation of the license has been mailed to such licensee's last known address setting forth the grounds for appeal. The Governing Body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the licensee in the same manner as provided herein for

notice of hearing on revocation. The decision and order of the Governing Body on such appeal shall be final and conclusive.

(Code 2014)

Sec. 5-207. Disturbing the Peace.

No peddler, canvasser or solicitor, nor any person ~~on~~~~is~~ ~~his or her~~~~their~~ behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. Additionally, no peddler, canvasser or solicitor, nor any person on their behalf shall disturb the peace according to the rules and regulations contained in the City's Uniform Public Offense Code.

(Code 1986)

Commented [JJ13]: This Is already stated in 5-205p; don't need it in two places.

Commented [AF14R13]: See included language at the end of this section.

Sec. 5-208. Special Use Permit Required.

Before any transient merchant business described in this article shall be conducted within the City, the applicant shall obtain from the City Council a special use permit as provided herein.

- (a) The City Council shall grant the applicant a special use permit if the City Council finds all of the following:
- (1) The use, as proposed by the applicant, if permitted, will comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations.
 - (2) The use, as proposed by the applicant, if permitted, would be in harmony with the intent and purpose of the City's zoning law or comprehensive plan.
 - (3) The use, as proposed by the applicant, if permitted, would be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.
 - (4) The use, as proposed by the applicant, if permitted, will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood, and will cause no objectionable noise, vibration, fumes, odors, dust, glare or physical activity.
 - (5) The use as proposed by the applicant, if permitted, would have no detrimental effect on vehicular or pedestrian traffic.
 - (6) The use, as proposed by the applicant, if permitted, would not adversely affect the health, safety, security, ~~morals~~, or general welfare of residents, visitors, or workers in the area.
 - (7) The use, as proposed by the applicant, if permitted, would not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage, and other public improvements.
- (b) In addition to the foregoing findings required to grant a special use permit the City Council may deny a special use permit for the particular business, if the City Council finds any of the following:

Commented [JJ15]: DEI has concern about who would determine morality - @Alex, is this a legal definition or principal?

Commented [AF16R15]: The law has a hard time defining morality, as made famous by the Supreme Court case that stated "I know it when I see it" regarding offensive materials. We recommend retaining this language so the City has the ability to deny the application on a moral basis, if, for example, someone proposes selling pornographic material.

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- (1) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the permit application or in any document required by the City in conjunction therewith.
 - (2) The applicant, if an individual, or any of the stockholders holding more than ten percent of the stock of the corporation, any of the officers or directors, if the applicant is a corporation; or any of the partners, including limited partners, if the applicant is a partnership; and the manager or other person principally in charge of the operation of the business, have been convicted of any crime involving fraud, deceit, theft of property, possession of stolen property or similar crime, unless such conviction occurred at least five years prior to the date of the application.
 - (3) The applicant has had a similar permit denied, suspended or revoked by any City, state or local agency within five years to the date of the application.

(Ord. No. 523, § 6)

Sec. 5-209. New Goods Public Auction Law.

Any person subject to the provisions of the New Goods Public Auction Law (K.S.A. 58-1014 et seq., as amended) for the sale, disposal of, or offering for sale at public auction any new goods, wares or merchandise shall not be required to obtain a transient merchant's license in accordance with the provisions of this article, but shall instead be required to obtain a public auction license in accordance with the New Goods Public Auction Law. Accordingly, the New Goods Public Auction Law, as it may be amended, are incorporated herein by this reference, and the City Clerk is authorized to issue a license for the same in accordance with the provisions thereof.

ARTICLE 3. MASSAGE ESTABLISHMENTS

Sec. 5-301. Definitions.

For the purposes of this article, the following words shall mean:

- (a) *Business premises* means those premises where a private or public commercial enterprise is conducted, but specifically not to include businesses conducted in a private residence, premises used for joint residential and business purposes and hotels.
- (b) *Couples massage* means massage therapy in which two clients receive massage therapy in the same room at the same time on two separate massage tables from two separate massage therapists.
- (c) *Healing arts practitioner* means a person who has been licensed pursuant to K.S.A. 65-2801 et seq. to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.
- (d) *Client-office massage therapy* means massage therapy that is conducted on the business premises of a massage client and is limited to massage therapy applied only above the massage client's waist.
- (e) *Massage therapist* means any person who, for consideration whatsoever, engages in the practice of massage therapy as defined herein.
- (f) *Massage therapy* means any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage therapy, as defined herein, does not include the touching in any fashion of human genitalia.

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- (g) *Massage therapy establishment* means any establishment or location where any person, firm, partnership, association or corporation engages in or carries on or permits to be engaged in or carried on any massage therapy for compensation.
 - (h) *Patron or client* means any person over 18 years of age who utilizes or receives the services of any person or establishment subject to the provisions of this article and under such circumstances that it is reasonably expected that ~~he or she~~^{they} will pay money or give any other consideration therefore, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such massage therapy in writing as set forth in this article.

(Ord. No. 855, § 1)

Sec. 5-302. References to City Officials.

Any reference in this article to the Police Chief, City Clerk, Fire Marshal, Building Official or City Administrator shall include those persons' designees and any individuals designated by the City Administrator.

(Ord. No. 855, § 2)

Sec. 5-303. Exceptions to Applicability of Article.

The provisions of this article shall not apply to hospitals, nursing homes, sanitariums; persons holding an unrevoked certificate to practice the healing arts; persons holding an unrevoked license to practice as a registered professional nurse under the laws of the State of Kansas working under the direction and supervision of any licensed healing arts practitioner; persons licensed to practice as a physical therapist under the laws of the State of Kansas; persons working under the direction and supervision of any licensed healing arts practitioner or in any such establishment; or barbers or cosmetologists lawfully carrying out their profession or business and holding valid, unrevoked and unsuspended licenses or certificates of registration issued by the State of Kansas.

(Ord. No. 855, § 3)

Sec. 5-304. Restriction to Licensed Premises.

All massage therapy, other than client-office massage therapy, provided under the provisions of this article, shall be conducted on the premises of a licensed massage therapy establishment.

- (a) Exceptions.
 - (1) Massage therapy may be conducted at a private residence which has been approved by the Governing Body for a home occupation massage therapy permit subject to the conditions associated with such home occupation permit.
 - (2) Massage therapy may be conducted at a private residence at the direction of and under the direct supervision of a licensed healing arts practitioner.

(Ord. No. 855, § 4)

Sec. 5-305. Transfer of Licenses; Other Licenses and Fees.

- (a) No massage therapy establishment license or massage therapist license shall be transferable and such authority as a license confers shall be conferred only on the licensee named therein.

(Supp. No. 16, Update 1)

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- (b) Any applications made, fees paid and licenses obtained under the provisions of this article shall be in addition to and not in lieu of any other fees, permits or licenses required to be paid or obtained under any other ordinances of the City.

(Ord. No. 855, § 5)

Sec. 5-306. Penalty.

Any person, firm, partnership, association or corporation convicted of violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$500.00, or by imprisonment in jail for not more than six months, or by both such fine and imprisonment. Each incident which is in violation of the provisions of this article shall be considered as a separate offense and shall be subject to penalty as provided in this article.

(Ord. No. 855, § 6)

Sec. 5-307. Massage Therapist License; License Required.

It is unlawful for any person to conduct massage therapy or client-office massage therapy unless ~~he or she has~~they have a valid massage therapist license issued by the City pursuant to the provisions of this article. A license issued pursuant to this Article is issued for the calendar year and shall expire ~~at the end on~~ November 30th of the calendar year for which it was issued.

(Ord. No. 855, § 7)

Commented [KN17]: Business licenses expire November 30 of each year.

Sec. 5-308. Application for Massage Therapist License.

- (a) *Written application.* Any person who desires to perform massage therapy within the City limits shall file a written application with the City Clerk upon a form provided by the City Clerk and shall accompany the application with an annual filing fee in an amount established by resolution adopted by the Governing Body which shall not be refundable or pro-rated.
- (b) *Required information.* The completed application shall include the following required information:
- (1) Applicant's name, home address and telephone number;
 - (2) Description of the applicant including height, weight, race and color of hair and eyes;
 - (3) Applicant's fingerprints, provided once an applicant has submitted an application containing said applicant's fingerprints, the applicant will not be required to submit fingerprints in any subsequent renewal application for that person;
 - (4) Two portrait photographs of the applicant at least two inches square;
 - (5) Written evidence that the applicant is at least 18 years old;
 - (6) The business, occupation or employment history of the applicant for the three years immediately preceding the date of application;
 - (7) Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense occurred; the sentence or other penalty, if any; and the current status of the case;
 - (8) Proof of compliance with the educational and training requirements for a massage therapist license, as set forth in section 5-311 of this article;

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- i. Proof of completion of educational and training requirements must be by certified transcript. The educational and training requirements imposed by this article may be fulfilled by proof of attendance at more than one school.
 - ii. ~~All massage therapist applicants who were validly licensed by the City with an occupational license for massage therapy on December 31, 2009 shall have until May 1, 2012 to satisfy the educational and training requirements of this article; provided, however, that such massage therapist applicants shall provide proof of successful completion of the requirements for certification in first aid and in cardiopulmonary resuscitation as set forth in section 5-311 by March 31, 2011.~~
 - iii. Authorization for the city, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.

(Ord. No. 855, § 8; Code 2012)

Sec. 5-309. Processing and Investigation of Massage Therapist Application.

Upon receipt of an application for a massage therapist license, the City Clerk shall immediately forward a copy of such application to the Police Chief to determine whether the information contained in the application is accurate and to investigate whether the applicant is qualified to be issued a massage therapy license. The Police Chief shall report the results of such investigation to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.

(Ord. No. 855, § 9)

Sec. 5-310. Issuance or Denial of Massage Therapist Application.

- (a) The City Clerk shall issue a massage therapist license within 21 days of receiving a completed application unless, upon examination of the application, it is determined that:
 - (1) The applicant for a massage therapist license has been convicted of, or diverted on, any of the following:
 - i. Felony which involves the use, or threat of use, of physical force;
 - ii. Felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
 - iii. Any offense involving an "unlawful sex act" which shall be defined as: rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by Kansas Statutes;
 - iv. Prostitution;
 - v. Promoting prostitution;
 - vi. Solicitation of a lewd or unlawful act;
 - vii. Pandering or other sexually related offense.
 - (2) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;

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(Supp. No. 16, Update 1)

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- (3) The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation;
 - (4) The applicant has not successfully completed the educational requirements under the provisions of this article.
 - (b) If an application is approved, the City Clerk shall issue the massage therapist license. The licensee shall keep such license available for inspection as set forth in section 5-312.
 - (c) If an application is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the applicant's mailing address as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the Johnson County District Court as provided by law.

(Ord. No. 855, § 10)

Sec. 5-311. Education and Training Requirements for Massage Therapist License.

