



AGENDA
City of Roeland Park, Kansas
Governing Body Meeting
City Hall, 4600 W 51st Street
November 4, 2024 6:00 PM

- | | | |
|--|--|---|
| • Michael Poppa, Mayor | • Emily Hage, Council Member, Ward 3 | • Keith Moody, City Administrator |
| • Jan Faidley, Council Member, Ward 1 | • Kate Raglow, Council Member, Ward 3 | • Jennifer Jones-Lacy, Asst. Admin. |
| • Tom Madigan, Council Member, Ward 1 | • Matthew Lero, Council Member, Ward 4 | • Kelley Nielsen, City Clerk |
| • Benjamin Dickens, Council Member, Ward 2 | • Jeffrey Stocks, Council Member, Ward 4 | • John Morris, Police Chief |
| • Jennifer Hill, Council Member, Ward 2 | | • Donnie Scharff, Public Works Director |

Council Standing Committees

Admin
Lero
Faidley

Finance
Stocks
Dickens

Safety
Hage
Hill

Public Works
Raglow
Madigan

I. Approval of Minutes

- A. Governing Body Workshop Meeting Minutes October 21, 2024

II. Discussion Items

- A. Review Chapter 8 - Health and Welfare, Articles 1 - 6
- B. Task Group Present Tree Fund Policy Recommendation (10 min)

III. Non-Action Items

IV. Adjournment

Welcome to this meeting of the Committee of the Whole of Roeland Park.
Below are the Procedural Rules of the Committee

The governing body 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 Committee of the Whole meeting unfeasible. Any member(s) of the audience engaging in such conduct shall, at the discretion of the City Council President (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 Committee of the Whole during Public Comments and/or before consideration of any agenda item; however, no person shall address the Committee of the Whole without first being recognized by the Chair or Committee Chair. Any person wishing to speak at the beginning of an agenda topic, shall first complete a Request to Speak form and submit this form to the City Clerk before discussion begins on that topic.

C. Purpose. The purpose of addressing the Committee of the Whole is to communicate formally with the governing body with a question or comment regarding matters that are on the Committee's agenda.

D. Speaker Decorum. Each person addressing the Committee of the Whole, 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 committee meeting. Any person, who so disrupts the meeting shall, at the discretion of the City Council President (Chair) or a majority of the Council Members, be declared out of order and shall be subject to reprimand and/or 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 Committee of the Whole, each speaker shall limit comments to two minutes per agenda item. If a large number of people wish to speak, this time may be shortened by the Chair so that the number of persons wishing to speak may be accommodated within the time available.

F. Speak Only Once Per Agenda Item. 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 Committee of the Whole. Comment and testimony are to be directed to the Chair. Dialogue between and inquiries from citizens and individual Committee Members, members of staff, or the seated audience is not permitted. Only one speaker shall have the floor at one time. Before addressing Committee speakers shall state their full name, address and/or resident/non-resident 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 governing body welcomes your participation and appreciates your cooperation. If you would like additional information about the Committee of the Whole or its proceedings, please contact the City Clerk at (913) 722.2600.

Item Number: II. Discussion
Items



City of Roeland Park
Action Item Summary

Submitted By:

Jennifer Jones-Lacy, Assistant City Administrator Director of Finance

Committee/Department: Administration

Title: Review Chapter 8 - Health and Welfare, Articles 1 - 6

Item Type: Action Item

Recommendation:

To review the recommended changes to Chapter 8, articles 1-6.

Details:

Attached are the recommended changes for Chapter 8 on Health and Welfare. Staff will review these during the meeting.

Fiscal Impact	
Amount of Request:	
Budgeted item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

Diversity Equity & Inclusion Lens

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?

ATTACHMENTS:

1. Ch 8 - Articles 1 - 6 - Redlined

CHAPTER VIII. HEALTH AND WELFARE

ARTICLE 1. SANITARY CODE

Sec. 8-101. Johnson County Environmental Sanitary Code Incorporated.

