



AGENDA
City of Roeland Park, Kansas
Governing Body Meeting
City Hall, 4600 W 51st Street
January 5, 2026 6:00 PM

- | | | |
|--|---|---|
| • Michael Poppa, Mayor | • Emily Hage, Council Member, Ward 3 | • Keith Moody, City Administrator |
| • Jan Faidley, Council Member, Ward 1 | • Harold Morales, 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 | • Debbi Schraeder, Council Member, Ward 4 | • Cory Honas, Police Chief |
| • Jennifer Hill, Council Member, Ward 2 | | • Donnie Scharff, Public Works Director |

Council Standing Committees

Admin
Faidley
Schraeder

Finance
Dickens
Hage

Safety
Hill
Morlaes

Public Works
Madigan
Lero

I. Approval of Minutes

- A. Governing Body Workshop Meeting Minutes December 1, 2025

II. Discussion Items

- A. Discuss Short-Term Rental Changes for the World Cup
- B. Review Chapter 15 of the City Code
- C. Executive Session - I 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 _____.

III. Non-Action Items

IV. Committee Minutes

V. 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: I. Approval of Minutes



City of Roeland Park
Action Item Summary

Submitted By:

Committee/Department: Administration

Title: Governing Body Workshop Meeting Minutes December 1, 2025

Item Type: Action Item

Recommendation:

Details:

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. Governing Body Workshop Meeting Minutes December 1, 2025

CITY OF ROELAND PARK, KANSAS
GOVERNING BODY WORKSHOP MINUTES
ROELAND PARK CITY HALL
4600 WEST 51ST STREET, ROELAND PARK, KS 66205
December 1, 2025, 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
- Harold Morales, Council Member
- Debbie Schraeder, Council Member

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

(Roeland Park Governing Body Workshop Meeting Called to Order at 7:00 p.m.)

MINUTES

A. Approval of Minutes

The minutes were approved as presented.

II. DISCUSSION ITEMS

A. Review Plans for 51st Street Project

Public Works Director Scharff provided information on the 51st Street CARS Project that will be from Cedar to Nall Ave. He is working with City Engineer, Dan Miller, on the design process.

Mr. Miller said this 2026 CARS project will allow for construction of an 8-foot path and require curb, gutter, and drainage to accommodate the path. They will also do ADA compliance at the end of driveways in the project area. Temporary construction easements will be required. After a call for bids, the plan is to award the project January 5, 2026.

CMBR Faidley asked what will happen to the parking spaces on the east end of the project and around the church. Mr. Miller said those parking spaces will be removed to allow for the sidewalk. The residents in the area will be notified on the project details.

All Councilmembers agreed to have this item come back in January to award the contract.

B. Review Plans for 55th Street Project

Public Works Director Scharff said three-fourths of this CARS project will be in Fairway, who is the administrating city of the project. There are challenges on the north side with steep lots, and it will require extensive driveway reconstruction. They will also increase pedestrian access between the north and south sides of the project area and add storm drainage. This project will also require temporary construction easements.

Mayor Poppa said the residents will be receiving an attorney letter for the easements and recommended that staff send a City-branded letter ahead of time before the request goes out.

CMBR Lero said he is excited about this project, and it is great to see that crosswalks will be added. He asked if they could add crosswalks like what is in the Arts Master Plan. Mr. Miller said since the project is shared with Fairway, it might be better to experiment with sidewalks that are located solely in Roeland Park.

There was agreement from the Councilmembers to approve this project go out for bid.

C. Review Plans for Rosewood/Granada Project

Mr. Miller said this project will go out to the south end of 51st Street and will be a mill and overlay. The street width will remain the same with sidewalks on the west side and extending the trail on 51st Street going east-west to the Community Center. They will also be making ADA accessible improvements to the street. Spot curb repairs will be done as needed and some easements will be needed.

CMBR Faidley said Rosewood looked good and that they took into consideration the pedestrian crossing. She asked about the Granada sidewalk north of 51st Street. Mr. Miller said there are challenges on the sidewalk on Granada. CMBR Faidley asked about ADA compliance on Roe Lane. Mr. Miller said he will check and if there is compliance, and if not, then it will be corrected.

III. Non-Action Items

There were no Non-Action Items presented.

IV. Committee Minutes

The were no Committee minutes attached.

IV. ADJOURN

Mayor Poppa adjourned the meeting.

(Roeland Park Workshop Adjourned at 7:20 p.m.)

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: Discuss Short-Term Rental Changes for the World Cup

Item Type: Action Item

Recommendation:

Review suggested permanent and temporary changes to the short-term rental regulations in advance of the World Cup.

Details:

The 2026 FIFA World Cup is expected to generate exceptionally high demand for short-term lodging throughout the Kansas City metropolitan area. Roeland Park's proximity to Kansas City, major transportation corridors, and entertainment venues makes it a desirable location for visitors seeking short-term accommodations. City staff have already received multiple inquiries from residents interested in renting their homes during the World Cup as a way to offset household costs and participate in a unique, one-time economic opportunity.

While many neighboring communities are not recommending changes to their short-term rental regulations for the World Cup, Roeland Park's regulatory framework is among the more restrictive compared with peer cities as we require neighbor notification of those living within 100 feet as part of the licensing process, and require homes to be owner-occupied. Roeland Park is the only city that permits short-term rentals that requires the home to be owner-occupied. Below is a comparison of some Johnson County communities and their regulations.

City	STRs allowed?	Changes to Policy for WC?	Neighbor Notification	Owner occupancy required	Changes/Notes
Mission Hills, Kansas	No	Yes	n/a	n/a	Extended the min time to rent a home from 30 to 60 days to avoid WC use
Mission, Kansas	Yes	No	No	No	No changes, recently adopted policy
Westwood, Kansas	Yes	No	Yes	No	

					Added the following: Short-term rental occupants must comply with parking restrictions and use off-street parking when available. • Short-term rentals may not be used as a reception space, party space, meeting space, or for other similar events.
Lenexa, Kansas	Yes	Yes	No	No	
Overland Park, Kansas	Yes	No	No	No	Standard rental license
Prairie Village, Kansas	No	No	n/a	n/a	
Shawnee, Kansas	Yes	No	No	No	
Merriam, Kansas	Yes	No	Yes	No	Requires neighbor notification (200 ft), only 1 allowed per 1,000 ft, does not require owner-occupancy.
Leawood, Kansas	No	No	n/a	n/a	
Olathe, Kansas	Yes	No	No	No	Standard rental license
Gardner, Kansas	Yes	No	Yes	No	Requires a conditional use permit, \$500 fee,
Fairway, Kansas	Yes	No	No	No	\$240 fee, 1,000 ft buffer
Overland Park, Kansas	Yes	No	No	No	Standard rental license
Westwood Hills, Kansas	No	No	n/a	n/a	
Roeland Park, Kansas	Yes	TBD	Yes	Yes	\$75 fee

These requirements have served the City well under normal conditions by limiting the number and intensity of short-term rentals and protecting neighborhood character. However, staff believes that the extraordinary and temporary nature of the World Cup warrants a narrowly tailored, time-limited adjustment.

Temporary Suspension of Neighbor Notification

Staff recommends creating a **special, temporary short-term rental license** for the World Cup period that suspends the neighbor notification requirement for rentals **active between May 25 and July 31, 2026**. This recommendation is based on:

- The **short duration** of the World Cup event window;
- The **anticipated volume of inquiries and applications**, which could create administrative challenges under existing notification timelines; and
- Recognition that Roeland Park's owner-occupied requirement already significantly limits the potential scale and intensity of rentals.

Importantly, this temporary license would **not eliminate other safeguards**, and all short-term rentals would remain subject to licensing, safety requirements, and enforcement provisions.