To be eligible for a massage therapist license, an applicant shall provide proof of the following at the time of application, both initially and upon renewal:

- (a) *Educational requirements.* An applicant shall provide proof that the applicant:
 - (1) has successfully completed a course of instruction made up of not less than 500 hours of instruction in the theory, method or practice of massage from a National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) approved school; or
 - (2) Has passed the National Certification Examination for Therapeutic Massage and Bodywork.
- (b) *CPR and first aid.* An applicant shall provide proof of current certification in first aid and in cardiopulmonary resuscitation (CPR) by the American Heart Association or the equivalent.
- (c) *Continuing education requirements.* An applicant shall provide proof of compliance with continuing education requirements of the NCBTMB or the American Massage Therapy Association (AMTA) in effect at the time of application.

(Ord. No. 855, § 11)

Sec. 5-312. Regulations and Conduct Requirements for Massage Therapists.

- (a) A massage therapist licensee may not conduct massage therapy or client-office massage therapy within the City limits unless said licensee:
 - (1) Is employed by a validly licensed massage therapy establishment;
 - (2) Is the licensee of a validly licensed massage therapy establishment; or
 - (3) Resides in a residence that has been approved by the City Governing Body for a home occupation massage therapy permit.
- (b) *Identification card and license.* Any person issued a massage therapist license pursuant to the provisions of this article shall, at all times when offering massage therapy, have in ~~his or her~~their possession a valid identification card issued by the City bearing the massage therapist's license number, physical description and photograph. Such identification card shall be issued in such form necessary to prevent alteration. The massage therapist shall, at all times when offering massage therapy, have on the premises where such massage therapy is being offered, ~~his or her~~their massage therapist license. The massage therapist shall

make available for inspection said identification card and license upon request of members of the Police Department and City Code Officers. Such inspections shall be made at reasonable times and in a reasonable manner.

- (c) *Hours.* A massage therapist may not conduct massage therapy between the hours of 12:00 midnight and 6:00 a.m. each day.
- (d) *Separation of Customers~~sexes~~.* Except in the case of client-office massage therapy, fully dressed massage therapy and couples massage, it shall be unlawful for massage therapists to allow more than one customer at a times of opposite sex to receive massage therapy in the same room or the same quarters at the same time.
- (e) *Danger to safety, health.* No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, and after such notice in writing has been delivered to the massage therapist from such director.
- (f) *Alcoholic beverages.* A massage therapist shall not allow or permit the possession or consumption of alcoholic beverages or cereal malt beverages upon that portion of the premises where the massage therapist is providing massage therapy.
- (g) *Attire.* All massage therapists shall be clean, wear clean outer garments and be modestly attired, with clothing covering their chests at all times. Diaphanous or transparent clothing is prohibited.
- (h) *Covering of private parts.* The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of a massage therapist. Any contact with a patron's genital area is strictly prohibited.
- (i) *Minors.* No licensee hereunder shall perform any massage therapy to a person under the age of 18 unless such person under the age of 18 is accompanied by a parent or legal guardian and said parent or legal guardian has provided written authorization for such massage therapy.

(Ord. No. 855, § 12)

Sec. 5-313. Suspension or Revocation of Massage Therapist License.

- (a) A massage therapist license issued by the City may be suspended or revoked by the Police Chief, or his designated representative, where it appears that the massage therapist has been convicted of any offense which would make the massage therapist ineligible to receive a license, or for violation of any of the provisions of this chapter, including application standards.
- (b) All revocations or suspensions by the Police Chief are appealable to the City Council within ten days of the revocation or suspension, provided said appeal must be in writing and delivered to the City Clerk. The City Council may uphold or rescind the suspension or revocation, and if applicable specify certain conditions and stipulations associated therewith.

(Ord. No. 855, § 13)

Sec. 5-314. Massage Therapy Establishment License; License Required.

It is unlawful for any person, firm, partnership, association or corporation to operate a massage therapy establishment without first having obtained a license therefore, issued by the City Clerk. It is unlawful to conduct such a business unless the license for said business is valid, unexpired, unrevoked and not suspended.

- (a) A massage therapy establishment license is issued for the calendar year and shall expire at the end of the calendar year for which it was issued on November 30th of the year for which it was issued.

Commented [JJ18]: There are places, like Tao Reflexology in Mission, that put everyone in the same room, they just aren't undressed. Also, DEI mentioned something about this.

Commented [AF19R18]: The included language addresses this situation well.

Commented [KN20]: Business licenses expire November 30.

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- (b) A separate license shall be required for each and every separate massage therapy establishment business conducted by any one licensee.
 - (c) The license required hereunder shall be in addition to any other license required for the operation of any other business conducted on the same premises.
 - (d) A massage therapy establishment licensee who wishes to personally provide massage therapy must first obtain a massage therapist license.

(Ord. 855, § 14)

Sec. 5-315. Application for Massage Therapy Establishment License.

- (a) *Written application.* Every applicant for a license to maintain, operate or conduct a massage therapy establishment shall file a written application with the City Clerk upon a form provided by the City Clerk and shall accompany the application with an annual filing fee in an amount established by resolution adopted by the Governing Body which shall not be refundable or pro-rated.
- (b) *Required information.* The completed application shall include the following required information:
 - (1) Applicant's name, home and business address and telephone number;
 - i. "Applicant" shall include:
 - ii. Any stockholder holding more than ten percent of the stock of the applicant corporation;
 - iii. Any officers or directors of the applicant corporation;
 - iv. Any partner, when the applicant is a partnership;
 - v. Any manager of, or person principally responsible for the operation of, the proposed business;
 - (2) The exact nature of the services to be provided;
 - (3) The proposed place of business and facilities;
 - (4) Written evidence that the applicant is at least 18 years of age;
 - (5) Two portrait photographs of the applicant at least two inches square;
 - (6) Applicant's fingerprints, provided once an applicant has submitted an application containing said applicant's fingerprints, the applicant will not be required to submit fingerprints in any subsequent renewal application for that person;
 - (7) The business, occupation or employment history of the applicant for the three years immediately preceding the date of the application;
 - (8) The massage therapy business license history of the applicant; whether such applicant has previously had any massage therapy-related license revoked or suspended in any state, city or other local jurisdiction, and the basis for such revocation or suspension;
 - (9) Any criminal convictions of the applicant, other than traffic infractions, including the jurisdiction in which the offense occurred; the sentence or other penalty, if any; and the current status of the case;
 - (10) Authorization for the City, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.

(Ord. No. 855, § 15; Code 2012)

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(Supp. No. 16, Update 1)

Sec. 5-316. Processing and Investigation of Massage Therapy Establishment Application.

- (a) Upon receipt of an application for a massage therapy establishment license, the City Clerk shall immediately provide copies of such application to the Police Chief, Fire Marshal and Building Official. The Police Chief, Fire Marshal and Building Official shall report the results of their investigations, as set forth herein, to the City Clerk in a timely manner such that the City Clerk may comply with the applicable time restrictions for issuance or denial of a license.
- (b) It shall be the duty of the Police Chief to investigate the applicant and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a massage therapy establishment license.
- (c) It shall be the duty of the Building Official to determine whether the structure where the massage therapy establishment business is proposed to be located complies with the requirements of the City's applicable health, zoning, building and property maintenance codes.
- (d) It shall be the duty of the Fire Marshal to determine whether the structure where the massage therapy establishment business is proposed to be located complies with the requirements of the City's applicable fire code provisions.
- (e) Upon receipt of the reports from the Police Chief, Fire Marshal and Building Official, the City Clerk shall issue a license to the applicant provided such application is eligible for issuance of a Massage Therapy Establishment license pursuant to this Chapter. If there are inspection items that relate to the structural design of the premises that cannot be verified prior to consideration of the application by the City Clerk, the application may be approved by the City Clerk contingent on a final inspection prior to issuance of the license. All applicable Code provisions for the proposed location shall be met prior to the first day such premises are open for business.

(Ord. No. 855, § 16)

Sec. 5-317. Issuance or Denial of Massage Therapy Establishment Application.

- (a) The City Clerk shall issue a massage therapy establishment License within 30 days of receiving a completed application unless, upon examination of the application, it is determined that:
 - (1) The business, as proposed by the applicant, if permitted, would not comply with all applicable laws including, but not limited to, the City's health, zoning, building, and property maintenance codes;
 - (2) The applicant, if an individual; or any of the stockholders holding more than ten percent of the stock of the applicant corporation; or any of the officers or directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person principally responsible for the operation of the business, has been convicted of, or diverted on, any of the following:
 - i. A felony which involves the use, or threat of use, of physical force;
 - ii. A felony not involving the use, or threat of use, of physical force that is less than five years old from date of application;
 - iii. Any offense involving an "unlawful sex act" which shall be defined as:
 - iv. Rape, indecent liberties with a child, aggravated indecent liberties with a child, criminal sodomy, aggravated criminal sodomy, lewd and lascivious behavior, sexual battery or aggravated sexual battery, as each is defined by Kansas Statutes;
 - v. Prostitution;

-
- vi. Promoting prostitution;
 - vii. Solicitation of a lewd or unlawful act;
 - viii. Pandering or other sexually related offense.
- (3) The applicant has knowingly made any false, misleading or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
 - (4) The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation;
 - (5) The applicant has had a massage therapy establishment or other similar permit or license denied, suspended, or revoked for any of the above listed causes by this City or any other state, city or other local jurisdiction within five years of the date of the application;
 - (6) The applicant has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment;
 - (7) The applicant, if an individual; or any of the officers and directors, if the application is a corporation; or any of the partners if the applicant is a partnership; or the manager or other person primarily responsible for the operation of the business, has not attained the age of 18 years; or
 - (8) The manager or other person primarily responsible for the operation of the business would be ineligible to receive any license under the provisions of this article.
- (b) If a massage therapy establishment license is denied, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the applicant's mailing address as set forth on the application, and the notice shall state the basis for the denial. Any applicant aggrieved by the denial may seek judicial review to the Johnson County District Court as provided by law.

(Ord. No. 855, § 17)

Sec. 5-318. Regulations and Conduct Requirements for Massage Therapy Establishments.