There is hereby incorporated by reference, for the purpose of prescribing rules and regulations for controlling practices to minimize health and safety hazards, that certain sanitary Code known as the "Johnson County Environmental Sanitary Code," 2025-94 edition, prepared and published by the Johnson County Health Department. ~~No fewer than three copies of such "Johnson County Environmental Sanitary Code," marked or stamped "Official Copy as Adopted by Ordinance No. 792 and the Code of the City of Roeland Park," shall be filed with the City Clerk to be open for inspection and available to the public during regular business hours. The 2025 Johnson County Environmental Sanitary Code is available upon request to the City Clerk.~~

(Ord. No. 792, § 1; Code 2007)

~~(2025 JCESC, Resolution No. 058-24) Not sure if this is needed or in the right place.~~

ARTICLE 3. HEALTH NUISANCES

Sec. 8-301. Nuisances Unlawful; Defined.

It shall be unlawful for any person to maintain or permit any nuisance within the City as defined, without limitation, as follows:

- (a) Filth, excrement, lumber, rocks, dirt, cans, paper, trash, metal, ~~piles of soil, mulch, tree/shrub brush piles or any other offensive or disagreeable thing~~ or substance thrown or left or deposited upon any street, avenue, alley, sidewalk, park, public or private enclosure or lot whether vacant or occupied;
- (b) All dead animals not removed within 24 hours after death;
- (c) Any place or structure or substance which emits or causes any offensive, disagreeable or nauseous odors;
- (d) All stagnant ponds or pools of water;
- (e) All grass or weeds or other unsightly vegetation not usually cultivated or grown for domestic use or to be marketed or for ornamental purposes. ~~This does not include the intentional installation of native grasses and plantings;~~
- (f) Abandoned iceboxes or refrigerators kept on the premises under the control of any person, or deposited on the sanitary landfill, or any icebox or refrigerator not in actual use unless the door, opening or lid thereof is unhinged, or unfastened and removed therefrom;
- (g) All articles or things whatsoever caused, kept, maintained or permitted by any person to the injury, annoyance or inconvenience of the public or of any neighborhood;

Commented [JJ1]: Not constitutional per judge

- (h) Any fence, structure, thing or substance placed upon or being upon any street, sidewalk, alley or public ground so as to obstruct the same, except as permitted by the laws of the City.

(Code 2007)

State law reference(s)—K.S.A. 21-4106—21-4107.

Sec. 8-302. Public Officer.

The ~~Governing Body~~City Administrator shall designate a public officer to be charged with the administration and enforcement of this ~~Chapter~~article.

(Code 2007)

Sec. 8-303. Complaints; Inquiry and Inspection.

The public officer shall make inquiry and inspection of premises upon receiving a complaint or complaints ~~in writing signed by two or more persons stating~~ that a nuisance exists and describing the same and where located or is informed that a nuisance may exist by ~~a County Official~~the Board of Health, Chief of Police or the Fire Chief. The public officer may make such inquiry and inspection when ~~they he or she they~~ observes conditions which appear to constitute a nuisance. Upon making any inquiry and inspection the public officer shall make a written report of findings.

(Code 2007)

Sec. 8-304. Right of Entry.

The public officer has the right of access and entry upon private property at any reasonable time for the purpose of ~~making inquiry and inspection~~inspecting a suspected nuisance in plain view from the street to determine if a ~~nuisance~~exists.

(Code 2007)

Sec. 8-305. Order of Violation.

- (a) The ~~Governing Body~~public officer shall serve upon the owner, any agent of the owner of the property or any other person, corporation, partnership or association found by the public officer to be in violation of section 8-301 an order stating the violation. The order shall be served on the owner or agent of such property by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, then by mailing the order by certified mail, return receipt requested, to the last known address of the owner.
- (b) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four-month period, the ~~Governing Body~~public officer of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(Code 2007)

Commented [JJ2]: @Alex - is this legal? Possibly remove

Commented [AF3R2]: City officials are allowed to go onto people's property for a number of reasons: utility meters, power line inspection, and yes, nuisances. But notification to the property owner should be made, and if we want, we can limit this to "Plain View" nuisances where the codes officer is only permitted to go onto a property if the nuisance is in plain view.

State law reference(s)—K.S.A. 12-1617e.

Sec. 8-306. Same; Contents.

The order shall state the condition(s) which is (are) in violation of section 8-301. The order shall also inform the person, corporation, partnership or association that:

- (a) ~~He, she or it~~ They shall have ten days from the receipt of the order to abate the condition(s) in violation of section 8-301; provided, however, that the ~~Governing Body~~ ~~[or its designee named in section 8-305]~~ ~~public officer~~ shall grant one or more extensions of the ten-day period if the owner or agent of the property demonstrates that due diligence is being exercised in the abatement of the conditions in violation of section 8-301; or
- (b) ~~He, she or it~~ They have ten days from the receipt of the order, plus any additional time granted under subsection (a), to request a hearing before the Governing Body; ~~or its designated representative of the matter as provided by section 8-209;~~
- (c) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided by section 8-307 and/or abatement of the condition(s) by the City as provided by section 8-308.