Neighborhood Protection Measures

At the same time, staff is recommending **permanent clarifying amendments** to the short-term rental regulations to protect residents who will remain in town during the World Cup and beyond.

Specifically, the proposed amendments:

- **Prohibit the use of short-term rentals as party, event, meeting, or reception spaces**, ensuring that residential homes are not used for large gatherings open to non-resident guests; and
- **Require compliance with existing parking regulations**, including the use of off-street parking when available, to help prevent excessive parking congestion on residential streets.
- In 5-704(a) remove the following statement: "For short-term rentals the property owner or their registered agent must reside within 30 concentric miles." This is a misleading statement that staff believes is a mistake and should be removed.

These provisions are intended to:

- Reduce noise, traffic, and nuisance complaints;
- Provide clear expectations to property owners and guests; and
- Strengthen the City's ability to proactively address problem properties before

impacts escalate.

Next Steps

Attached you will find the proposed redlined code changes as described above. At the next Council meeting, the Governing Body would review and approve the draft ordinance making both permanent and temporary changes to short-term rental regulations. Staff will also produce an application for World Cup related short-term rentals on its website and direct those interested to complete the application online. These regulations would be posted upon Council approval. We would direct folks to complete the application by April 30, 2026.

For more information about short-term rental regulations throughout the metro, see the [report completed by MARC](#) in May 2025.

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

Additional Information

Diversity Equity & Inclusion Lens

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- 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?
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- How has the impacted community been involved?
- How will the program be communicated to all stakeholders?

ATTACHMENTS:

1. World Cup Recommended STR Changes

Short-Term Rental Changes for World Cup

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.

Commented [JJ1]: Recommend removal as STRs can only be owner-occupied.

(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~~

Commented [JJ2]: Recommend removal for use during this period only.

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.

(6) No short-term rental shall be used as a reception space, party space, meeting space or for other similar events open to non-resident guests.

(7) Short-term rentals must comply with parking restrictions as set forth in Chapter 14 of the Municipal Code and use off-street parking when available.

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 15 of the City Code

Item Type: Action Item

Recommendation:

Details:

Attached are the redlined recommended changes for Chapter 15 - Utilities. The first attachment is for Articles 1 - Solid Waste and 6 - Stormwater Utility. This section was reviewed by staff and only yielded recommended changes for the insurance amounts, which are updated based upon the City's insurance provider's minimum coverage recommendations.

The second attachment is for Articles 4 - Stormwater Pollution Prevention and 5 - Erosion and Sediment Control Standards and Stormwater Management. This section was reviewed by City Engineer Autumn Schleicher with Lamp Rynearson. She suggested the following changes:

- Updating the adoption date to the KC-APWA Standards referenced throughout
- Updating the references to those KC-APWA Standards section numbers
- Replacing KDOT erosion & sediment control standards with KC-APWA erosion & sediment control standards
- A few spelling corrections

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

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ATTACHMENTS:

1. Chapter 15 -Utilities Redlines
2. Ch. 15 Stormwater Redlines

CHAPTER XV. UTILITIES

ARTICLE 1. SOLID WASTE

Sec. 15-101. Legislative Findings.

- (a) Adequate protection of public health, safety and welfare requires that the City adopt an ordinance relating to the storage, collection, transportation and disposal of solid waste.
- (b) K.S.A. 65-3410, as amended, authorizes cities to do all things necessary for a proper and effective solid waste management system, including the levying of fees and charges upon persons receiving service and contracting for the performance of said services.
- (c) The Governing Body is desirous of complying with the Solid Waste Management Plan adopted by the Board of County Commissioners of Johnson County, as such plan may be amended.
- (d) It is the policy of the Governing Body to encourage the recycling of items which might otherwise be treated as wastes and to encourage the reduction in the volume of material which is being transported to landfills and which might otherwise be recycled or composted.

(Ord. No. 602, § 2)

Sec. 15-102. Definitions.

For the purposes of this article, the following terms, phrases, words and their derivation shall have the following meanings:

- (a) *Agricultural waste* is solid waste resulting from the production of farm or agricultural products.
- (b) *Air pollution* is the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.
- (c) *Approved container* is a container that shall have a maximum capacity of 96 gallons and be so constructed so as to adequately contain all contents placed therein without spillage, leakage or emission or odors while awaiting collection and meet the specifications established by the Director.
- (d) *Bulky waste* is items either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by solid waste collectors, with the equipment available therefore, including but not limited to appliances, furniture, large auto parts or trees.
- (e) *City* is the City of Roeland Park, Kansas.
- (f) *Code* is the Johnson County Sanitary Code for Sanitary Landfill.
- (g) *Collection* is the removal and transportation of solid waste from its place of storage to its place of processing or disposal.
- (h) *Collector* is any person, public or private, engaged in collecting solid waste.

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- (i) *Combined refuse collection* is the collection of mixed refuse and (putrescible and non-putrescible).
 - (j) *Combined solid waste* is solid waste containing both garbage and rubbish. (See "mixed refuse.")
 - (k) *Commercial waste* is solid waste emanating from establishments engaged in business. This category includes, but is not limited to, solid waste originating in stores, markets, office buildings, restaurants, shopping centers, theaters and schools.
 - (l) *Commissioners* are the Johnson County Board of County Commissioners.
 - (m) *Construction waste* is waste building materials and rubble resulting from construction, remodeling or repair operations on houses, commercial buildings, other structures and pavements.
 - (n) *Contractor* is the person or corporation holding a valid SWM contract, whether public or private operation.
 - (o) *Demolition waste* is waste materials from the destruction of residential, industrial or commercial structures.
 - (p) *Department* is the Kansas State Department of Health and Environment.
 - (q) *Director* is the Director of Solid Waste Management for the City, who shall be the City Administrator or such other person designated by the City Administrator to administer the storage, collection, transportation and disposal of solid waste in the City in accordance with this article.
 - (r) *Disposal solid waste container* is an approved container which meets the specifications established by the director, which is designed to be disposed of which the solid waste contained.
 - (s) *Disposal* is the depositing of solid waste in or at a facility approved by the City, the SWMP and the Kansas State Department of Health and Environment for such purpose.
 - (t) *Dump* is a collection or consolidation of solid waste from one or more sources at a central disposal site which does not meet standards for proper disposal.
 - (u) *Dwelling unit* is any room or group of rooms located within a structure, and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
 - (v) *Engineer* is the Johnson County Engineer, and his or her department.
 - (w) *Garbage* is the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods, including unclean containers.
 - (x) *Hazardous waste* is solid and liquid materials which require special handling and disposal to protect and conserve the environment and human health including pesticides, acids, caustics, pathological materials, radioactive materials, flammable or explosive materials, oils and solvents, and similar organic and inorganic chemicals and materials, containers and materials that have been contaminated with hazardous materials.
 - (y) *Incineration* is the controlled process of burning solid and/or liquid waste.
 - (z) *License* is the permission for a contractor to be allowed to collect and transport solid wastes in approved vehicles or to process or dispose of solid wastes within the City upon payment of a specified fee upon meeting licensing requirements of the City and county.
 - (aa) *Mixed refuse* is a mixture of solid waste containing putrescible and nonputrescible materials. (See "combined solid waste.")
 - (bb) *Mulch* is grass clippings, leaves, straw, wood chips, or bark spread on the ground, to no greater than one foot in depth, to reduce evaporation or to control weeds.
 - (cc) *Nuisance* is anything which:

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- (1) Is injurious to health or is offensive to the senses or is an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property; and
 - (2) Affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal; and
 - (3) Occurs during or as a result of the storage, collection, transportation, or disposal of solid waste.
- (dd) *Official adopted solid waste management plan* is referred to herein as "official plan" and "official plan for solid waste management" means a comprehensive plan for the provision of an adequate solid waste management system adopted by any authority to provide such a system or having jurisdiction over the provision of such system, and submitted to and approved by the department as provided in K.S.A. 65-3405.
- (ee) *Occupant* is any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as owner, guest, or as a tenant, either with or without the consent of the owner thereof.
- (ff) *Owner* is any person who, alone or joint or severally with others, has legal title to, or sufficient proprietary interest in, or have charge, care or control of any dwelling unit or any other improved real property, as title holder, as employee or agent of the title holder, or as landlord or manager or as trustee or guardian of the estate or person of the title holder.
- (gg) *Permit* is the permission for a vehicle or piece of equipment or facility to be operated for the purpose of collecting, transporting, processing or disposing of solid waste within the City upon payment of a specified fee upon meeting the permitting requirements of the City and County.
- (hh) *Person* is an individual, partnership, corporation, institution, political subdivision or state agency.
- (ii) *Putrescible waste* is organic wastes which progressively decompose with the production of foul smelling compounds and/or material that attracts insect or animal life.
- (jj) *Recyclable materials* are glass, aluminum, newspapers, plastic beverage containers and such other materials as are suitable for recycling as may be designated by the Director.
- (kk) *Refuse* (See "solid waste.").
- (ll) *Rubbish* is non-putrescible solid wastes consisting of combustible and/or non-combustible waste materials from dwelling units or cultural establishments, including yard wastes and items commonly referred to as trash, and includes:
- (1) *Bulky rubbish* (See "bulky waste.");
 - (2) *Commercial rubbish* is rubbish resulting from commercial, industrial, institutional, or agricultural activities; and
 - (3) *Residential rubbish* is a rubbish resulting from the maintenance and operation of dwelling units.
- (mm) *Sanitary landfill* is a site where solid waste is disposed of on the land without creating nuisances or hazards to the public health or safety by confining refuse to the smallest practical area, compacting it to the smallest practical volume by employing power equipment, and covering it with a layer of compacted earth or other suitable cover material at the conclusion of each day's operation.
- (nn) *Service* is the useful result; the product of labor and machines in proper and effective management to dispose of solid waste.
- (oo) *Solid waste* is unwanted or discarded waste materials in a solid or semi-liquid state, including but not limited to refuse, garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes,

yard wastes, discarded appliances, special wastes, industrial wastes, demolition and construction wastes and digested sludges resulting from the treatment of domestic sewage or a combination thereof.

- (1) *Commercial solid waste* is solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment, and multiple housing facilities with four or more dwelling units.
- (2) *Residential solid waste* is solid waste resulting from the maintenance and operation of dwelling units.
- (pp) *Solid waste container* is any receptacle used by any person to store solid waste during the interval between solid waste collections.
- (qq) *Solid waste disposal area* is also referred to herein as "disposal area" or "disposal site" and means any area used for the disposal of refuse from more than one residential premises, or one or more commercial, industrial, manufacturing, or municipal operations, or two or more agricultural operations.
- (rr) *Solid waste management system* is the entire process of storage, collection, transportation, processing, and disposal of solid waste by any person engaging in such process as a business, or by any city, authority, county or any combination thereof.
- (ss) *SWM* is solid waste management.
- (tt) *SWMC* is Johnson County Solid Waste Management Committee.
- (uu) *SWMP* is the approved and adopted Solid Waste Management Plan for Johnson County.
- (vv) *Solid waste processing facility* is also referred to herein as "processing facility" and means an incinerator, compost plant, transfer station or any other facility where solid wastes are consolidated, temporarily stored or the characteristics are modified or the quantity is reduced.
- (ww) *Storage* is the keeping, maintaining or storing of solid waste from the time of its production until the time of its collection.
- (xx) *Transfer station* is a site at which solid wastes are concentrated for transport to a processing facility or land disposal location. A transfer station may be fixed or mobile.
- (yy) *Vector (of disease)* is an animal or insect having the capability of transmitting infectious diseases from one person or animal to another by biting from skin or mucous membrane or by depositing infective material on the skin, on food, or on another object.
- (zz) *Yard wastes* are grass clippings, leaves, tree trimmings, shrubs and garden wastes. For purposes of section 15-103(f) relating to composting of yard waste, yard wastes shall not include items such as egg shells and household garbage, which shall be considered as solid waste and disposed of according to other sections of this article.

(Ord. No. 620, § 1)

Sec. 15-103. Appointment and Duties of Director.

- (a) The City Administrator or his or her designee is hereby appointed as the Director as defined in section 15-102.
- (b) The Director shall administer the storage, collection and transportation of solid waste in the City as provided by this article, and shall be the principal enforcement officer of this article.

(Code 1977, § 6-103)

Created: 2025-10-25 19:15:53 [EST]

(Supp. No. 17, Update 6)

Sec. 15-104. Storage of Solid Waste and Recyclable Materials.

The following provisions of this article shall be observed in the storage of solid wastes and recyclable materials:

- (a) The owner or occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste and/or recyclable materials within the corporate City limits shall: provide sufficient and adequate approved containers for the storage of such solid waste and recyclable materials in adequate number to serve each such dwelling unit and/or establishment; maintain such containers and their environs at all times reasonably clean and in good repair; repair or replace same from time to time, without notice, when any such containers shall no longer meet the specifications therefore as established by regulations of the Director.
- (b) The occupant of every dwelling unit and of every institutional, commercial, industrial, agricultural or business establishment, from which solid waste and/or recyclable materials collection is made under this article, shall place all solid waste and/or recyclable materials in approved containers, except as otherwise provided herein, and shall maintain such containers and the area surrounding them in a clean, neat, and sanitary condition at all times. Whenever a portion of the solid waste and/or recyclable materials is subject to decay or putrefaction, blowing or spillage by weather or animals, such an accumulation must be kept covered or in approved containers, closed bins or containers not subject to deterioration. For multiple-family dwellings and institutional, commercial, industrial, or business establishments, all containers must be screened as required by Chapter XVI. For single-family dwellings and duplexes, containers may be stored outdoors in the following locations:
 - (1) Behind the dwelling in the rear yard; or
 - (2) On the side or front yard of the dwelling with proper screening as provided below:
 - (i) Screens shall be at least 42 inches tall and 36 inches wide so that any trash or recycling containers are not visible from the street.
 - (ii) If a house is on a corner lot, the container(s) must be screened in such a way that they are not visible from either street fronting the house.
 - (iii) Screens shall be composed of the following materials:
 - a. Non-deciduous (year-round evergreen) shrub, bush or tree;
 - b. Lattice fence or screen, other than chain link, that obscures the view of at least 60 percent of the container;
 - c. Opaque structure enclosing the container that is constructed of durable materials in keeping with the character of the primary structure; or
 - d. Chain link fence with barrier weaving.
 - (iv) Screens shall not be composed of the following materials:
 - a. Deciduous trees, shrubs, or bushes that shed their foliage in the winter;
 - b. Air conditioning units;
 - c. Chain link fences without barrier weaving;
 - d. Vehicles;
 - e. Tarps; or
 - f. Flower pots.