Operation of a massage therapy establishment shall be subject to the following regulations:

- (a) *License to be posted.* A massage therapy establishment license shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.
- (b) *Limited to premises.* It shall be unlawful to operate a massage therapy establishment at any other premises than specified in the license.
- (c) *Supervision.* The licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise the premises and shall not violate, or permit others to violate, any applicable provision of this chapter. The violation of any provision of this article by any employee of the licensee shall be deemed a violation by the licensee.
- (d) *Conduct of premises.* A massage therapy establishment licensee shall at all times be responsible for the conduct of business on the licensed premises and for any act or conduct of said licensee's employees which constitutes a violation of the provisions of this article. Any violation of any city, state or federal laws committed on the licensed premises by any such licensee or employee affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of a license.
- (e) *Massage therapist license required.*

-
- (1) It shall be unlawful for a massage therapy establishment licensee to personally conduct massage therapy or client-office massage therapy unless said Licensee holds a valid massage therapist license issued by the City.
- (2) It shall be unlawful for any massage therapy establishment licensee to permit or allow massage therapy on the licensed premises by anyone other than a licensed massage therapist.
- (f) *Hours.* The business shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.
- (g) ~~Separation of Customersexes.~~ Except in the case of client-office massage therapy, fully dressed massage therapy and couples massage, it shall be unlawful for massage therapists to allow more than one customer at a time to receive massage therapy in the same room or the same quarters at the same time. ~~eration of sexes. Except in the case of client office massage therapy and couples massage, it shall be unlawful for massage therapy establishment licensees to allow customers of opposite sex to receive massage therapy in the same room or the same quarters at the same time.~~
- (h) *Danger to safety, health.* No service shall be given which is clearly dangerous or harmful in the opinion of the Director of the County Department of Health to the safety or health of any person, and after such notice in writing has been delivered to the licensee from such Director.
- (i) *Alcoholic beverages.* No alcoholic beverages or cereal malt beverages, nor the consumption thereof, shall be allowed or permitted in or upon any premises licensed under the provisions of this article.
- (j) *Sanitary conditions.* Every portion of a licensed establishment shall be kept clean and operated in a sanitary condition. Clean, laundered sheets and towels shall be available in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner.
- (k) *Attire.* All employees shall be clean, wear clean outer garments and be modestly attired, with clothing covering their chests at all times. Diaphanous or transparent clothing is prohibited.
- (l) *Covering of private parts.* The private parts of patrons must be covered by towels, cloths, or undergarments when in the presence of the licensee or any employee. Any contact with a patron's genital area is strictly prohibited.
- (m) *Locked premises.* No massage therapy may be offered or provided within any cubicle, room, booth or other area within the licensed premises which is fitted with a door that can be locked.
- (n) *Minors.* No licensee shall permit massage therapy to be provided to any person under the age of 18 years of age unless accompanied by his or her parent or legal guardian and said parent or legal guardian has provided written authorization for such massage therapy.
- (o) *Employee register.* The licensee shall keep and maintain on the licensed premises a current register of all employees, including each employee's name, address and massage therapist license numbers. Such register shall be open to inspection at all reasonable times by any City Code Officer or members of the Police Department.
- (p) *Advertising.* No licensee shall place, publish, or distribute or cause to be placed, published or distributed any advertising that depicts any activity or any portion of the human body that would reasonably suggest to a reasonable person who viewed such advertising that the business provides any service other than those permitted under this article, or that employees of the business will be dressed in any manner inconsistent with the regulations set forth in this article, nor shall any massage therapy establishment indicate in the text of any advertising promulgated by that business that any service is available other than those services permitted under this article.

(Ord. No. 855, § 18)

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(Supp. No. 16, Update 1)

Sec. 5-319. Right of Entry and Inspection.

Members of the Police Department and City Code Officers may, from time to time, make an inspection of each licensed massage therapy establishment in the City, including locations where client-office massages are provided, for the purposes of determining that the provisions of this article are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such officer immediate access to the premises or to hinder such Officer in any manner. Provided further, that any failure on the part of any licensee, agent or employee thereof to permit immediate access to such officer shall be grounds for revocation or suspension of a license issued pursuant to this article.

(Ord. No. 855, § 19)

Sec. 5-320. Suspension or Revocation of Massage Therapy Establishment License.

- (a) A massage therapy establishment license issued by the City may be suspended or revoked by the Police Chief where it appears that the massage therapy establishment licensee has been convicted of any offense which would make the licensee ineligible to receive a license or for violation of any of the provisions of this article, including application standards.
- (b) All revocations or suspensions by the police chief are appealable to the city council within ten days of the revocation or suspension, provided said appeal must be in writing and delivered to the City Clerk. The City Council may uphold or rescind the suspension or revocation, and if applicable specify certain conditions and stipulations associated therewith.

(Ord No. 855, § 20)

ARTICLE 4. GARAGE SALES

Sec. 5-401. Definitions.

For the purpose of this article, the following terms, phrases, words and the derivations shall have the following meanings:

- (a) *Garage sale* shall mean any sale operated out of a single family dwelling or a dual family dwelling, or a multiple family dwelling being of two hours or more duration.
- (b) *Goods* shall include any goods, wares, merchandise or any other property capable of being the object of a sale regulated under this article.
- (c) *Person* shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(Code 1977, § 7-101)

Sec. 5-402. Garage Sale Permit.

No garage sale shall be held until the person conducting such sale shall have first obtained a garage sale permit from the City, [with the exception of permit-free events hosted by the City](#).

(Code 1977, § 7-106)

Sec. 5-403. Same; Application.

- (a) The application for a garage sale permit shall be made at least ~~five days~~one day prior to the sale and upon forms furnished by the City. The applicant shall answer fully all questions contained in the application and pay an application fee in amount established by resolution adopted by the Governing Body.
- (b) The City Clerk shall consider all applications and issue or deny all permits depending upon compliance with this article.

(Ord. No. 743, § 4; Code 2007)

Sec. 5-404. Same; Displayed at Curb.

All garage sale permits issued under this article shall be conspicuously displayed at the location of the garage sale at all times during the sale.

(Code 1977, § 7-106)

Sec. 5-405. Number of Garage Sales.

It shall be unlawful for any person to hold more than two permitted garage sales at the same location within one year last past from the date of the person's current garage sale. The provisions of this section shall not apply when a third sale at the same location is held in conjunction with a person's changing of domicile from that location.

(Code 1977, 7-102; Code 1986)

Commented [JJ21]: This would account for the two garage sale permit free weekends we hold each year. We don't count those because we don't permit them.

Sec. 5-406. Garage Sale Time Limit.

It shall be unlawful for any person to conduct a garage sale lasting longer than four consecutive days.

(Code 1977, § 7-103)

Sec. 5-407. Garage Sale Premises.

All garage sales shall be confined to the property and shall in no manner encroach upon a neighboring property.

Sec. 5-408. Advertising Garage Sale.

Any person obtaining a garage sale permit shall be allowed to erect signs advertising the sale or giving directions to its location, provided that no such sign shall exceed three square feet in sign surface area per sign face. No more than five signs shall be erected for any garage sale for which a permit is obtained. All such signs shall be erected on private property with the consent of the property owner. No signs shall be placed on public property. All signs shall be removed within 24 hours after the last permitted date for the garage sale. The failure of a permittee to remove a sign within the foregoing time period shall be deemed a public offense punishable in accordance with the provisions of section 1-117.

(Ord. 683, § 1; Code 2003)

Sec. 5-409. Exceptions to Provisions Within Article.

The Governing Body shall allow exceptions to provisions within this article but only upon proper application, at a regular council meeting and for good cause shown.

(Code 1977, § 7-107)

ARTICLE 5. AMUSEMENT DEVICES

Sec. 5-501. Purpose.

The purpose of this article is to license, regulate and control those automatic amusement devices which are operated for the purpose of making a profit.

(Ord. No. 453, § 1)

Sec. 5-502. Definitions.

As used in this article, the words and phrases defined herein shall have the following meaning unless the context otherwise requires:

- (a) *Automatic amusement devices.* Any machine which upon the insertion of a coin, slug, token, place or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, including but not limited to such devices as marble machines, pinball machines, skill ball, mechanical grab machines, pool tables and all games, operations or transactions similar thereto under whatever name they be indicated. It shall include video type games or machines, or similar devices that use a display screen for points, lines and dots of light that can be manipulated to simulate games or other types of entertainment. Automatic amusement devices shall not include coin operated riding machines, juke boxes or other types of machines that play recorded music, television sets, or any other machine which is not subject to control and manipulation by the person using the machine.
- (b) *Person.* Any person, firm, corporation, partnership or association.
- (c) *Operator.* Any person in possession of the premises on which any automatic amusement device is placed or kept for operation.
- (d) *Distributor.* Any person, excepting an operator, who owns, controls, manages or has possession of any automatic amusement device.

(Ord. No. 453, § 1)

Sec. 5-503. Permits, Licenses Required.

No person shall be the operator or distributor of an automatic amusement device located within the City without first obtaining a permit from the City. The application for the license shall be made upon the form prescribed by the City and shall be filed with the City Clerk. The application for an operator's permit shall contain:

- (a) Name and address of the applicant.
- (b) Name and address of the distributor of each automatic amusement device to be kept on the premises.

- (c) Name under which the business is being operated and the address of same.
- (d) Number and type of machines to be located on the premises.
- (e) List of each automatic amusement device including for each, the type and serial number.

An application for a distributor's permit shall contain:

- (a) The name and address of the applicant.
- (b) Name under which the applicant is doing business.
- (c) The name and address of each operator in the City of automatic amusement devices distributed by applicant.
- (d) List of each automatic amusement device including for each, the type and serial number.

An operator's license granted pursuant to this article shall be posted in a conspicuous place on the location for which the license was granted. An inventory list containing the type and serial number for each and every automatic amusement device for which the license was issued shall be on the premises. The number of automatic amusement devices requested on the application shall be noted on the license.

(Ord. No. 453, § 1)

Sec. 5-504. Fees, License Term, Transferability, Renewal.

All applications for licenses shall be for a calendar year or so much thereof as remains and all applications for a renewal license shall be made on or before December 1st preceding the calendar year for which the renewal license is sought. Each application for an operator's license shall be accompanied by in amount established by resolution adopted by the Governing Body for each and every automatic amusement device. Each application for a distributor's license shall be accompanied by a fee in amount established by resolution adopted by the Governing Body.

~~The initial application and the requisite fee thereupon shall be prorated on a semi-annual basis. Persons applying on or before July of each year will pay full tax and persons applying subsequent to July 1st of each year will pay one-half the annual tax.~~ There shall be no refund in any case where the licensee terminates business prior to the end of a calendar year or when the license is revoked for any reason. No license issued under this article shall be transferable to another person.

(Ord. No. 453, § 1)

Sec. 5-505. Verification and Inspection.

The Chief of Police or ~~his or her~~their designee may make an investigation of the premises and the applicant to determine the truth of the facts set forth in the application.

(Ord. No. 453, § 1)

Sec. 5-506. Revocation of License.

The Governing Body may revoke or suspend such license after having given the licensee notice and an opportunity to be heard on why the license should not be suspended or revoked. The notice shall be given at least ten days in advance of the hearing by certified mail to the applicant at his or her residence address listed on the application. The notice shall advise the interested parties of the time and place of the public hearing and of the reasons why suspension or revocation is being considered.

Commented [KN22]: Non-Domicile licenses are prorated after June 1. This hasn't been a practice for amusement devices.

Commented [JJ23R22]: Removing since it's not in the fee resolution and not a practice

(Ord. No. 453, § 1)

Sec. 5-507. Reasons for Revocation or Suspension.

The Governing Body may after notice and hearing as above provided revoke or suspend such license for any of the following reasons:

- (a) Gambling on the premises;
- (b) False or incorrect material on the application or information furnished by the applicant;
- (c) If the presence of the machines results in obscene and loud language disturbing to the public or to other patrons of the premises, creating a nuisance, excessive noise, litter, traffic or rowdyism by the patrons.

(Code 1986)

ARTICLE 6. HOME OCCUPATIONS

Sec. 5-601. Definitions.

For purposes of this article, the following definitions shall apply.