(Code 2007)

Sec. 8-307. Failure to Comply; Penalty.

Should the person, corporation, partnership or association fail to comply with the order to abate the nuisance or request a hearing the public officer may file a complaint in the municipal court of the City against such person, corporation, partnership or association and upon conviction of any violation of provisions of section 8-301, be fined in an amount not to exceed \$100.00 ~~or be imprisoned not to exceed 30 days or be both fined and imprisoned~~. Each day during or on which a violation occurs or continues after notice has been served shall constitute an additional or separate offense.

(Code 2007)

Sec. 8-308. Abatement.

In addition to, or as an alternative to prosecution as provided in section 8-307, the public officer may seek to remedy violations of this article in the following manner. If a person to whom an order has been served pursuant to section 8-305 has neither alleviated the conditions causing the alleged violation nor requested a hearing before the Governing Body within the time periods specified in section 8-306, the public officer may present a resolution to the Governing Body for adoption authorizing the public officer or other agents of the City to abate the conditions causing the violation at the end of ten days after passage of the resolution. The resolution shall further provide that the costs incurred by the City shall be charged against the lot or parcel of ground on which the nuisance was located as provided in section 8-310. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (a) Personal service upon the person in violation;
- (b) Certified mail, return receipt requested; or
- (c) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the public officer and filed with the City Clerk, and the serving of the resolution shall be made by publishing the same once each

Commented [JJ4]: Not named, should be "Public Officer" if that's how we're referencing the Code Enforcement Officer.

Commented [AF5R4]: If we are ok with having the public officer granting 10 day extensions, then this can simply be changed to "public officer."

Commented [AF6]: I just checked, we do not have a Section 8-209, in fact we don't have any 8-200s in our code. Recommend removal if we are ok with having appeals be heard by the Governing Body.

Commented [JJ7]: DEI suggests removal of imprisonment option

Commented [AF8R7]: No issue, that is a City policy decision for the Council.

week for two consecutive weeks in the official City newspaper and by posting a copy of the resolution on the premises where such condition exists.

- (d) If the owner or the agent of the owner of the property has failed to accept delivery or otherwise failed to effectuate receipt of a notice or order sent pursuant to this section during the preceding twenty-four-month period, the Governing Body of the City may provide notice of the issuance of any further orders to abate or remove a nuisance from such property or provide notice of the order by such methods including, but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail. If the property is unoccupied and the owner is a nonresident, notice provided by this section shall be given by telephone communication or first class mail.

(Code 2007)

Sec. 8-309. Hearing.

If a hearing is requested within the ten-day period as provided in section 8-306, such request shall be made in writing to the Governing Body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the public officer. The hearing shall be held by the Governing Body or its designated representative as soon as possible after the filing of the request therefore, and the person shall be advised by the City of the time and place of the hearing at least five days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witnesses and evidence as is deemed necessary and proper by the Governing Body or its designated representative. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the findings of the Governing Body or its designated representative shall be prepared in resolution form, adopted by the Governing Body, and the resolution shall be served upon the person in the manner provided in section 8-308.

(Code 2007)

Sec. 8-310. Costs Assessed.

If the City abates or removes the nuisance pursuant to section 8-308, the City shall give notice to the owner or ~~his or her~~their agent by certified mail, return receipt requested, of the total cost of the abatement or removal incurred by the City. The notice shall also state that the payment is due within 30 days following receipt of the notice. The City also may recover the cost of providing notice, including any postage, required by this section. The notice shall also state that if the cost of the removal or abatement is not paid within the 30-day period, the cost of the abatement or removal shall be collected in the manner provided by K.S.A. 12-1,115, and amendments thereto, or shall be assessed as special assessments and charged against the lot or parcel of land on which the nuisance was located and the City Clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land and it shall be collected by the county treasurer and paid to the City as other City taxes are collected and paid. 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 cost and applicable interest has been paid in full.

(Code 2007)

ARTICLE 4. ABATEMENT OF SPECIFIC NUISANCES

Sec. 8-401. Water Leakage.