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- (v). Exceptions to these screening requirements may be granted by the Director on a case-by-case basis for elderly or disabled residents. Exceptions may be requested by contacting City Hall. The denial of an exception may be appealed to the Code Board of Appeals in accordance with section 4-110.
 - (vi) The Director may, during snowy and icy conditions, provide for an amnesty period where homes that have difficulty placing containers behind a screen may place their containers in front of their garage or house but not at the curb line.
 - (vii) The Director shall issue notice of any violation of these screening requirements by conspicuously posting door hangers on the property. If the violation is not corrected within 48 hours, or if the violation is repeated within 180 days, the Director may issue an administrative citation imposing a civil penalty of \$10.00 for the violation. A separate administrative citation may be issued for each day that the violation continues thereafter. If any citation remains unpaid for 30 days, the Director may cause the issuance of a complaint and notice to appear in Municipal Court, and the violation shall be subject to criminal penalties as set forth in section 15-116.
- (c) Residential solid waste shall be stored in approved containers of not more than 96 gallons. Containers shall be properly covered at all times except when depositing waste therein or removing contents. They shall be of light weight and sturdy construction. The weight of any individual container and its contents shall not exceed 65 pounds. Garbage bags, when such are recognized by the Director as approved containers for residential solid waste, shall not be placed out-of-doors at a collection point any sooner than 12 hours prior to the day of collection.
 - (d) Containers for recyclable materials in residential areas shall be furnished by the person providing for the collection of such materials and shall be constructed of not less than 25 percent recycled plastic. The Director may provide other specific requirements for such containers.
 - (e) Commercial solid waste shall be stored in solid waste containers, as approved by the Director. The containers shall be waterproof, leak proof, durable and corrosion resistant and shall be covered at all times except when depositing waste therein or removing contents thereof; and shall meet all requirements as set forth in this article.
 - (f) Tree limbs less than four inches in diameter and brush shall be securely tied in bundles not larger than 48 inches long and 18 inches in diameter when not placed in storage containers.
 - (g) Yard wastes shall be stored in approved containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. The weight of any individual container and contents shall not exceed 65 pounds. Any composting of yard waste within the City shall be conducted in accordance with the provisions of section 15-105.
 - (h) No material to be used as mulch shall be stored outside for more than ten days.
 - (i) The Director has the authority to collect and dispose or order the collection and disposal of any nonconforming container and its contents with or without notice to the owner thereof.

(Ord. No. 620, § 2; Ord. No. 947, § 1, 3-20-2017)

Sec. 15-105. Same; Composting.

- (a) It is the policy of the City to encourage environmentally sound practices and to reduce the flow of items to landfills which might be recycled. Further, it is the policy of the City to encourage the proper composting of yard materials and to establish appropriate standards for the maintenance of compost piles.

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- (b) No owner or occupant, both as defined in section 15-102, of residential premises shall maintain or locate a compost pile in a manner which creates a fire hazard according to the International Fire Code, as incorporated by reference in section 4-132 of the Code of the City, but the mere presence in a properly-maintained compost pile of yard waste matter defined in such International Fire Code as combustible or flammable shall not in and of itself constitute a violation of the Code of the City. The provisions of this article shall control notwithstanding any contrary provision of the International Fire Code.
 - (c) No owner or occupant shall maintain a compost pile in a manner which creates a nuisance, or creates an offensive sight or odors to neighbors, or which violates the health, building or zoning regulations of the City of any other laws or regulations relating to the use of land or the use and occupancy of buildings and improvements.
 - (d) Compost piles may include yard wastes, as defined by section 15-102, commercially produced manure, straw, hay, garden refuse, sawdust and soil. In addition, pure and raw fruit and vegetable scraps and coffee grounds are acceptable in a compost container. No processed foods, meat, poultry, fish, dairy products or grease may be used in a compost container.
 - (e) Compost piles may be located only in the rear yards of residential premises as defined in Chapter XVI of the Code of the City, and shall not be located in the front or side yards of such premises. In the event that residential premises are so situated that it is difficult to determine what constitutes the rear yard, the determination of the director shall be final. Where possible, a compost pile shall not be located less than 15 feet from any other building on such premises or adjacent premises. Where not possible, an acceptable location shall be determined by the director. No compost pile shall be located in a right-of-way.
 - (f) Compost piles shall be compact and shall not exceed 150 cubic feet in size. No compost pile shall exceed four feet in height. Not more than one compost pile shall be placed on any residential premises of less than one acre in size. On residential premises of more than one acre in size, no more than two compost piles may be placed on such premises. However, owners of residential premises shall be permitted to compost permitted materials in an unlimited number of storage bins constructed for the purpose of composting material and approved by the director.
 - (g) A compost pile shall be enclosed on at least three sides, said enclosure not to exceed four feet in height. Permitted enclosure materials include woven wire, wood-slat fencing, cement blocks, bricks, boards of lumber, and molded plastic containers. Compost piles shall be maintained so as to prevent the dispersal of waste placed therein upon the premises, upon adjacent premises, or upon adjacent public rights-of-way.
 - (h) All compost piles existing on the date of initial adoption of this article shall be removed or brought into compliance with the standards set forth herein within 90 days of the date upon which this article becomes effective.
 - (i) All yard waste not in an approved compost pile or not in an approved storage bin, or used as mulch in a cultivated area shall be considered solid waste and shall be stored and disposed of in accordance with this article.

(Ord. No. 832, § 1)

Sec. 15-106. Collection and Disposal of Solid Waste and Recyclable Materials.

The City shall provide for the collection of all residential solid waste and recyclable materials as follows:

- (a) Until otherwise provided, the City shall provide for the collection of all residential solid waste by licensing one or more private contractors, which, with the approval of the Director, may also provide for the collection of recyclable materials.

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- (b) Residential solid waste and recyclable materials shall be placed at collection points no sooner than 12 hours prior to the day of collection and all containers must be returned to storage as described in section 15-104 by midnight of the day of collection.
 - (c) Regulation of non-residential solid waste collection shall be as follows:
 - (1) The City will not provide solid waste collection services to institutional, commercial, industrial or business establishments, or to apartments, townhouses, or condominiums, of four units or more in a building under one roof;
 - (2) The regulatory and penalty provisions of this article shall apply to the nonresidential properties and it shall be the duty of the owner to provide for collection of all solid waste produced upon all such premises at a standard at least equal to that prescribed by this article.

(Ord. No. 757, § 1; Code 2007)

Sec. 15-107. License and Permits.

The following provisions of this article shall be observed by any person or persons engaging in the business of collecting and transporting, processing or disposing of solid waste within the corporate limits of the City and that person or persons shall first obtain a license to do business in the City.

- (a) Each applicant for any such license shall state in his or her application the following:
 - (1) The nature of the business to be conducted in the City (storage, collection and/or transportation of solid waste or any combination thereof);
 - (2) The characteristics of solid waste to be collected and transported;
 - (3) The number of solid waste vehicles and equipment to be operated in the City;
 - (4) The precise location or locations of solid waste processing or disposal site(s) to be used;
 - (5) Each applicant applying for a license to engage in the collection and transportation of recyclable materials shall file a complete rate schedule with its application, which schedule shall include a listing of the rates and any special charges applicable to any City, group or association located in Johnson County, Kansas. The rate schedule, any proposed increases thereof, and the method and time of billing shall be subject to the approval of the City; and
 - (6) Such other information as may be required by the Director.
- (b) The license and permit(s) shall be issued for the period of one year, and each applicant shall pay a fee each collection vehicle to be used in the City in an amount established by resolution adopted by the Governing Body.
- (c) If the application shows that the applicant will collect and transport solid waste without hazard to the public health or damage to the environment and in conformity with the SWMP, the laws of the State of Kansas, and this article, the City shall issue the license and permits authorized by this article. If such showing is not made by the applicant, the Director shall disapprove the application and the City Clerk shall not issue the license and/or permit(s). If the Director disapproves any application, he or she shall give the reasons therefore in writing, file the same with the City Clerk, 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 Director files his or her statement of reasons for the disapproval. A hearing on such appeal shall be held by the Governing Body of the City no more than 30 days after the applicant files such notice of appeal. The Governing Body, after a hearing, may, by a majority vote, reverse or affirm the decision of the Director. Nothing in this section shall prejudice the right of the applicant to reapply at a later date for a license and/or permit(s).