- (a) *Home occupation* is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling.
- (b) ~~Boarding house~~ **Boarding or rooming house** shall mean every building or other structure which is kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests, other than a short-term rental (as defined in Section 5-702 of the Code). Provided, however, where a resident homeowner leases space to no more than two roommates for terms of a year or more, it shall not be considered to be a boarding or rooming house. **This definition includes "Lodging house."**
- (c) *Short-term rental* shall be defined as set forth in section 5-702 of the Code.

(Ord. No. 481, § 1; Ord. No. 925, § 1, 1-4-2016)

Sec. 5-602. Criteria.

A home occupation is permitted as an accessory use of a dwelling only when all of the following criteria are met:

- (a) No person or persons shall be engaged in such home occupation other than that person or those persons occupying such dwelling as ~~his or her~~**their** residence; provided, however, the person or persons engaged in such home occupation may have non-resident employees so long as no parking on the public right-of-way shall occur as a result of such employment and such employment does not otherwise disturb the residential character of the neighborhood;
- (b) No alteration to the dwelling, building, premises, or property, shall be made, which changes the external appearance of the dwelling, premises or property, in a manner that causes the structure to lose its residential character or detract from the residential character of the neighborhood;

(c) The home occupation shall be conducted entirely within the main dwelling building and no such home occupation shall be conducted in an accessory building, garage, or structure, whether attached or detached;

(d) The home occupation shall not occupy more than 25 percent of the floor area of the primary dwelling, unless it is a short-term rental, in which case, the rental must comply with section 5-704 and may comprise 100 percent of the floor area of the dwelling. If it's in an accessory dwelling, it may comprise 100 percent of the floor area;

(e) There shall be no outside storage of any equipment, machinery or materials used in the home occupation;

(f) There shall be no storage in the dwelling or anywhere upon the premises or property of any toxic materials or toxic chemicals for resale or use in the home occupation;

(g) No commercial exchange of tangible goods or other items constituting a sale between the person or persons conducting the home occupation and members of the general public shall be permitted on the premises of the home occupation. Members of the general public shall not include persons in the home by prior individualized invitation;

(h) No sign, symbol, device, design, decal, engraved surface, trademark, or logo that directly or indirectly names, advertises or calls attention to the home occupation or other commercial activity (a "commercial identification marker"), and that is visible to persons not located on the property, shall be permitted anywhere on the property where the home occupation is authorized;

(i) No home occupation shall be permitted which generates, results in, or contributes to traffic (vehicular or pedestrian), parking, sewage, or water use in excess of what is usual and normal in the residential neighborhood;

(j) No home occupation shall be permitted which creates, or has the potential to create, a hazard or danger to the health, care, safety or welfare of any person or property, including any person at, in or occupying the dwelling or any property, real or personal, at the dwelling;

(k) No home occupation shall be permitted which results in or contributes to electrical disturbance or interference of any sort;

(l) No home occupation shall be permitted which is, may be, or has the potential to become a nuisance, public or private;

(m) No home occupation shall be permitted unless the person or persons conducting such home occupation shall have first paid in full their annual City occupation tax;

(n) No home occupation shall be permitted, if such occupation is subject to any other laws of the City, the laws of Johnson County, the State of Kansas, or the United States, which require persons conducting such an occupation first to obtain approval from such governmental authorities before commencing such occupation and maintaining approval while the occupation is conducted, and the approval has not been obtained or maintained; or

(o) No home occupation shall be permitted which may be unlawful under the laws of the City, the laws of Johnson County, the State of Kansas, or the United States, or any rules or regulations of the City, county, state or United States.

(Ord. No. 807, § 1; Ord. No. 925, § 2, 1-4-2016)

Commented [WH24]: Can a home occupation be located in an accessory dwelling? For example hair salon in back, main dwelling home.

Commented [JJ25R24]: I recommend removing this

Commented [AF26R25]: This is a policy decision for the Council. All accessory dwelling units require a Special Use Permit from the Planning Commission and the Governing Body. There is nothing in our new Chapter 16 ordinance that explicitly prohibits or allows ADUs to be short term rentals, or home occupations. Can be decided on a case-by-base Special Use Permit basis.

Commented [JJ27]: This would be the language if the Council chooses to allow home occupations as part of an ADU

Sec. 5-603. Permitted Occupations.

The following are permitted home occupations providing they do not violate any of the provisions of Section 5-602:

- (a) Accountant;
- (b) Architect;
- (c) Artist, painter, sculptor;
- (d) In-home daycare facility, provided that there are no more than five children at any one time; requests for more children are subject to Section 5-605(d);
- (e) Chiropractor;
- (f) Clergyman;
- (g) Computer programmer;
- (h) Dentist;
- (i) Dressmaker, seamstress, tailor;
- (j) Engineer;
- (k) Firearms dealer, provided that gross sales do not exceed \$5,000.00 per year, that every person dealing firearms has a current valid federal firearms license and that not more than 12 transactions occur at the residence during any calendar year;
- (l) Home cooking and preserving;
- (m) Home crafts, model making, rug weaving, lapidary, woodwork, cabinet work;
- (n) Insurance agent;
- (o) Lawyer;
- (p) Osteopath;
- (q) Photographer;
- (r) Physician;
- (s) Psychologist/[Counselor](#);
- (t) Psychiatrist;
- (u) Real estate agent;
- (v) Telephone answering;
- (w) Typist;
- (x) Teacher—Tutor, with no more than three students taught at any one time;
- (y) Foster family care;
- (z) Beauty parlors, cosmetologists;
- (aa) Barber shops; and
- (bb) Short-term rentals.

(Ord. No. 639, § 1; Ord. No. 925, § 3, 1-4-2016; Ord. No. 961, § 1, 11-20-2017; Ord. No. 976, § 1, 4-15-2019)

Sec. 5-604. Prohibited Occupations.

The following are prohibited as home occupations:

- (a) Dance studios;
- (b) Veterinary clinics, animal hospitals, stables, kennels;
- (c) Funeral homes, mortuaries;
- (d) Nursery schools, in-home daycares are permitted as described in Section 16-318;
- (e) Private clubs;
- (f) Automotive repair, ~~or~~ paint shops or automotive sales;
- (g) Appliance or equipment repair shops;
- (h) Boarding houses.

(Ord. No. 481, § 4; Ord. No. 925, § 4, 1-4-2016; Ord. No. 961, § 2, 11-20-2017)

Sec. 5-605. Conditional Uses.

- (a) Any proposed home occupation which is neither specifically permitted by Section 5-603 or specifically prohibited by Section 5-604, shall be considered a conditional use, and be granted or denied by the Governing Body upon consideration of those standards contained in Section 5-602.
- (b) Any proposed in-home daycare operation with more than five children and up to the maximum allowed by the State of Kansas must seek a Special Use Permit as outlined in Chapters 16-318—16-319.

(Ord. No. 481, § 5; Ord. No. 961, § 3, 11-20-2017; Ord. No. 976, § 2, 4-15-2019)

Sec. 5-606. Garage Sales.

The conducting of a garage or yard sale shall not be deemed to be a home occupation subject to this article.

(Ord. No. 481, § 6)

ARTICLE 7. RENTAL HOUSING

Sec. 5-701. Rental Housing; Purpose.

The purpose of this article is to protect the public health, safety and general welfare of the people of the City with regard to rental housing, including:

- (a) Protecting the character and stability of residential areas;
- (b) Correcting and preventing housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health, including the physical, mental and social well-being of persons occupying dwellings;
- (c) Providing minimum standards for the maintenance of existing residential buildings, thus preventing slums and blight;

- (d) Preserving the value of land and buildings throughout the City.

(Ord. No. 568, § 2; Ord. No. 925, § 5, 1-4-2016; Ord. No. 986, 8-19-2019)

Sec. 5-702. Same; Definitions.

- (a) *Owner* shall mean any person, partnership, firm or corporation who, alone, jointly or severally with others is the title holder of any property upon which a dwelling is located. For purposes of the article, owner shall include the titleholder, any employee or agent of the titleholder, a trustee serving for the benefit of any titleholder, a conservator of the estate of any titleholder, or an executor or administrator of the estate of any deceased titleholder.
- (b) *Property* shall mean the lot, tract, or parcel of real estate upon which a dwelling is located.
- (c) *Single-family dwelling* is any dwelling located on property which has been zoned as Single-Family Residence District pursuant to the zoning laws of the City.
- (d) *Dwelling* is any building or portion thereof, which is designed or used for residential dwelling purposes.
- (e) *Duplex* is a dwelling designed for or occupied exclusively by two families.
- (f) *Multi-family dwelling* is a dwelling or portion thereof designed for or occupied by three or more families, but which may have joint services or facilities for more than one family.
- (g) *Accessory dwelling*, means a separate and smaller second dwelling that is located within the lot or building envelop of a single-family dwelling and is held under the same ownership of that single-family dwelling. This separate dwelling contains its own living, cooking, and housekeeping facilities, may or may not have its own entrance, and is contained within, attached to, or built separate from the principal single-family dwelling. Examples include: a dwelling over an attached or detached garage, a tiny house built on a separate foundation in the backyard, a dwelling within the basement of the principal building, or a dwelling attached to the principal building.
- (f) *Short-term rental* means any dwelling, dwelling unit, rooming unit, room or portion of any dwelling unit, rooming unit or room rented or leased for valuable consideration for periods of time less than 30 days, with six or fewer guests where the rental may only serve as an accessory use, but excludes boarding houses (as defined in section 5-601 of the Code).

(Ord. No. 905, §§ 1, 4, 2-16-2015; Ord. No. 925, § 6, 1-4-2016; Ord. No. 986, 8-19-2019)

Editor's note(s)—Ord. No. 905, §§ 1, 4, adopted Feb. 16, 2015, repealed the former § 5-702, and enacted a new § 5-702 as set out herein. The former § 5-702 pertained to similar subject matter and derived from Ord. No. 568, § 3.

Sec. 5-703. Same; License Required; Application Dates and Expirations.

It shall be unlawful for the owner of a single-family dwelling, or duplex to rent such dwelling to any person for dwelling purposes without first obtaining a license. The procedure for the application and the issuance of the initial license shall be the procedure set forth in section 5-704 through section 5-707 of this article. The initial license may be applied for at any time, but the date of expiration of the initial license shall be determined by the location of the single-family dwelling or duplex for which the license is required as set forth below. The date of each year upon which a person is required to make application for and obtain a renewal license under the provisions of this article shall be determined by the location of the single-family dwelling or duplex for which the license is required, as follows:

Location of Property	Application Date	Expiration Date
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Commented [JJ28]: We will need to discuss if we want to add ADUs to this list at a future date.

Ward 1	March 1	February 28
Ward 2	May 1	April 30
Ward 3	July 1	June 30
Ward 4	September 1	August 31

The renewal license shall be issued for a 12-month period commencing on the initial application date and ending on the expiration date set forth above.

(Ord. No. 728, § 1; Code 2007; Ord. No. 986, 8-19-2019)

Sec. 5-704. Same; License Procedure.