All water originating from septic tanks, basement or kitchen drains cast upon or arising to the surface of any lot or tract of land in the City, or caused or permitted to flow upon, over, or under any portion of the streets of the City, except in properly constructed sewers, is hereby declared to be a nuisance and subject to abatement as provided for in this chapter.

(Code 1977, § 6-301; Code 1986)

Sec. 8-402. Reserved.

Editor's note(s)—Ord. No. 958, § 1, adopted Nov. 20, 2017, repealed § 8-402, which pertained to overhanging trees and shrubs and derived from Ord. No. 904, §§ 1, 6, adopted Feb. 16, 2015.

Sec. 8-403. Debris Left by Dead Trees.

All dead trees or dead limbs, branches, brush piles from trees of trees on any private property or in the parking areas on any public street close enough to any street or sidewalk to fall upon any portion of the street or sidewalk shall be a nuisance subject to the provisions of this chapter. Furthermore, any large branches or brush piles kept on private property for more than 48 hours shall be a nuisance subject to the provisions of this chapter. Extensions may be granted by the Public Officer for residents undertaking landscaping efforts.

(Code 1977, § 6-303; Code 1986)

Commented [JJ9]: @Khal, this needs to be a separate section as brush piles and branches that are on private property are a separate nuisance.

Sec. 8-404. Dead Trees as a Nuisance.

All trees which have substantial portions thereof dead or dying and all dead trees, erect or fallen, and the branches thereof, of whatever variety or species are hereby declared to be a nuisance.

(Ord. No. 958, § 2, 11-20-2017)

Editor's note(s)—Ord. No. 958, § 2, adopted Nov. 20, 2017, amended the title of § 8-404 to read as set out herein. The former § 8-404 title pertained to trees as a nuisance.

Sec. 8-405. Providing for Abatement of Dead Trees.

The owner of any property upon which a nuisance exists as defined in Section 8-404, or the owner of any property abutting any sidewalk, street, avenue, alley or parking upon which a nuisance exists as defined in Section 8-404, shall abate the same after written order to abate such nuisance has been given in accordance with Article 3 of this chapter.

(Ord. No. 958, § 3, 11-20-2017)

Editor's note(s)—Ord. No. 958, § 3, adopted Nov. 20, 2017, amended the title of § 8-405 to read as set out herein. The former § 8-405 title pertained to providing for abatement of dead trees.

Sec. 8-406. Violation.

Failure to abate a nuisance described in this article within 30 days after written notice to abate such nuisance has been given as set forth in section 8-405 hereof shall constitute an offense and shall, upon conviction thereof, be punishable as prescribed in section 1-117.

(Ord. No. 6, § 5)

ARTICLE 5. RODENT CONTROL**Sec. 8-501. Definitions.**

The terms and phrases contained in this article shall have the following definitions:

- (a) *Premises* means any structure and its surrounding property and grounds.
- (b) *Health Officer* means the Director of Health or any duly authorized person who may represent the Health Officer.
- (c) *Anti-rodent construction* applies to a form of construction to prevent the ingress of rodents into buildings from the exterior or from one building to another. It consists essentially of treatment with materials, impervious to rodents gnawing, all actual or potential openings in exterior walls, ground or other floors, basements, roofs, and foundations that may be reached by rodents from the ground by climbing or by burrowing.
- (d) *Rodent harborage* shall mean any condition which provides shelter or protection for rodents, thus favoring their multiplication and continued existence in, under, or adjacent to any structure.

(Code 1977, § 6-401)

Sec. 8-502. Anti-Rodent Construction.

It shall be the duty of every person, firm or corporation owning, managing, operating, leasing, renting or otherwise occupying any property within the City limits, to maintain anti-rodent construction in a condition satisfactory to the Health Officer and to maintain their premises in a rodent-free condition by poisoning, fumigating, trapping or any other means deemed necessary to the satisfaction of the Health Officer.

(Code 1977, § 6-402, 6-404)

Sec. 8-503. Inspections of Premises.

The Health Officer is empowered to make inspections of premises as, in the officer's opinion, may be necessary to determine full compliance with this article.

(Code 1977, § 6-405)

ARTICLE 6. STRUCTURES UNFIT FOR HUMAN USE AND HABITATION

Sec. 8-601. Findings.