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- (d) Permits shall not be required for vehicles for the removal, hauling or disposal of demolition or construction wastes; however, all such wastes shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained to prevent the material being transported from spilling upon the public highways.
 - (e) Before a valid license and permit(s) shall be issued by the City, the applicant must furnish the City a certificate of insurance evidencing insurance coverage in the following minimum amounts:
 - (1) Commercial general liability insurance, written on an occurrence basis, including broad-form contractual liability and completed operations coverage, in the amount of \$2,000,000.00 combined single limit, covering personal injury, bodily injury and property damage per occurrence;
 - (2) Comprehensive automobile liability insurance, including owned, hire and non-owned vehicles, if any, in the amount of \$~~12~~2,000,000.00 combined single limit, covering personal injury, bodily injury and property damage;
 - (3) Workers compensation insurance which shall fully comply with statutory requirements, and employers liability insurance in the amount of \$1,000,000.00 per occurrence; the contractor shall provide a valid waiver, executed by the workers compensation and employers liability insurance carrier, of any right of subrogation against the employees for any injury to a covered employee; and
 - (4) An umbrella liability policy in the amount of \$5,000,000.00 per occurrence/aggregate, covering all above coverages.
 - (f) The City shall be named as an additional insured on the applicant's general liability and automobile liability policies.

(Code 2014)

Sec. 15-108. Rules and Regulations.

The following provisions of this article shall be observed in the maintenance of solid waste management in the City:

- (a) The Director, by and with the consent of the Governing Body of the City, shall define and promulgate reasonable and necessary rules and regulations governing the solid waste management system, which rules and regulations shall be filed in the office of the City Clerk. The rules and regulations shall include, but not be limited to:
 - (1) Time and day schedules of and routes for collection of solid waste, except as prohibited by this article.
 - (2) Specifications for solid waste containers, covers, and related equipment.
 - (3) Identification of solid waste containers, covers, and related equipment.
 - (4) Collection points of solid waste containers.
 - (5) Handling of special wastes such as hazardous wastes, ashes, agricultural wastes, construction wastes, oils, greases or bulky sludges, wastes.
- (b) The Director may classify certain wastes as hazardous wastes which will require special handling and which should be disposed of only in a manner which meets all City, county, state and federal regulations.

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- (c) All residential solid waste, other than bulky waste, shall be collected at least once weekly. All commercial solid waste shall be collected at least once weekly or at more frequent intervals as may be fixed by the Director upon a determination that more frequent intervals are necessary for the preservation of the health and/or safety of the public and general appearance of the area. The Director may, upon application, reduce the collection frequency in specific cases consistent with other requirements of this article.
 - (d) Any person engaging in the business of the collection, storage and transportation of solid waste or recyclable materials in the City shall file a route schedule with the director.
 - (e) Any person engaging in the business of the collection, storage and transportation of solid waste or recyclable materials in the City shall maintain an office with adequate telephone service to provide for service requests and complaints. The Director shall be immediately furnished with any change in the telephone number of the address of such person.

(Ord. No. 602, § 9)

Sec. 15-109. Prohibited Practices.

The following provisions of this article concerning solid waste management defines practices to be prohibited:

- (a) No solid waste shall be disposed of at a processing facility or a disposal site unless it is a site designated and approved by the Johnson County Engineer and, further, unless it complies with all requirements of the SWMP.
- (b) No person shall engage in the business of collection and transportation or processing or disposal of solid waste within the corporate limits of the City without first obtaining a permit as defined and required in section 15-107 of this article.
- (c) Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the City to use public property for such purposes. The storage sites shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All storage areas shall be screened or otherwise located so as to not be in the view of persons using public streets or walkways.
- (d) All collection vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and cooperated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting waste, or, as an alternate, the entire bodies thereof shall be enclosed, with only loading hoppers exposed. No material shall be transported in the loading hoppers. All recyclable material collection vehicles shall be maintained in a safe, clean and sanitary condition, and shall be so constructed, maintained and operated as to prevent spillage of recyclable material therefrom.
- (e) The collection and transportation of solid waste and recyclable materials shall only be made between the hours of 7:00 a.m. and 7:00 p.m. Collections on streets defined elsewhere in this Code as arterial streets shall be prohibited between the hours of 7:00 a.m. to 9:00 a.m. and between the hours of 4:00 p.m. to 6:00 p.m. on any weekday.

(Ord. No. 620, § 5)

Sec. 15-110. Enforcement Provisions.

The Director is authorized to exercise such powers as may be necessary to carry out and effectuate the purposes and provisions of this article.

- (a) Included in the powers of the Director is the right to inspect all phases of solid waste management within the City. The Director has the right to enter upon the premises for the purpose of making examinations and inspections, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession, and in the event entry is denied or resisted, the Director shall obtain for this purpose an order from a court of competent jurisdiction.
- (b) In all instances where inspections by the Director reveal violations of this article, the Director shall issue notice to the violating person for each such violation and stating the violation or violations found, the time and date of the violation and the corrective measures to be taken, together with the time in which such corrections shall be made. When corrective measures have not been taken within the time specified in the notice, the Director shall execute a complaint in the municipal court of the City charging the person or persons with a violation or violations of this article. In those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be granted by the Director before he or she executes the complaint.
- (c) The Director further has the power to appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the directions of this article, and, further, to delegate any of his or her functions and powers under this article to such officers, agents and employees as he or she may designate.

(Ord. No. 602, § 11)

Sec. 15-111. General Provisions.

- (a) All solid waste collection shall, upon being loaded into collection equipment, become the property of the licensed collector.
- (b) Solid waste collectors, employed by the City or solid waste collection agencies operating under contract with the City, or solid waste collectors, collecting from those dwelling units specifically exempted under section 15-104 are hereby authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this article.
- (c) All contract providing for the storage, collection and transportation of solid waste to which the City is a party shall contain provisions for a performance bond in an amount not less than 33 percent or one-third of the total value of the services provided by the contractor. The bond shall be with a good and sufficient surety and shall be approved by the Governing Body before the execution of the contract. The bonds shall be conditioned that the principal will in all respects comply with all laws of the City and comply with the terms of his or her permit and be conditional upon his or her faithful performance of the contract. The form of such bond must be approved by the City Attorney.
- (d) The Governing Body shall determine a proper amount to be charged for the storage, collection, transportation, processing and disposal of solid waste. The costs shall be based upon the cost of providing the service, including the costs of administration and collection. The costs for services provided either by the City or provided under a contract under this article shall be paid by the owner or owners of the premises. In addition to the charges, the City or the Governing Body may assess additional delinquent fees or charges for those who do not pay for the services in the time prescribed by the Governing Body shall be assessed as a special assessment against the lot or parcel of land from which the solid waste was removed, and the City

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Clerk shall, at the time of certifying other City taxes, certify the unpaid portion of the fees or charges, including delinquent fees, and the County Clerk shall extend the same on the tax rolls of the County against the lot or parcel of land.

(Ord. No. 602, § 12)

Sec. 15-112. Annual Report.

Any person engaged in the collection of recyclable materials shall submit an annual report to the Governing Body no later than May 1st of each year. Such annual report shall describe the materials that were recycled, method of disposal of such materials and the weight or volume of such materials, the compensation received for such materials and shall contain an affidavit certifying that such person has complied with the provisions of this article.

(Ord. No. 602, § 13)

Sec. 15-113. Public Education.

Any person engaged in the collection of recyclable materials shall implement a public education and awareness program, in cooperation with the City, to educate the public about the importance of recycling. Such person shall submit a public education and awareness program to the Director for approval. A recycling emblem may be established by the City as part of the recycling program and utilized in the establishment of an awareness program.

(Ord. No. 602, § 14)

Sec. 15-114. Public Dumpsters.

The City may periodically provide for public dumpsters within the City for the benefit of residents of the City for a specific purpose and for a limited period of time. The location, duration and the cost of such public dumpsters shall be upon the terms and conditions as approved by the Governing Body.

(Ord. No. 602, § 15)

Sec. 15-115. Unlawful Activity.