- (a) Any person desiring a license shall make written application to the City Clerk on a form supplied by the City and containing such information as is necessary to administer and enforce the provisions of this article. Such application shall contain as a minimum the name and address of the owner, the address of the property, a consent by the owner to receive notices as provided in this article at a specified address and a consent to the inspections provided in the article. If any rental property is offered for lease by an owner of property who is not a resident of Johnson County, Kansas, the property owner shall designate a resident agent who resides within Johnson County, Kansas, they will be responsible for the payment of all fees and penalties, receipt of notices and all other matters provided herein. For short-term rentals the property owner or their registered agent must reside within 30 concentric miles. The application shall be accompanied by the license fee established pursuant to section 5-104(c) of this Code. The licensing fee shall be prorated for the number of months always rounded up to the next whole dollar between the commencement of the licensing period and the date of the application for those applications that are submitted for dwellings that were not subject to the requirements of this article on the initial application date set forth in section 5-703. No refund of the license fee shall be made to those discontinuing operation or who sell, transfer, give away or otherwise dispose of a licensed dwelling to another person.
- (b) Short-term rentals requirements:
 - (1) The rental is of the owner's principal residence;
 - (2) Any resident wishing to host a short-term rental must notify owners of record of lands located within at least 100 feet of the property which is the subject of the application, thus providing the property owner the opportunity to file an objection to issuance of the short-term rental license. The mailed notice shall be given by certified mail, return receipt requested, and shall be in letter form to the Planning Commission. Mailed notices shall be addressed to the owners of record of the property. When the notice has been properly addressed and deposited in the mail, failure of any party to receive mailed notice shall not invalidate any action taken on the application. Mailed notice may be waived provided that a verified statement specifically indicating the waiver is signed by all property owners within the notification area and filed with City Hall. The applicant shall file with City Hall the returned receipts from the certified mailings and an affidavit stating the names and addresses of the persons to whom notice was sent; failure to submit the affidavit will result in the application being denied. If the Planning Commission has received not more than two protests concerning the short-term rental license application, City Hall shall issue the short-term rental license. If three or more of the mailed notice or waiver objections are received, the application shall go before the Planning Commission before approval in which the license may be denied.
 - (3) Any short-term rental operating within the City must include the City rental license on marketing materials and online platforms the resident is using to advertise the rental of their home.

- (4) Any short-term rental license must include the contact information of the Code Enforcement Officer or their designee. It also must include the contact information of the registered agent or property owner.
- (5) Any short-term rental application must include a completed safety checklist attestation.

(Ord. No. 585, § 2; Ord. No. 925, § 7, 1-4-2016; Ord. No. 937, § 1, 8-15-2016; Ord. No. 986, 8-19-2019)

Sec. 5-705. Same; Temporary Certificate.

~~Upon receipt of a completed application and the license fee, the City Clerk shall issue a "temporary certificate" indicating that a license has been duly applied for and the City Clerk shall attach with a sample of the inspection form which will be used to inspect the property by the City Building Official or such official's designated representative, along with a copy of Article 7 of Chapter V of the Code. A temporary certificate shall authorize the occupancy or continued occupancy of the dwelling unit in its present existence and use, pending the issuance or denial of the license. Structures to be converted to rental usage shall not be occupied for human habitation prior to issuance of a temporary certificate.~~ **RESERVED FOR FUTURE USE**

(Ord. No. 568, § 7; Code 2003; Ord. No. 937, § 2, 8-15-2016; Ord. No. 986, 8-19-2019)

Commented [KN29]: We don't do this temporary certificate.

Commented [JJ30R29]: Recommend removal

Commented [AF31R29]: Agreed, let's just reserve this for future use so we don't have to re-number the rest, and as a placeholder in case we want future regulations in this area of the code.

Sec. 5-706. Same; Inspection.

- (a) *Purpose.* Upon receipt of a properly completed application and license fee, the City shall cause the dwelling and the property upon which it is located to be inspected by the City Building Official or such official's designated representative. The City Building Official or ~~his or her~~ **their** designated representative shall inspect the dwelling and the property upon which it is located to determine the following:
 - (1) That the use of the property is in compliance with the applicable zoning laws.
 - (2) That based upon an inspection of the exterior of the dwelling, the dwelling meets the requirements of the applicable building codes and standards contained in Chapter IV.
 - (3) That no condition exists on the exterior of the dwelling or on the property upon which the dwelling is located which constitutes a violation of any other Code section or ordinance of the City.

If the City Building Official finds that the dwelling and the property upon which it is located meets the requirements specified herein, then ~~he or she~~ **they** shall approve the application and notify the City Clerk that the property has passed the inspection.

- (b) *Single-family dwellings and duplexes, including permissible short-term rentals.* Interior and exterior inspections of single-family dwellings and duplexes may be conducted at any time upon the request of the lawful occupant. Exterior inspections shall be conducted annually at the time an application is submitted for a license or a renewal license. ~~Beginning on January 1, 2016, upon any dwelling becoming vacant, the owner shall notify the City and, if consented to by the owner or the owner's representative, an interior inspection shall be conducted in the presence of the owner or the owner's representative prior to the dwelling being occupied by a new tenant, unless the dwelling has been inspected within the previous 12 months. Failure of the owner to notify the City that a dwelling has become vacant within 15 days after vacation of the dwelling shall be a public offense. Interior inspections may also be conducted pursuant to an administrative search warrant.~~
- (c) *Multi-family dwellings.* Interior and exterior inspections of multi-family dwellings may be conducted at any time upon the request of the lawful occupant. Exterior inspections shall be conducted annually at the time an application is submitted for a license or a renewal license. ~~Beginning on January 1, 2016, interior and exterior inspections of each dwelling unit in a multi-family dwelling shall also be conducted by the Neighborhood Services staff approximately once every four years; multi-family dwelling units shall be~~

Commented [JJ32]: Or ADUs - to be discussed in the future

~~systematically selected for such inspections. Interior inspections shall only be conducted with the consent of the lawful occupant or pursuant to an administrative search warrant.~~

(d)

~~(e)~~ **Reinspections.** If, upon inspection of a dwelling, the Neighborhood Services staff determines that the dwelling is not in compliance with applicable City ordinances, staff will discuss a schedule and process to achieve compliance with the owner or tenant. Reinspections shall be conducted to ensure that appropriate corrective action has been completed.

(Ord. No. 905, §§ 2, 4, 2-16-2015; Ord. No. 925, § 8, 1-4-2016; Ord. No. 937, § 3, 8-15-2016; Ord. No. 986, 8-19-2019)

Editor's note(s)—Ord. No. 905, §§ 2, 4, adopted Feb. 16, 2015, repealed the former § 5-706, and enacted a new § 5-706 as set out herein. The former § 5-706 pertained to similar subject matter and derived from Ord. No. 568, § 8.

Sec. 5-707. Same; Issuance or Denial of License.

- (a) The City Clerk shall cause the license to be issued upon receipt of a properly completed application, the applicable license fee and the approval of the City Building Official. ~~All rights granted under a temporary certificate shall expire upon the issuance of the license.~~ Compliance with the requirements necessary to pass inspection as set forth in section 5-706 shall be a continuing condition of the license; noncompliance with any such requirements may result in a suspension of the license pursuant to section 5-709.
- (b) If the City Building Official finds that the property does not meet the requirements of this article, a written denial specifying the defects shall be mailed or personally delivered to the applicant. At such time as the applicant has cured any defects and the City Building Official has verified the correction thereof, the City Clerk shall cause the license to be issued in accordance with the provisions of this article. In the event the applicant has not cured all the defects specified by the City Building Official within 60 days of the delivery of the notice thereof, ~~all rights granted under a temporary certificate shall expire~~ the license shall be denied.

(Ord. No. 568, § 9; Ord. No. 986, 8-19-2019)

Sec. 5-708. Same; Renewal of License.

Each initial license issued under the provisions of this article shall expire on the expiration date set forth in section 5-703 hereof. A license, other than an initial license, shall expire on the month and day set forth in section 5-703 following the date of its issuance. A license may be renewed upon the completion of the application described in section 5-704 hereof, the payment of the licensing fee, and the property passing the inspection as provided in section 5-706 hereof. If a proper application has been filed for the renewal of a license and the licensing fee has been paid before the expiration date or within ten days following the expiration date, the owner shall be deemed to be in compliance with the licensing requirements of this article pending the inspection being made by the City pursuant to section 5-706.

(Ord. No. 585, § 3; Ord. No. 986, 8-19-2019)

Sec. 5-709. Same; Notice of Violation; Failure to Repair.

- (a) Whenever the City Building Official or designated representative determines that any dwelling or the property surrounding such dwelling fails to meet the requirements set forth in the article, ~~he or she~~ they shall

suspend the license previously issued and shall issue a notice that such failure must be corrected. This notice shall:

- (1) Be in writing;
 - (2) Set forth the alleged violation;
 - (3) Describe the dwelling or other property where the violation or violations are alleged to exist or have been committed;
 - (4) Provide a reasonable time, not to exceed 60 days, for the correction of any alleged violations;
 - (5) Be served on the owner of the dwelling personally, or by certified mail, addressed to the last known place of residence of the owner, or the address of the owner provided on the application for license. If upon a diligent effort to locate the owner, the owner cannot be found, notice may be posted on or near the dwelling located on the property described in the notice.
- (b) A license suspended pursuant to the provisions hereof shall be reinstated upon correction of the violation set forth in the notice within the time provided in the notice.
- (c) Whenever an owner of a dwelling neglects or refuses to make repairs or take other corrective action called for by order or notice of violation issued by the City Building Official within the time allowed by the notice, the City Building Official shall revoke the license previously issued and shall post a notice on the dwelling or other property stating the nature of the violation and that the license to rent the dwelling is revoked. It shall be unlawful and punishable as provided herein for any person to remove such notice posted by the City Building Official. The issuance of a new license shall be subject to the payment of the full application fee.

(Ord. No. 568, § 11; Ord. No. 986, 8-19-2019)

Sec. 5-710. Same; Abatement.

In addition to the remedies and penalties otherwise prescribed in this article, the City may abate any nuisance in the manner set forth in K.S.A. 12-1617e, or amendments thereto, providing for the abatement of nuisances and the assessment of costs, or may repair or remove any unsafe or dangerous structure in the manner set forth in K.S.A. 12-1750 et seq., or amendments thereto, providing for the repair or removal of unsafe or dangerous structures or may take such action as may otherwise be provided by law or the Code of the City.

(Ord. No. 568, § 12; Ord. No. 986, 8-19-2019)

Sec. 5-711. Same; Enforcement.

The Neighborhood Services staff shall enforce the provisions of this article and are thereby authorized to make inspections on a scheduled basis or when reason exists to believe that violation of this article has been or is being committed. Inspections shall be undertaken with the consent of the lawful occupant or other person exercising control of the dwelling, or by issuance of an administrative search warrant.

(Ord. No. 905, §§ 3, 4, 2-16-2015; Ord. No. 937, § 4, 8-15-2016; Ord. No. 986, 8-19-2019)

Editor's note(s)—Ord. No. 905, §§ 3, 4, adopted Feb. 16, 2015, repealed the former § 5-711, and enacted a new § 5-711 as set out herein. The former § 5-711 pertained to similar subject matter and derived from Ord. No. 568, § 13.

Sec. 5-712. Penalty section.