The Governing Body finds that there exist in the City structures that are unfit for human use or habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of adequate ventilation; air pollution; light or sanitary facilities; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; dead and dying trees, limbs or other unsightly natural growth or unsightly appearances that constitute a blight to adjoining property, the neighborhood or the City; walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood; unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation; inadequate drainage; or any violation of health, fire, building or zoning regulations, or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements.

(Code 2012)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-602. Definitions.

The terms and phrases contained in this article shall have the following definitions:

- (a) *Residential structure or dwelling* shall mean any building or structure, or part hereof, used and occupied for human habitation or intended to be so used, and includes any appurtenances belonging thereto or usually enjoyed therewith.
- (b) *Non-residential structure* shall mean any structure which is used for other than residential purposes, or a part of such structure, or a structure a part of which is used for other than non-residential purposes and, where applicable, the premises on which such structures are situated.

(Code 1977, § 6-501)

Sec. 8-603. Public Officer Reserved.

~~The City Administrator shall designate a person to exercise the powers prescribed by this article, who shall be referred to as the public officer, hno; (Code 1977, § 6-502)~~

Commented [JJ10]: I'm suggesting we delete this as I updated 8-302 to include the entire chapter.

Sec. 8-604. Determination That Structures Are Unfit.

Procedural requirements for determining that structures are unfit for human use or habitation shall be as follows:

- (a) Whenever a petition is filed with the public officer by at least five residents of the City charging that any structure is unfit for human use or habitation, or whenever it appears to the public officer, on ~~his or her~~their own motion, that any structure is unfit for human use or habitation, ~~he or she~~they shall, if ~~his or her~~their preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such structure (including persons in possession) a complaint stating the charges in that respect. Such complaint shall contain a notice that a hearing will be held before the public officer or ~~his or her~~their designated agent at a place therein fixed not less than ten days nor more than 30 days after the serving of the complaint; that the owner, mortgagee and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

- (b) If, after notice and hearing, the public officer determines that the structure under consideration is unfit for human use or habitation ~~he or she~~they shall state in writing ~~his or her~~their findings of facts in support of such determination and shall issue and cause to be served upon the owner thereof an order which:
- (1) If the repair, alteration, or improvement of the structure can be made at a reasonable cost in relation to the value of the structure, which shall not exceed 50 percent of the replacement value of such structure, the owner of the property shall, within the time specified in the order, repair, alter, or improve such structure to render it fit for human use or habitation or shall vacate and close the structure until conformance with this article is met; or
 - (2) If the repair, alteration, or improvement of the structure cannot be made at a cost less than 50 percent of the replacement value of the structure, the owner shall, within the time specified in the order, remove or demolish such structure.
- (c) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the structure within 30 days from the date of such order, the public officer shall file with the Governing Body ~~his or her~~their written report of ~~his or her~~their proceedings and orders which shall be reviewed by the Governing Body at its next regular meeting. Upon approval of the report and proceedings by the Governing Body, the public officer may cause such structure to be repaired, altered or improved, or to be vacated and closed.
- (d) If the owner fails to comply with an order to remove or demolish the structure within 30 days from the date of such order, the public officer shall file with the Governing Body ~~his or her~~their written report of ~~his or her~~their proceedings and orders which shall be reviewed by the Governing Body at its next regular meeting. Upon approval of the report by the Governing Body, the public officer may cause such structure to be removed or demolished.
- (e) The amount of the cost of repairs, alterations, improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. Such lien shall include allowance of the public officer's costs and the necessary attorney's fees and may be foreclosed in judicial proceedings in the manner provided or authorized by law for loans secured by liens on real property. In lieu of foreclosure, the costs, including the public officer's costs, may be assessed as a special assessment against the lot or parcel of land on which the structure was located, in which case the City Clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the aforesaid costs and the county clerk shall extend the same on the tax rolls of the county against the lot or parcel of land. If the structure is removed or demolished by the public officer, the public officer shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition. If there is any balance remaining, it shall be paid to the parties entitled thereto as determined by proper judicial proceeding instituted by the public officer after deducting the costs of such judicial proceedings, including necessary attorney's fees incurred therein, as determined by the court.

(Code 1977, § 6-503; Ord. No. 921, § 1, 10-19-2015)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-605. Determining Condition of Structure.