It shall be unlawful for any person:

- (a) To violate any of the provisions of this article.
- (b) To deposit or cause to be deposited upon any street within the City or upon any other property public or private, within the City, any solid waste, or recyclable materials except as prescribed in this article.
- (c) For a non-resident of the City to deposit any item in a public dumpster located in the City.
- (d) To engage in the business of collecting, transporting, processing or disposing of solid waste, recyclable materials, or yard waste within the City without first obtaining a license to do so from the Governing Body.
- (e) To deposit solid waste, recyclable material or yard waste in any solid waste container or recyclable container other than his own without the written consent of the possessor of such container and/or with the intent of avoiding payment of the charge provided for solid waste collection or recyclable material collection and disposal.

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- (f) To interfere in any manner with solid waste and/or recyclable collection equipment, or with solid waste and recyclable collectors in the lawful performance of their duties.
 - (g) To burn solid waste, recyclable materials or yard waste within the City except as provided for by Chapter VII.
 - (h) To dispose of any solid waste, recyclable materials or yard waste at a facility located within Johnson County, Kansas which is not approved by the City or Johnson County.
 - (i) To upset, turn over, remove or carry away any solid waste container, recyclable material container, or any other approved container or part thereof.
 - (j) To engage in the business, operation of, or in any manner perform the act of collection of solid waste, recyclable material or yard wastes within the City between the hours of 7:00 p.m. and 7:00 a.m.
 - (k) To park a vehicle used in the collection of solid waste, recyclable materials or yard waste at any place in the City between the hours of 7:00 p.m. and 7:00 a.m.
 - (l) To remove any item, including but not limited to newspaper, aluminum, glass, or plastic, placed in or adjacent to curbside recycling containers unless licensed by the City or unless having the prior written consent of the owner or occupant of the residence.

(Ord. No. 602, § 16)

Sec. 15-116. Penalty for Violations and Civil Remedies.

- (a) The violation of any provision of this article or any activity declared to be unlawful pursuant to section 15-115 is hereby declared to be a public offense and any person convicted thereof shall be punished by a fine of not to exceed \$100.00 or by imprisonment for not more than 30 days for each violation, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- (b) As a complete alternative to the penalties imposed by subsection (a), the violation of any provisions of this article or any unlawful activity declared pursuant to section 15-115 is hereby declared to be a common nuisance and the director is authorized to proceed to abate any such nuisance in accordance with the provisions of K.S.A. 12-1617e, and any amendments thereto.
- (c) As an additional and complete alternative to the penalties imposed pursuant to subsection (a) or the civil remedy provided by subsection (b), the Governing Body may direct the City Attorney to file a petition in the District Court of Johnson County, Kansas, pursuant to K.S.A. 60-908, and any amendments thereto, for abatement of any nuisance being maintained in violation of the provisions of this article.

(Ord. No. 602, § 17)

ARTICLE 6. STORMWATER UTILITY

Sec. 15-601. Purpose and findings.

- (a) Pursuant to K.S.A. 12-3101 et seq., as modified by City Charter Ordinance No. 39 and City Ordinance No. 1041, the City does hereby create a stormwater management program and does hereby establish a stormwater utility and declares its intention to operate the same.

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- (b) A stormwater management program will provide both general and specific benefits to all property within the City and will include the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of stormwater; the reduction of hazards to property and life resulting from stormwater runoff; improvement in general health and welfare through reduction of undesirable stormwater conditions; improvement of water quality in the stormwater system and its receiving waters; the provision of a planned and orderly system for managing and mitigating the effects of new development on stormwater and appropriate balancing between development and preservation of the natural environment.
 - (c) The stormwater management program will also initiate innovative and proactive approaches to stormwater management within the City to address problems in areas of the City that currently are prone to frequent major flooding, protect property in the City from stream bank erosion and the attendant loss of natural resources and the reduction of property values, conserve natural stream assets within the City, enhance water quality, and assist in complying with the mandates of the National Pollutant Discharge Elimination System as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.
 - (d) Both standard and innovative stormwater management is necessary in the interest of the public health, safety and general welfare of the residents, businesses and visitors of the City.
 - (e) Implementation of the stormwater management program will require the expenditure of significant amounts of public money.
 - (f) All developed property in the City will benefit from the stormwater management program.
 - (g) The City desires to distribute fairly costs of the stormwater management program implementation among all developed property.
 - (h) The City has determined that the establishment of a stormwater utility is an appropriate method of funding the costs of implementing the stormwater management program.
 - (i) The City has adopted Charter Ordinance No. 39, which grants to the City the authority to adopt, by ordinance, rules and regulations providing for the management and operation of a stormwater utility, fixing a stormwater service fee, requiring security for the payment thereof, providing methods and rules relating to the calculation and collection of the fees and for credits against the fees, and providing for the disposition of the revenues derived therefrom.
 - (j) The stormwater service fee imposed by this article, is calculated by calculating the impervious area on the property multiplied by square footage rate, and such fee is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.
 - (k) The City has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the stormwater service fee should be included on City of Roeland Park ad valorem real property tax bills issued by Johnson County, in accordance with an agreement to be negotiated with the County, which will be placed on file in the office of the City Clerk.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-602. Definitions.

In addition to the words, terms and phrases elsewhere defined in this Code, the following words, terms and phrases, as used in this article, shall have the following meanings:

Bonds means obligations of the City, for which the principal of and the interest on is paid in whole or in part from special assessments, service fees, sales tax, general ad valorem taxes, or any available city or stormwater utility fund revenues heretofore or hereafter issued to finance the costs of capital improvements.

Building permit means a permit issued by the building official of the City of Roeland Park that permits structure construction.

Certificate of occupancy means a certificate issued by the building official of the City of Roeland Park that permits a newly constructed or a new addition to real property to be occupied.

City means the City of Roeland Park, Kansas.

Costs of capital improvements means costs incurred by the stormwater utility in providing capital improvements as part of the stormwater management program, including, without limitation, alteration, enlargement, extension, improvement, construction, reconstruction, and development of the stormwater system, professional services and studies connected therewith; principal and interest on bonds heretofore or hereafter issued, including payment of any delinquencies; studies related to the operation of the system; costs related to water quality enhancements, costs related to complying with federal, state or local regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise; and for the costs associated with purchasing equipment, computers, furniture and all other items necessary or convenient for the operations of the stormwater utility.

Debt service means an amount equal to the sum of all issuance costs, any interest payable on bonds during any fiscal year or years, and any principal installments payable on the bonds during such fiscal year or years.

Developed property means real property, other than undeveloped land.

Director means the director of public works department of the City of Roeland Park or the director's designee.

Extension and replacement means cost of extensions, additions and capital improvements in, or the renewal and replacement of capital units of, or purchasing and installing of equipment for, the stormwater management program, or land acquisition for the stormwater management program and any related costs thereto, or paying extraordinary maintenance and repairs, including the costs of capital improvements or any other expense that is not costs of operation and maintenance or debt service.

Fiscal year means a 12-month period commencing on the first day of January of any year.

Governing body means the governing body of the City of Roeland Park, Kansas.

Impervious area means the total number of square feet of hard surface on a given property that either prevents or retards the entry of water into the soil matrix, and/or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under conditions similar to those on undeveloped land. Impervious area includes, but is not limited to, roofs, roof extensions, driveways, pavement, swimming pools, sidewalks, porches, decks, patios and athletic courts.

Non-single-family residential property means all property that is not classified as single-family residential property by the Johnson County, Kansas Appraiser's Office.

Operating budget means the annual budget established for the stormwater utility for the succeeding fiscal year.

Operations and maintenance means, without limitation, the current expenses, paid or secured, of operation, maintenance and repair and replacement of the stormwater management program or for implementing the stormwater management program as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.

Person shall mean any person, firm, corporation, association, partnership, political unit, or organization.