- (a) Any person operating a rental property (including short-term rentals) without a valid, issued City rental license or found in violation of any provision of this article shall be subject to a ~~\$350.00~~ \$750.00 fine for each violation. Each and every 30-day period that such violation continues constitutes a separate offense. The City has the right to revoke or refuse the issuance of any new or renewed rental license for the cited property and/or to the cited owner and/or operator anywhere else within the city if they are found to be in violation of the City code.
- (b) Operating a rental property (including short-term rentals) without a valid, issued City rental license shall be considered a nuisance in accordance with K.S.A. 12-1617e.
- (c) The City may levy a special assessment for such fines against the lot or piece of land in the same manner as provided in K.S.A. 12-1617e, and amendments thereto, or the City may collect the costs in the manner provided by K.S.A. 12-1,115, and amendments thereto. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115, and amendments thereto, but only until the full costs and any applicable interest has been paid in full.

(Ord. No. 986, 8-19-2019)

Commented [JJ33]: Alex will look at this

Commented [AF34R33]: This fine structure is fine with legal, but we will confirm with City Prosecutor and/or Municipal Judge.

CITY OF ROELAND PARK, KANSAS
ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER V “BUSINESS LICENSES AND REGULATIONS” OF THE ROELAND PARK MUNICIPAL CODE

WHEREAS, the Governing Body of the City of Roeland Park, Kansas desires to amend Chapter V “Business Licenses and Regulations” of the Roeland Park Municipal Code.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, JOHNSON COUNTY, KANSAS

SECTION 1. Section 5-101(a) is hereby amended to read as follows:

“(a) *Person* means any individual, partnership, corporation, firm, organization, association, joint stock company or syndicate who or which is engaged in any business, trade, occupation or profession, or rendering or furnishing any service for profit of livelihood and subject to the provisions of this article; provided, any individual in the direct employ of any person licensed under the provisions of this article is not a person unless such individual operates as a subcontractor; but is if such individual performs any service or practices a skill for compensation for any person other than his or her the licensed employer, they shall pay the fee and obtain a license if such be required by the terms of this article.”

SECTION 2. Section 5-102 is hereby amended to read as follows:

“A business shall be classified for purposes of payment of fees within the following categories:

- (a) Retail establishments and administrative offices;
- (b) Home occupations;
- (c) Leasing operations;
- (d) Non-domicile businesses. »

SECTION 3. Sections 5-104(a) and 5-104(d) are hereby amended to read as follows:

“(a) *Retail establishments and administrative offices.* Any person engaged in any type of business or profession that leases or owns any space located within the city that is zoned MXD (Mixed Use District), Office Building District, Retail Business District, or CP-0 (Planned Office Building District), CP-1 (Planned Restricted Business District), CP-2 (Planned General Business District), or P-1 (Planned Industrial Park District) shall pay an occupational fee computed on the basis of interior space footage of the leased or owned space. The amount of such fees shall be established by resolution adopted by the Governing Body.”

“(d) *Non-domicile business.* Any person who is required by any law of this City to obtain a permit to do business in the City shall pay an occupation fee in an amount established by resolution adopted by the Governing Body even if the person does not lease or own property within the City limits.”

SECTION 4. Section 5-105 is hereby amended to read as follows:

“Persons or firms shall secure an occupational license in accordance with this Article before beginning business. Except as otherwise provided herein, the license period shall be from December 1st to November 30 in each year and the fees required to be paid in one annual payment on the first day of December of each year. A late fee may be assessed, pursuant to the City’s Schedule of Fees and Charges.”

SECTION 5. Section 5-106 is hereby amended to read as follows:

“Any person shall, before engaging in any business or before continuing such business after a license has expired, make application for a license and pay the proper fee. Application shall be made to the City Clerk, giving the name of the licensee and any other name under which such business is to be conducted, the kind and address of the business so licensed, and the interior square footage or such other information as may be necessary to determine the amount to be paid. The City Clerk may, in their discretion, cause an investigation to be made to verify the accuracy of the information. The City Clerk shall advise the Building Inspector for the City that an application for an occupation license has been made and the Building Inspector may cause an inspection of the premises to be made as provided in the applicable building Codes of the City and as further authorized under section 5-112 hereof.”

SECTION 6. Section 5-107 is hereby amended to read as follows:

“There shall be no transfers of license from one person to another except that where a business, including stock, if any, is sold and the new owner continues the business at the same location and under the same name, the license shall continue to expiration. If the holder of a license moves a stock of goods from the location stated on the license to another location and begins business at the new location, they may return the license to the City Clerk and secure a substitute license upon payment of a fee of \$10.00 and any additional prorated amount for the unexpired term, should a greater amount be required at the new location.”

SECTION 7. Section 5-110 is hereby amended to read as follows:

“The City Clerk shall keep records in which shall be entered the names and addresses of each and every person or firm licensed, the date of the license, the amount paid therefore, and the time when the license shall expire.”

SECTION 8. Section 5-111 is hereby amended to read as follows:

“All persons or firms doing business in a permanent location are hereby required to have their license conspicuously displayed in their place of business, and all persons or firms to whom

licenses are issued not having a permanent place of business are hereby required to carry their licenses with them and any licensee shall present the license for inspection when requested to do so by any resident or officer of the City.”

SECTION 9. Section 5-201 is hereby amended to read as follows:

“The Governing Body hereby finds and determines as follows:

- (a) Crimes have been committed by persons acting or posing as solicitors, peddlers and transient merchants, and a great variety of frauds and misleading devices are employed by such persons;
- (b) Uninvited solicitors and peddlers frequently are an annoyance to residents of this City;
- (c) Peddlers and transient merchants frequently create traffic and parking problems; and
- (d) Protecting citizens from crime and preserving private property and the peace comfort of occupants of private residences are substantial interests of the City.”

SECTION 10. Section 5-202 is hereby amended to read as follows:

“For the purpose of this article, the following words shall be considered to have the following meanings:

- (a) *Canvassing* means engaging in opinion sampling, poll-taking, proselytizing, or similar activity from house to house, door to door, street to street, or from place to place.
- (b) *Charitable* means any activity represented as carried on from unselfish, civic or humanitarian motives, or for the benefit of others, and not for private gain, and may include without limitation patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, eleemosynary, scientific, historical, athletic, medical or religious activities, either actual or implied. This definition shall include any and all organizations recognized by Internal Revenue Code Section 501.
- (c) *Commercial solicitation* means selling or offering for sale, or taking orders for the sale, of goods or services of any kind, character or description, for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale or whether they are collecting advance payments on such sales or not.
- (d) *Commercial solicitor* means any peddler or any person who engages in commercial solicitation.

(e) *Individual dwelling unit* means a portion of a building containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

(f) *Mobile Food Vendor* means a person engaged in the business of selling food or beverages from a mobile food unit.

(g) *Multi-family dwelling complex* means a building or grouping of individual buildings which are arranged, intended or designed for occupancy by three or more families, commonly referred to as apartments, town homes or condominiums.

(h) *Non-commercial solicitor* means any person who engages in canvassing or who directly or indirectly requests contributions of funds on the plea or representation that such contributions will be used for a charitable purpose.

(i) *Peddler* means any person who operates from a temporary stand, display or similar facility or who travels from house to house, door to door, street to street or from place to place, carrying, conveying or transporting goods, wares or merchandise for the purpose of offering and exposing the same for sale.

(j) *Solicitor* means either a commercial solicitor or a non-commercial solicitor.

(k) *Transient merchant* means any person, whether as owner, agent, consignee or employee, whether a resident of the City or not, who engages in a temporary business of selling and delivering goods, wares and merchandise within such City, and who, in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, or boat, public room in hotels, lodging houses, apartments, shops or any street, alley or other place within the City, for the exhibition and sale of such goods, wares and merchandise, either privately or at public auction. Such definition shall not be construed to include any person who, while occupying such temporary location, does not sell from stock, but exhibits samples only for the purpose of securing orders for future delivery only. The person so engaged shall not be relieved from complying with the provisions of this article merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer. For the avoidance of doubt, this definition shall not include Mobile Food Vendors which are regulated in Article 14 of this Chapter.”

SECTION 11. Section 5-203 is hereby amended to read as follows:

“No commercial solicitor or transient merchant shall operate within the corporate limits of the City without first obtaining a certificate of registration and license therefore. Section 5-203 shall not apply to Mobile Food Vendors. Mobile Food Vendors are excluded from this Section and shall adhere to the regulations in Article 14 this Chapter. Any applicant for a license under this article shall file with the City Clerk a sworn application on a form furnished by the City Clerk. Each application shall be accompanied by the payment of a non-refundable application fee in an amount

established by resolution adopted by the Governing Body. Each application shall, at a minimum, require the following information:

- (a) Name, date of birth, physical description of applicant, and applicant's Kansas Sales Tax number.
- (b) Address of applicant and address of location where applicant intends to offer goods, wares, merchandise or personal property for sale.
- (c) A brief description of the name of the business to be conducted and the goods to be sold.
- (d) If applicant is employed, name and address of the employer, together with credentials establishing applicant's relationship to such employer.
- (e) Length of time for which the right to do business is desired.
- (f) If a vehicle is to be used, a description of the same, together with the state vehicle license number carried on such vehicle.
- (g) A statement as to whether or not the applicant has (1) within five years prior to the date of the application been convicted of any felony; (2) within two years prior to the date of the application been convicted of any crime involving deceit, fraud or theft; and (3) within two years prior to the date of the application been found to have violated any municipal ordinance regulating solicitors or transient merchants.
- (h) If applicable, each application shall be accompanied by the written permission of the owner, or tenant in possession of the location described in the application, from which or in front of which the application intends to offer goods, services, merchandise or personal property for sale.
- (i) Submit a copy of a paid personal property tax receipt from the Johnson County Treasurer or another county for all goods or merchandise brought into Johnson County from outside the State of Kansas to be sold or disposed of in a place of business temporarily occupied for their sale.
- (j) As a condition precedent to the issuance of a license as provided herein, any applicant wishing to sell firearms or previously owned (used) merchandise, including automobiles, shall agree on his behalf and on the behalf of all employees and agents engaged by him in the conduct of such business to make available for inspection by any law enforcement officer any and all such merchandise being sold in the course of the applicant's business. At the request of any law enforcement officer, the applicant shall provide serial numbers or other identification numbers for such merchandise marked with serial numbers or identification numbers as is being offered for sale by such applicant, their employees or agents."

SECTION 12. Section 5-204(f) is hereby amended to read as follows:

“(f) The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The person to whom such license is issued shall have the license in their possession at all times while conducting any business within the City.”

SECTION 13. Section 5-205 is hereby amended to read as follows:

“(a) It shall be unlawful for any solicitor to solicit between the hours of 8:00 p.m. and 9:00 a.m.

(b) It shall be unlawful for any solicitor to ring the bell, or knock on the door, or otherwise attempt to gain admittance for the purpose of soliciting at any single-family residence, duplex or any individual dwelling unit in a multi-family dwelling complex at which a sign bearing the words "No Soliciting," "No Trespassers," or words of similar import indicating that such person is not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided, that this subsection shall not apply to any solicitor who gains admittance to such residence or dwelling at the invitation or with the consent of the occupant thereof. For purposes of this subsection, a "No Solicitors" decal and all similar signs prominently displayed on the door shall constitute sufficient notice to all solicitors.