The public officer may determine that the structure is unfit for human use or habitation if ~~he or she~~they finds that conditions exist in such structure which are dangerous or injurious to the health, ~~or safety or morals~~ of the occupants of such buildings or other residents of such municipality, or which have a blighting influence on properties in the area. Such conditions may include the following, without limitations:

Commented [JJ11]: Not sure about this

Commented [AF12R11]: Like the other provision that discussed morals, we recommend keeping this in as another tool in code enforcement's belt. If a building had a swastika, the City may want the swastika removed due to fascism being against the City's morals.

- Defects therein increasing the hazards of fire, accident, or other calamities;
- Lack of adequate water supply or facilities, lack of adequate ventilation, air pollution;
- Light or sanitary facilities;
- Dilapidation;
- Disrepair, structural defects;
- Uncleanliness;
- Overcrowding;
- Inadequate ingress and egress;
- Dead and dying trees;
- Limbs or other unsightly natural growth;
- Unsightly appearances that constitute a blight to adjoining property, the neighborhood or the City;
- ~~Walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood;~~
- ~~Unsafely~~sightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof;
- Vermin infestation;
- Inadequate drainage; or
- Any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements.

(Code 1977, § 6-504)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-606. Service of Complaints or Orders.

Complaints or orders issued by the public officer pursuant to this article shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons is unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once in the official City newspaper. A copy of such complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of such complaint or order shall also be filed with the clerk of the District Court of Johnson County, Kansas, and such filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

(Code 1977, § 6-505; Ord. No. 921, § 2, 10-19-2015)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-607. Appeal Procedure.

Any person affected by the order issued by the public officer may petition the District Court of Johnson County, Kansas, pursuant to laws of the State of Kansas, for relief pursuant to K.S.A. 17-4759, and amendments thereto.

Commented [JJ13]: Is this a good reason to call something unfit for human habitation?

Commented [AF14R13]: Good catch, no this is not a good reason and recommend removal.

(Code 1977, § 6-506)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-608. Powers of Public Officer.

The public officer is hereby authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this article, including the following powers in addition to others herein granted:

- (a) To investigate the structure conditions in the City in order to determine which structures therein are unfit for human use or habitation;
- (b) To administer oaths, affirmations, examine witnesses and receive evidence;
- (c) To enter upon premises for the purpose of making examinations; provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (d) To appoint and fix the duties of such officers, agents, and employees as ~~he or she~~ they deems necessary to carry out the purposes of this article; and
- (e) To delegate any of ~~his or her~~ their functions and powers under this article to such officers, agents and employees as ~~he or she~~ they may designate.

(Code 1977, § 6-507)

State law reference(s)—K.S.A. 17-4759.

Sec. 8-609. Order of Demolition.

The owner of any structure ordered to be demolished or removed by the public officer shall comply with the pertinent provisions of the Building Code. Upon removing such structure, the owner, wrecker or licensed contractor shall seal the sanitary sewer connection in the manner set forth by the Building Inspector or public officer. In addition, the owner or licensed contractor shall fill any basement or other excavation located upon the premises and take such other action necessary to leave the premises in a safe condition.

(Code 1977, § 6-508)

Sec. 8-610. Order of Condemnation.

Upon the issuance of an order by the public official, under section 8-606, the public officer shall place a notice on the particular structure covered by the order as follows:

"This structure has been found unfit for human habitation by the order of the public officer of the City of Roeland Park, Kansas. This notice shall remain on this structure until it is (use either of the following phrases as applicable)

- (1) repaired, altered, or improved or vacated and closed as required by the order.
- (2) removed and demolished as required by the order."

(Code 1977, § 6-509)

Sec. 8-611. Conflict of Laws.

Nothing in this article shall be construed to abrogate or impair the powers of the City, its courts, or department of the City to enforce any other provisions of its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this article upon the designated public officer or other public officials shall be in addition and supplemental to the other powers conferred by any other law.

(Code 1977, § 6-510)

State law reference(s)—K.S.A. 17-4759;

Sec. 8-612. Penalty.

It shall be unlawful for any owner of any residential structure or dwelling to fail to comply with the terms of an order issued pursuant to section 8-604, or for any person to inhabit a residential structure or dwelling ordered to be vacated and closed pursuant to section 8-604, and any person convicted thereof shall be punished in accordance with the terms of section 1-117 of the Code. Each day's violation shall constitute a separate offense.

(Ord. No. 595, § 1)

Sec. 8-613. Additional Remedy.