Revenues means all rates, fees, assessments, rentals, or other charges or other income received by the stormwater utility in connection with the management and operation of the stormwater management program, including amounts received from investment or deposit of monies in any fund or account, as calculated in accordance with sound accounting practices.

Service fee rate means the fee rate per square foot of impervious area as established in the Fee Resolution adopted and periodically updated by the governing body.

Sewer, sewer system shall mean surface water and storm sewers that exist at the time this Charter Ordinance is adopted or that are hereafter established and all appurtenances necessary in the maintenance, operation, regulation, and improvements of the same, including, but not limited to, pumping stations; enclosed sewer systems; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; other stormwater conveyances; detentions and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.

Single-family residential property means property used primarily for one-family intended for occupancy as separate living quarters for one family, with a kitchen plus sleeping and sanitary facilities in single-family detached residential unit or a two-family attached residential unit located thereon within the City limits, as established by the governing body of the City.

Stormwater management program means all aspects of work necessary to perform and provide storm and surface water services in the City, including, but not limited to, administration, planning, engineering, operations, maintenance, best management practices, control measures, public education, citizen participation, regulation and enforcement, protection, and capital improvements, plus such non-operating expenses as reserves and bond debt service coverage as are associated with provision of the stormwater management program.

Stormwater service fee means a fee authorized by this article and the City's Fee Resolution, as amended, charged to owners of property served and benefited by the stormwater utility and shall be the product of multiplying the impervious area by the service fee rate.

Stormwater system means surface water and storm sewers and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; detention and retention of facilities; and other flood control facilities and works for the collection, conveyance, pumping, infiltration, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.

Stormwater utility means the utility created by this article for the purpose of implementing and funding the stormwater management program.

Undeveloped land means land that has not been built upon or altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entrance of water into the soil matrix is prevented or retarded.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-603. Administration.

The public works director shall manage the stormwater utility. Public works director shall be responsible for developing and implementing stormwater management plans and solely managing facilities, stormwater systems

and storm sewers. This utility shall charge a stormwater service fee based on individual contribution of runoff to the system, benefits enjoyed and service received. The stormwater utility shall be administered by Director under the direction and supervision of the City Administrator and shall have the power to undertake the following activities to implement the stormwater management program:

- (a) Advise the governing body on matters relating to the stormwater management program and to make recommendations to the governing body concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the stormwater management program.
- (b) Undertake studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater with the City and to further the objectives of the stormwater management program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the stormwater management program.
- (c) Acquire, design, construct, operate, maintain, expand, or replace any element or elements of the stormwater system, including funding the acquisition of easements by eminent domain, and obtaining title or easements (or real property) other than by eminent domain, over any real or personal property that is part of, will become part of or will protect the stormwater system, or is necessary or convenient for the implementation of the stormwater management program.
- (d) Regulate, establish standards, review, and inspect the design, construction or operation and maintenance of any stormwater system that is under the control of private owners, whether or not such systems are required or intended for dedication to the public storm sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the stormwater system or the implementation of the stormwater management program.
- (e) Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater system or in any way effect the implementation of the stormwater management program.
- (f) Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.
- (g) Analyze the cost of services and benefits provided by the stormwater utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the governing body regarding the same.
- (h) Undertake expenditures as required to implement these activities, including all costs of capital improvements, operations and maintenance, debt service, and other costs as required.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-604. Budget.

The City shall, as part of its annual budget process, adopt capital and operating budget for the stormwater utility. The operating budget shall conform to state law, City policy and generally accepted accounting practices. The initial operating budget will commence January 1, 2024.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-605. Stormwater service fee.

- (a) Subject to the provisions of this article, a stormwater service fee is imposed on all real property located within the City. City owned property and City maintained property that is constructed and/or located on public right-of-way, public trails, public streets, public alleys, and public sidewalks will be exempt from the imposition of the stormwater utility fee. The governing body, upon recommendation of the director, shall, from time to time, by resolution establish the service fee rate for each square foot of impervious area consistent with the benefits to be provided.
- (b) The stormwater service fee for single-family residential property shall be the product of the service fee rate multiplied by an assumed average single-family lot size of 7,700 square feet with an assumed average impervious area of 30 percent or 2,310 square feet. The stormwater service fee for a duplex to be 150 percent of the single-family fee.
- (c) Stormwater service fee for non-single-family residential property shall be the product of the service fee rate multiplied by the number of impervious square feet calculated by the sum of the building roofs, roof extensions, driveways, parking lots, swimming pools, athletic courts and other impervious area(s).
- (d) In the event of a newly constructed unit, the charge for the stormwater service fee attributable to that unit shall commence upon the issuance of the building permit for that unit, or additional development to property that is already developed, or if construction is at least 50 percent complete and is halted for period of three months, then that unit shall be deemed complete and the stormwater service fee shall commence at the end of the three-month period.
- (e) Any increase or decrease in the impervious square feet associated with new or remodeling construction shall commence upon the issuance of the certificate of occupancy. The stormwater service fee shall be based on the status of the property on May 31 of each year.
- (f) In performing this calculation, the numerical factor for the impervious square feet shall be rounded to the nearest hundred square feet.
- (g) For common property, the director shall calculate and allocate the stormwater service fee pro-rata among the owners of record of the common property.
- (h) The director shall make initial calculations in accordance with the methods established in this section to determine the number of impervious square feet is located on all property and may from time to time change this calculation from the information and data deemed pertinent. With respect to new construction, the director may require that the applicant for development approval submit square footage impervious area calculations.
- (i) A property subject to an existing storm drainage improvement assessment will not be subject to the stormwater utility fee until the storm drainage improvement assessment has expired.
- (j) If the owner of property, for which a stormwater service fee has been imposed, disagrees with the calculation of the stormwater service fee imposed upon such owner's property, the owner may request a recalculation of the fee to the director.
- (k) The fee for single- and two-family residential properties and the rate per square foot of impervious surface shall be established in the Fee Resolution adopted by Council.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-606. Appeal procedure.

- (a) Owners of property other than single- and two-family homes, for which a stormwater service fee has been imposed, who disagree with the calculation of the stormwater service fee may appeal the calculation or finding to the City Administrator or his or her designee.
- (b) The appellant, who must be the property owner, must file a written notice of appeal, including the basis of the appeal, with the City Clerk within 30 days following distribution of Johnson County ad valorem tax bills. The appellant shall provide information including a land survey prepared by a surveyor registered in the State of Kansas showing total property square foot area, type of surface material, and impervious square foot area. Based on the information provided, the City Administrator shall make a determination as to whether the stormwater service fee should be adjusted or eliminated for the subject property. The City Administrator shall notify the appellant in writing of the decision.
- (c) A person shall have the right to appeal the decision of the City Administrator to the Public Works Committee. Such appeal shall be made within ten days of the date of the City Administrator's written decision and shall be presented in the same manner as the original appeal. The Public Works Committee shall consider the appeal and issue a written decision on the appeal within 30 days of the receipt of the presented appeal.
- (d) The burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the determination of the stormwater service fee is erroneous.
- (e) The filing on a notice of appeal shall not stay the imposition, calculation or duty to pay the fee. The appellant shall pay the stormwater service fee to Johnson County as stated in the billing. If either the City Administrator or the Public Works Committee determines that the appellant should pay a fee, pay a fee amount less than the amount appealed, or receive a credit, the City shall issue a check to the appealing party in the appropriate amount within ten days of the date of the applicable written decision.
- (f) The decision of the Public Works Committee shall be final, and any further appeal of this decision shall be to the Tenth Judicial Court of the State of Kansas by way of the K.S.A. 60-201 et seq.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-607. Stormwater service fee collection.