(c) It shall be unlawful for any solicitor to attempt to solicit at an individual dwelling unit in a multi-family dwelling complex when all street entrances to the multi-family complex have been clearly posted with signs marked "No Solicitors." This subsection shall not apply to solicitation in any individual dwelling unit when the solicitor has been invited onto the property to solicit there by the occupant of the individual dwelling unit.

(d) It shall be unlawful for any solicitor to engage in soliciting upon any premises or in any residence, duplex or any individual dwelling unit after having been asked by the owner or occupant thereof to leave the premises.

(e) It shall be unlawful for any commercial solicitor to make more than one solicitation call at the same residential premises for identical or substantially similar goods, services, or contributions within any consecutive fourteen-day period, without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of the same person more than once during the aforesaid period without a prior invitation as herein provided.

(f) It shall be unlawful for any commercial solicitor to fail to provide, at the request of the purchaser, a written receipt, for purchases exceeding five dollars in cash or tangible property which receipt shall be signed by the solicitor making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment; or for any non-commercial solicitor or organization accepting any contribution exceeding \$5.00 in cash or tangible property to fail to provide at the request of

the donor a written receipt acknowledging such contribution and personally signed by the solicitor accepting such contribution.

(g) It shall be unlawful for any solicitor to fail at the outset to truthfully disclose to the prospective buyer, prospective donor, or canvasee their name and the name of the company, product or organization he/she represents.

(h) It shall be unlawful for any solicitor to make any assertion, representation or statement which misrepresents the purpose of their call, or use any plan, scheme, or ruse which misrepresents such purpose.

(i) It shall be unlawful for any solicitor to conduct their business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.

(j) It shall be unlawful for any person to solicit or attempt to solicit at a place of residence at any entrance other than the main entrance of the residence.

(k) It shall be unlawful for any transient merchant to operate or conduct business or activities in violation of any zoning requirements of the City, including but not limited to, set back requirements.

(l) It shall be unlawful for any transient merchant to operate or conduct business or activities except in areas zoned Retail Business District, CP-1, CP-2 or MXD and where the conduct of such business or activities shall be within 200 feet of any residentially zoned property used for residential purposes.

(m) *Reserved for future use.*

(n) It shall be unlawful for any transient merchant to fail to provide safely accessible and sufficient parking for customers and employees of the transient merchant. For the purposes of this subsection, "safely accessible" parking means a parking area configured so that the transient merchant's employees and customers can safely enter and exit the public and private right-of-way without creating a traffic, sight distance or any other type of hazard or danger. For the purposes of this subsection, "sufficient" parking means a number of parking spaces equal to or exceeding the number of employees on site plus customer parking in a quantity that is reasonably likely to prevent customer parking overflows given the nature of the transient merchant's business or activities.

(o) It shall be unlawful for any transient merchant to locate the transient merchant business or activities, including business vehicles, structures, signs and parking, in a manner that causes congestion, interferes with the traffic flow, or prevents the normal use of parking facilities by existing businesses in the same area. In no event shall a transient merchant located entirely or partly in a parking lot used by an existing business reduce the number of available parking spaces to a level more than ten percent below the total number of parking spaces required by the zoning regulations.

(p) *Reserved for future use.*

(q) It shall be unlawful for any transient merchant to fail to obtain permission of the property owner or property manager where such business or activity is being conducted.

(r) It shall be unlawful for any transient merchant to fail to provide at the request of a customer a written receipt for purchases exceeding five dollars in cash or tangible property which receipt shall be electronically printed or signed by the transient merchant making the sale and shall set forth: the name and contact information of the transient merchant, a brief description of the goods, wares, merchandise or services sold, the total purchase price, the amount of applicable sales tax, the amount of payment, and the balance due and terms of payment (if any).

(s) It shall be unlawful for any transient merchant to fail to provide any person the transient merchant's name, the name of the company or organization represented, or the name of the goods, wares, merchandise or services sold, or to make any representation as to identity which is false or misleading.

(t) It shall be unlawful for any transient merchant to fail to allow authorized law enforcement officers or city officers to enter into or upon the premises or to otherwise interfere with any inspection of the premises or business.

(u) It shall be unlawful for any transient merchant to fail to remove any structure, device, trash, or debris caused, created or associated with the transient merchant's business or activities in an outdoor area.

(v) It shall be unlawful for any transient merchant to erect or display more than one sign or any sign greater than 16 square feet in total area. When approved with the license, a separate sign permit shall not be required. Any attention attracting device or any other prohibited sign as set forth in Code section 16-906 (as may be amended) are prohibited from use.

(w) It shall be unlawful for any transient merchant to erect or construct any structure, tent, or building greater than one hundred and 120 square feet.

(x) It shall be unlawful for any transient merchant to operate or conduct business or activities within 50 feet of any driveway entrance or access lane from a public street to an existing business.

(y) It shall be unlawful for any transient merchant to operate or conduct more than one transient merchant business or activity on the same property at any one time.

(z) It shall be unlawful for any transient merchant to operate or conduct business or activities in the public right-of-way or in or upon any park or other public property.

(aa) It shall be unlawful for any transient merchant to operate or conduct business or activities that create a traffic or sight distance hazard or any other type of public hazard or danger.

(bb) It shall be unlawful for any transient merchant to fail to display the license issued under this article while any business or activities pursuant to the license are being conducted. The license shall be posted in plain view to all persons, including law enforcement officers.”

SECTION 14. Section 5-207 is hereby amended to read as follows:

“No peddler, canvasser or solicitor, nor any person on their behalf, shall use any sound device, including any loud-speaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of the City or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell. Additionally, no peddler, canvasser or solicitor, nor any person on their behalf shall disturb the peace according to the rules and regulations contained in the City’s Uniform Public Offense Code.”

SECTION 15. Section 5-301(h) is hereby amended to read as follows:

“(h) *Patron or client* means any person over 18 years of age who utilizes or receives the services of any person or establishment subject to the provisions of this article and under such circumstances that it is reasonably expected that they will pay money or give any other consideration therefore, provided a person under the age of 18 may utilize or receive massage therapy from a licensed massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such massage therapy in writing as set forth in this article.”

SECTION 16. Section 5-307 is hereby amended to read as follows:

“It is unlawful for any person to conduct massage therapy or client-office massage therapy unless they have a valid massage therapist license issued by the City pursuant to the provisions of this article. A license issued pursuant to this Article is issued for the calendar year and shall expire on November 30th of the calendar year for which it was issued.”

SECTION 17. Section 5-308(b)(8)(ii) is hereby deleted in its entirety and subsection iii shall

SECTION 18. Sections 5-312(b) and (d) are hereby amended to read as follows:

“(b) *Identification card and license.* Any person issued a massage therapist license pursuant to the provisions of this article shall, at all times when offering massage therapy, have in their possession a valid identification card issued by the City bearing the massage therapist's license number, physical description and photograph. Such identification card shall be issued in such form necessary to prevent alteration. The massage therapist shall, at all times when offering massage therapy, have on the premises where such massage therapy is being offered, their massage therapist license. The massage therapist shall make available for inspection said identification card and license upon request of members of the Police Department and City Code Officers. Such inspections shall be made at reasonable times and in a reasonable manner.”

“(d) *Separation of Customers.* Except in the case of client-office massage therapy, fully dressed massage therapy and couples massage, it shall be unlawful for massage therapists to allow more than one customer at a time to receive massage therapy in the same room or the same quarters at the same time.”

SECTION 19. Section 5-314(a) is hereby amended to read as follows:

“(a) A massage therapy establishment license is issued for the calendar year and shall expire on November 30th of the year for which it was issued.”

SECTION 20. Section 5-318(g) is hereby amended to read as follows:

“(g) *Separation of Customer.* Except in the case of client-office massage therapy, fully dressed massage therapy and couples massage, it shall be unlawful for massage therapists to allow more than one customer at a time to receive massage therapy in the same room or the same quarters at the same time.”

SECTION 21. Section 5-402 is hereby amended to read as follows:

“No garage sale shall be held until the person conducting such sale shall have first obtained a garage sale permit from the City, with the exception of permit-free events hosted by the City.”

SECTION 22. Section 5-403(a) is hereby amended to read as follows:

“(a) The application for a garage sale permit shall be made at least one day prior to the sale and upon forms furnished by the City. The applicant shall answer fully all questions contained in the application and pay an application fee in an amount established by resolution adopted by the Governing Body.”

SECTION 23. Section 5-405 is hereby amended to read as follows:

“It shall be unlawful for any person to hold more than two permitted garage sales at the same location within one year last past from the date of the person's current garage sale. The provisions of this section shall not apply when a third sale at the same location is held in conjunction with a person's changing of domicile from that location.”

SECTION 24. Section 5-502(a) is hereby amended to read as follows:

“(a) *Automatic amusement devices.* Any machine which upon the insertion of a coin, slug, token, place or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, including but not limited to such devices as marble machines, skill ball, pool tables and all games, operations or transactions similar thereto under whatever name they be indicated. It shall include video type games or machines**SECTION 25.** Section 5-504 is hereby amended to read as follows:

“All applications for licenses shall be for a calendar year or so much thereof as remains and all applications for a renewal license shall be made on or before December 1st preceding the calendar year for which the renewal license is sought. Each application for an operator's license shall be accompanied by in amount established by resolution adopted by the Governing Body for each and every automatic amusement device. Each application for a distributor's license shall be accompanied by a fee in amount established by resolution adopted by the Governing Body.

There shall be no refund in any case where the licensee terminates business prior to the end of a calendar year or when the license is revoked for any reason. No license issued under this article shall be transferable to another person.”

SECTION 26. Section 5-505 is hereby amended to read as follows:

“The Chief of Police or their designee may make an investigation of the premises and the applicant to determine the truth of the facts set forth in the application.”

SECTION 27. Section 5-601 is hereby amended to read as follows:

“For purposes of this article, the following definitions shall apply.

(a) *Home occupation* is an accessory use by the occupant(s) of a dwelling unit in which goods are produced or traded, or services are rendered as an economic enterprise. Such use shall be clearly incidental or subordinate to the residential use of a dwelling.

(b) *Boarding house* Boarding or rooming house shall mean every building or other structure which is kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests, other than a short-term rental (as defined in Section 5-702 of the Code). Provided, however, where a resident homeowner leases space to no more than two roommates for terms of a year or more, it shall not be considered to be a boarding or rooming house. This definition includes “Lodging house.”

SECTION 28. Sections 5-602(a) and (d) are hereby amended to read as follows:

“(a) No person or persons shall be engaged in such home occupation other than that person or those persons occupying such dwelling as their residence; provided, however, the person or persons engaged in such home occupation may have non-resident employees so long as no parking on the public right-of-way shall occur as a result of such employment and such employment does not otherwise disturb the residential character of the neighborhood;”

“(d) The home occupation shall not occupy more than 25 percent of the floor area of the primary dwelling, unless it is a short-term rental, in which case, the rental must comply with section 5-704 and may comprise 100 percent of the floor area of the dwelling.”