In addition to any other remedy provided by this article, the failure of an owner of a residential structure or dwelling to comply with the terms of an order of the public officer issued pursuant to section 8-604 shall constitute grounds for revocation of a rental housing license pursuant to subsection (c) of section 5-709 of the Code. No additional notice or hearing shall be required for said revocation to take effect.

(Ord. No. 595, § 2)

Item Number: II. Discussion
Items



City of Roeland Park
Action Item Summary

Submitted By:

Committee/Department: Administration

Title: Task Group Present Tree Fund Policy Recommendation (10 min)

Item Type: Presentation

Recommendation:

To review the Tree Preservation Fund Use Policy guidelines as developed by the Task Group.

Details:

The Task Group, consisting of Cmbres Raglow, Lero, Stocks and Faidley developed the following recommendations regarding use of the tree fund.

Purpose

To preserve and expand the tree canopy through encouraging proper tree maintenance, replacement of any removed trees and the addition of new trees at a reduced cost.

Mitigation Fee

\$500 flat fee per tree removal.

Benefits to our Community

- Trees beautify our community and sequester carbon, which reduces the city's carbon footprint over time.
- Shade trees reduce cooling costs born by homeowners/businesses as the climate continues to warm.
- Trees benefit human health and provide habitat for birds and insect species necessary for a healthy ecosystem.
- Mature trees positively impact home values.

Fund Breakdown

\$10,000

- No income requirements are used for tree trimming/maintenance of trees covered by the Ordinance.

- 50% match up to a total reimbursement of \$500 per calendar year per property.

\$15,000

- Income eligibility requirements of 80% of low-moderate income for Johnson County are used for tree maintenance and planting of new trees that are replacing trees that have been removed. Trees must be covered by the Ordinance.
- Maximum annual amount of \$1,500 per calendar year per property.

Documentation

- Similar application process to the Property Tax Rebate Program.
- Invoice for reimbursement, unless the City is able to pay the vendor directly for the income eligible group.
- Before and after photo documentation.

Other Considerations

- Residents can include labor in their reimbursement.
- Residents cannot access the tree fund more than once per calendar year.

Anticipated Outcomes

Increased tree planting and care of existing mature trees to benefit the entire community.

Fiscal Impact	
Amount of Request:	
Budgeted item?	Budgeted Amount:
Line Item Code/Description:	

Additional Information

Diversity Equity & Inclusion Lens

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?

ATTACHMENTS:

1. Mature Tree Preservation Policy

Mature Tree Preservation Policy:

- Mitigation Fee Amount
 - The previous three-tree calculation was extremely confusing. I suggest a set dollar amount per DBH not being replaced, up to \$500.
 - We recommend \$500 flat fee per tree. Khal confirmed this fee seems reasonable and as a flat fee it is easier to enforce. Our intent is that it would be less expensive to plant a tree than to replace a tree.

RP Tree Fund Policies & Procedures; please define and/or clarify:

- program purpose
 - To preserve and expand the tree canopy through encouraging proper tree maintenance, replacement of any removed trees and the addition of new trees at reduced cost.
- benefits to our community
 - Trees beautify our community and sequester carbon to reduce the city's carbon footprint over time. Shade trees reduce cooling costs born by homeowners/businesses as the climate continues to warm. Trees benefit human health and provide habitat for birds and insect species necessary to a healthy ecosystem.
- when, how, and at what level the city will fund the initial balance
 - \$25,000 divided in two "buckets"
 - \$10,000 no income requirements, 50% match (reimbursement based) to be used for trimming and new trees.
 - \$15,000 income eligibility requirements matching the Neighbors Helping Neighbors and Tax Rebate Program. No match.
- application and award processes
 - eligibility standards
 - Use Neighbors Helping Neighbors and Tax Rebate Program eligibility requirements
 - necessary documentation
 - Recommend similar form to Tax Rebate Program, single page document that is easy to navigate and for staff to review.
 - Invoice for reimbursement
 - other participation requirements if any, i.e., dollar matching, planting replacement tree(s), etc.
 - Recommend using the Contain the Rain tree list (Contain the Rain).
 - \$15,000 income eligibility based, no match.
 - \$10,000 no eligibility requirements; 50% match, reimbursement.
- approved use of grant awards
 - Maintenance, replacement trees, new trees. In addition, currently residents can request help through Neighbors Helping Neighbors. Need to consider how to administer Neighbors Helping Neighbors vs the Tree Fund.
- anticipated outcomes/goals
 - Increased tree planting and care of existing mature trees to benefit the entire community.