SECTION 29. Sections 5-603(d) and (s) are hereby amended to read as follows:

“(d) In-home daycare facility, provided that there are no more than five children at any one time; requests for more children are subject to Section 5-605(b);”

“(s) Psychologist/Counselor;”

SECTION 30. Section 5-604(f) is hereby amended to read as follows:

“(f) Automotive repair, paint shops or automotive sales;”

SECTION 31. Sections 5-702(g) and (f) are hereby amended to read as follows:

“(g) *Accessory dwelling*, means a separate and smaller second dwelling that is located within the lot or building envelop of a single-family dwelling and is held under the same ownership of that single-family dwelling. This separate dwelling contains its own living, cooking, and housekeeping facilities, may or may not have its own entrance, and is contained within, attached to, or built separate from the principal single-family dwelling. Examples include: a dwelling over an attached or detached garage, a tiny house built on a separate foundation in the backyard, a dwelling within the basement of the principal building, or a dwelling attached to the principal building.

(f) *Short-term rental* means any dwelling, dwelling unit, rooming unit, room or portion of any dwelling unit, rooming unit or room rented or leased for valuable consideration for periods of time less than 30 days, with six or fewer guests where the rental may only serve as an accessory use, but excludes boarding houses (as defined in section 5-601 of the Code).”

SECTION 32. Section 5-705 is hereby deleted in its entirety.

SECTION 33. Section 5-706 is hereby amended to read as follows:

“(a) *Purpose*. Upon receipt of a properly completed application and license fee, the City shall cause the dwelling and the property upon which it is located to be inspected by the City Building Official or such official's designated representative. The City Building Official or his or her their designated representative shall inspect the dwelling and the property upon which it is located to determine the following:

- (1) That the use of the property is in compliance with the applicable zoning laws.
- (2) That based upon an inspection of the exterior of the dwelling, the dwelling meets the requirements of the applicable building codes and standards contained in Chapter IV.
- (3) That no condition exists on the exterior of the dwelling or on the property upon which the dwelling is located which constitutes a violation of any other Code section or ordinance of the City.

If the City Building Official finds that the dwelling and the property upon which it is located meets the requirements specified herein, then they shall approve the application and notify the City Clerk that the property has passed the inspection.

(b) *Single-family dwellings and duplexes, including permissible short-term rentals.* Interior and exterior inspections of single-family dwellings and duplexes may be conducted at any time upon the request of the lawful occupant. Exterior inspections shall be conducted annually at the time an application is submitted for a license or a renewal license.

(c) *Multi-family dwellings.* Interior and exterior inspections of multi-family dwellings may be conducted at any time upon the request of the lawful occupant. Exterior inspections shall be conducted annually at the time an application is submitted for a license or a renewal license.

SECTION 34. Section 5-707 is hereby amended to read as follows:

“(a) The City Clerk shall cause the license to be issued upon receipt of a properly completed application, the applicable license fee and the approval of the City Building Official. Compliance with the requirements necessary to pass inspection as set forth in section 5-706 shall be a continuing condition of the license; noncompliance with any such requirements may result in a suspension of the license pursuant to section 5-709.

(b) If the City Building Official finds that the property does not meet the requirements of this article, a written denial specifying the defects shall be mailed or personally delivered to the applicant. At such time as the applicant has cured any defects and the City Building Official has verified the correction thereof, the City Clerk shall cause the license to be issued in accordance with the provisions of this article. In the event the applicant has not cured all the defects specified by the City Building Official within 60 days of the delivery of the notice thereof, the license shall be denied.”

SECTION 35. Section 5-709(a) is hereby amended to read as follows:

“(a) Whenever the City Building Official or designated representative determines that any dwelling or the property surrounding such dwelling fails to meet the requirements set forth in the article, they shall suspend the license previously issued and shall issue a notice that such failure must be corrected. This notice shall:

- (1) Be in writing;
- (2) Set forth the alleged violation;
- (3) Describe the dwelling or other property where the violation or violations are alleged to exist or have been committed;
- (4) Provide a reasonable time, not to exceed 60 days, for the correction of any alleged violations;

(5) Be served on the owner of the dwelling personally, or by certified mail, addressed to the last known place of residence of the owner, or the address of the owner provided on the application for license. If upon a diligent effort to locate the owner, the owner cannot be found, notice may be posted on or near the dwelling located on the property described in the notice.”

SECTION 36. Section 5-712(a) is hereby amended to read as follows:

“(a) Any person operating a rental property (including short-term rentals) without a valid, issued City rental license or found in violation of any provision of this article shall be subject to a fine up to \$5,000 for each violation. Each and every 30-day period that such violation continues constitutes a separate offense. The City has the right to revoke or refuse the issuance of any new or renewed rental license for the cited property and/or to the cited owner and/or operator anywhere else within the city if they are found to be in violation of the City code.”

SECTION 37. Section 5-805(c) is hereby amended to read as follows:

“(c) *Application processing.* Upon receipt of a complete application for an adult entertainment business or adult entertainment manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Chief of Police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the City Building Official and the fire department. It shall be the duty of the Chief of Police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license applied for. The Chief of Police shall report the results of the investigation to the City Clerk not later than 15 working days from the date the application is received by the City Clerk. It shall be the duty of the City Building Official and the fire department to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The City Building Official and the fire department shall report the results of their investigation to the City Clerk not later than 15 fifteen working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Chief of Police, the City Building Official and the fire department, the City Clerk shall schedule the application for consideration by the Governing Body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult entertainment business and for an adult entertainment business manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the City Clerk's office. The applicant shall be notified in writing of the date when the Governing Body can consider the application.”

SECTION 38. Section 5-808(j) is hereby amended to read as follows:

“(j) *Hours of operation.* No adult entertainment business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 2:00 a.m. and 12:00p.m..”

SECTION 39. Section 5-809(b) is hereby amended to read as follows:

“(b) Every person holding an adult entertainment server, manager, or entertainer license shall post their license in their work area on the adult entertainment business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this article.”

SECTION 40. Section 5-904 is hereby amended to read as follows:

Upon receipt of a properly completed application for a license, the City Clerk shall place the issuance of such license on the agenda for the City Council meeting next following the date of the receipt of the application.

The applicant shall be advised of the time and place at which the City Council shall hear the applicant's request for a special use permit and the applicant shall be given the opportunity to be heard concerning the request.

If the City Council makes the findings required in section 5-905 hereof, the City Council shall grant a special use permit allowing the location described in the application to be used to conduct the business described in the application. In the event that the City Council grants such special use permit, the City Clerk shall issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee, the date of the issuance and length of time the license shall be operative, and the nature of the business involved.

The City Clerk shall keep a permanent record of all such licenses issued and submit a copy of such license to the Chief of Police. The person to whom such license is issued shall have the license in their possession at all times while conducting any business within the City.

In the event that the City Council fails to grant the special use permit, the applicant shall be advised that the special use permit has not been granted and the applicant's application shall be denied.

SECTION 39. Section 5-1001 is hereby amended to read as follows:

“For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise:

(a) *Business* means any person or entity conducting business within the City which is required to obtain a license or permit pursuant to the provisions of Article 1, Article 3, Article 5, Article 6, Article 8, Article 9, Article 13, or Article 14 of Chapter 5 of the Code. Notwithstanding the foregoing, the term business shall not apply to persons engaged in the business of owning and renting residential property and required to pay an annual occupation fee pursuant to section 5-104(c) of this chapter where such activity is operated on residential property.

(b) *Residential property* means any property zoned Single Family Residence District, Duplex Residence District or Multiple Residence District under the City's zoning regulations.”

SECTION XX. Section 5-1002 is hereby amended as follows:

“Except where a waiver has been granted pursuant to section 5-1004, it shall be unlawful for any business located within 200 feet of residential property to conduct business on its premises between the hours of 11:00 p.m. and 5:00 a.m. For purposes of determining whether the business premises are located within 200 feet of residential property, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on

SECTION 40. Section 5-1003 is hereby deleted in its entirety and Reserved for Future Use.

SECTION 41. Section 5-1201(o) through (u) is hereby amended to read as follows:

“(o) *Protective Hairstyles* means inclusive, but not limited to, such hairstyles as braids, afros, bantu knots, cornrows, curls, locs, twists, or hair that is tightly coiled or tightly curled.

(p) *Race* means inclusive of traits including, but not limited to, skin color, certain facial features, hair texture and protective hairstyles.

(q) *Religious organization* means a church, mosque, temple, synagogue or other entity principally devoted to religious practice or religious teaching.

(r) *Rent* means to lease, to sublease, to let or otherwise to grant the right to occupy premises not owned by the occupant in exchange for payment or other consideration.

(s) *Rental housing* means any real property, consisting of one or more dwelling units, which is required to obtain a license or permit pursuant to the provisions of Article 7 of Chapter 5 of the Code.

(t) *Respondent* means the individual or entity against whom a complaint alleging discrimination or retaliation has been filed with the city.

(u) *Sexual orientation* means an individual's actual or perceived (by the individual or another) emotional, romantic, or sexual attraction to other people, such as heterosexual, homosexual, bisexual, pansexual or asexual.”

SECTION 42. Section 5-1204(a) is hereby amended to read as follows:

“(a) Any aggrieved individual by an alleged violation of this article may file a written complaint with the City Clerk that the individual has been, or is being, subject to an alleged unlawful discrimination practice as set forth in this article (or if a minor, through the minor's parent, legal guardian or attorney) by completing and signing the form provided by the city. The complaint shall state the names and contact information of the aggrieved individual, the individual(s) and/or business/businesses alleged to have committed the unlawful discriminatory practice(s), a description of the alleged unlawful conduct and all other information as may be required by the city. The name(s) and contact information of the aggrieved individual(s) may be redacted before publication, pursuant to a public records request, and upon request of the complainant, as authorized by K.S.A. 45-221(11) (30).”

SECTION 43. Section 5-1301 is hereby amended to read as follows:

“The Governing Body desires to regulate small-box discount retailers and thrift stores as set forth in this article.”

SECTION 43. Section 5-1401(a) is hereby amended to read as follows:

“(a) A mobile food unit license is an annual license that expires on November 30 each year and must be renewed prior to the first event after that date.”

SECTION 44. Section 5-1405 is hereby amended to read as follows:

“No mobile food unit may be operated on public property except as part of an approved event under a public property special event approved by the City. A special event permit is required to operate a mobile food unit on public property unless the food truck is on public property pursuant to a private catering arrangement in which case no special event permit is necessary. Mobile food units shall be responsible for providing their own power, water, wastewater collection, and garbage collection.

SECTION 45. Section 5-1409(r) is hereby amended to read as follows:

“(r) During business hours, the mobile food vendor shall provide a trash receptacle and recycling receptacle for use by customers.”

SECTION 46. This Ordinance shall take effect upon its publication, or the publication of a summary thereof, in the official City newspaper.

PASSED by the City Council on the 16th day of September, 2024. **APPROVED** by the Mayor.

Mayor Michael Poppa

ATTEST:

Kelley Nielsen, City Clerk

APPROVED AS TO FORM:

Steven E. Mauer, City Attorney