- (a) The stormwater service fee shall be billed by the Johnson County Clerk and collected by the Johnson County Treasurer. The stormwater service fee shall be shown as a separate item on the County's annual ad valorem real property tax statement, in accordance with the procedures established in an agreement, pursuant to K.S.A. 12-2908, between the City and the County, as hereby authorized. The payment of stormwater service fee bills for any given property shall be the responsibility of the owner of the property.
- (b) To the extent permitted by applicable law, a stormwater service fee shall be subject to interest for late payment at a rate that is the same as the rate prescribed in K.S.A. 79-2004, as amended and K.S.A. 79-2968, as amended, shall constitute a lien on the applicable property, and shall be collected in the same manner as ad valorem real property taxes collected by the county, regardless of whether the stormwater service fee was incurred when a property owner was in possession of the property or a non-owner was in possession of the property.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-608. Stormwater utility fund.

Stormwater service fees, dedicated ad valorem taxes and other available revenues shall be paid into a fund that is hereby created and shall be known as the Stormwater Utility Fund. This fund shall be used for the purpose of paying the costs of capital improvements, extension and replacement, operations and maintenance, debt service and any other costs associated with the implementation and operation of the stormwater management program.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-609. Flooding liability.

Floods from stormwater runoff may occur which exceed the capacity of the storm drainage facilities constructed, operated, or maintained by funds made available under this chapter. This chapter shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or the stormwater systems capable of handling all storm events can be cost-effectively constructed, operated, or maintained. Nor shall this chapter create any liability on the part of, or cause of action against, the City, or any official or employee thereof, for any flood damage that may result from such storms or stormwater runoff. Nor does this chapter purport to reduce the need of the necessity for obtaining flood insurance by individual property owner.

(Ord. No. 1040, § 1, 2-6-2023)

Sec. 15-610. 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. 1040, § 1, 2-6-2023)

ARTICLE 4. STORM WATER POLLUTION PREVENTION

Sec. 15-401. Title.

The title of sections 15-401 through 15-410, inclusive, shall be known as the Stormwater Pollution Prevention Act ("Act").

(Ord. No. 791, § 2; Code 2007)

Sec. 15-402. Purpose and Findings.

- (a) The purpose of this Act shall be to prevent the discharge of pollutants from land and activities within the City into the municipal separate storm sewer system (MS4) and/or into surface waters.
- (b) The Governing Body of the City hereby finds that pollutants are discharged into surface waters, both through inappropriate non-stormwater discharges into the MS4 or the surface waters directly, and through the wash off and transport of pollutants found on the land and built surfaces by stormwater during rainfall events.
- (c) Further, the Governing Body of the City hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals.
- (d) Further, the Governing Body of the City hereby finds that this ordinance will promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.
- (e) Further, the Governing Body of the City hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation.
- (f) Further, the Governing Body of the City hereby finds that a reasonable establishment of restrictions and regulations on activities within the City is necessary to eliminate or minimize such discharges of pollutants, to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City and within downstream communities, and to comply with the provisions of the City's responsibilities under the Clean Water Act and the NPDES program.

(Ord. No. 791, § 3; Code 2007)

Sec. 15-403. Abbreviations.

The following abbreviations when used in this Act shall have the designated meanings:

•	BMP	Best Management Practice
•	CFR	Code of Federal Regulations
•	EPA	Environmental Environmental Protection Agency

• HHW	Household Hazardous Waste
• KDHE	Kansas Department of Health and Environment
• MS4	Municipal Separate Storm Sewer System
• NPDES	National Pollutant Discharge Elimination System
• PST	Petroleum Storage Tank

(Ord. No. 791, § 4; Code 2007)

Sec. 15-404. Definitions.

For the purposes of this Act, the following definitions shall apply:

- (a) *Best management practices (BMPs)* means schedules of activities, prohibitions of practices, general good [house-keeping](#) practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (b) *Car* means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home given in Article 1 of Chapter XIV of the Code of the City of Roeland Park, Kansas.
- (c) *City* means the City of Roeland Park, Kansas.
- (d) *Clean Water Act* means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.
- (e) *Code* means the Code of the City of Roeland Park, Kansas.
- (f) *Director* means the City Administrator or the Director's authorized representative.
- (g) *Discharge* means the addition or introduction, directly or indirectly, of any pollutant, storm water, or any other substance into the MS4 or surface waters.
- (h) *Domestic sewage* means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and water borne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from industrial waste.
- (i) *Extremely hazardous substance* means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
- (j) *Fertilizer* means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.
- (k) *Hazardous household waste (HHW)* means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261 or K.A.R 28-29-23b.
- (l) *Hazardous substance* means any substance listed in Table 302.4 of 40 CFR Part 302.

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- (m) *Hazardous waste* means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
 - (n) *Industrial waste* means any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.
 - (o) *Municipal separate storm sewer system (MS4)* means the system of conveyances, (including roads with drainage systems, municipal streets, private streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying storm water, and which is not used for collecting or conveying sewage.
 - (p) *NPDES* means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the federal Clean Water Act.
 - (q) *NPDES permit* means for the purpose of this chapter, a permit issued by United States Environmental Protection Agency (EPA) or the State of Kansas that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
 - (r) *Oil* means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.
 - (s) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
 - (t) *Pesticide* means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
 - (u) *Petroleum product* means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle, boat or aircraft including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil and #1 and #2 diesel fuel.
 - (v) *Pollutant* means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of the waters including changes in temperature, taste, odor, turbidity, or color of the water. Such substance or material may include but is not limited to, dredged spoil, spoil waste, incinerator residue, sewage, pet and livestock waste, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, oil and petroleum products, used motor oil, anti-freeze, litter, pesticides, and industrial, municipal, and agricultural waste discharged into water.
 - (w) *Property owner* shall mean the named property owner as indicated by the records of the Johnson County Kansas Records and Tax Administration;
 - (x) *Release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or surface waters.
 - (y) *Sanitary sewer* means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant and to which storm water, surface water, and groundwater are not intentionally admitted.
 - (z) *Septic tank waste* means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
 - (aa) *Sewage* means the domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.

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- (bb) *State* means the State of Kansas.
 - (cc) *Storm water* means storm water runoff, snowmelt runoff, and surface runoff and drainage.
 - (dd) *Surface waters* means any body of water classified as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these surface waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States."
 - (ee) *Waste* means any garbage, refuse, sludge or other discarded material which is abandoned or committed to treatment, storage or disposal, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in domestic sewage or irrigation return flows or solid or dissolved materials or industrial discharges which are point sources subject to permits under the State of Kansas. The Federal definition of solid waste is found at 40 CFR 257.2.
 - (ff) *Water quality standard* means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an anti-degradation statement.

(Ord. No. 791, § 5; Code 2007)

Sec. 15-405. General Prohibition.

- (a) No person shall release or cause to be released into the MS4, or into any surface water within the City, any discharge that is not composed entirely of storm water that is free of pollutants, except as allowed in subsection (b).
- (b) Unless identified by the City or KDHE as a significant source of pollutants to surface water the following non-storm water discharges are deemed acceptable and not a violation of this section:
 - (1) Water line flushing;
 - (2) Diverted stream flow;
 - (3) Rising groundwater;
 - (4) Uncontaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;
 - (5) Uncontaminated pumped groundwater;
 - (6) Contaminated groundwater if authorized by KDHE and approved by the municipality;
 - (7) Discharges from potable water sources;
 - (8) Foundation drains;
 - (9) Air conditioning condensate;
 - (10) Irrigation waters;
 - (11) Springs;
 - (12) Water from crawl space pumps;
 - (13) Footing drains;
 - (14) Individual residential car washing;

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- (15) Flows from riparian habitats and wetlands;
 - (16) De-chlorinated swimming pool discharges excluding filter backwash;
 - (17) Street wash waters (excluding street sweepings which have been removed from the street);
 - (18) Discharges or flows from emergency [fire fighting](#) activities;
 - (19) Heat pump discharge waters (residential only);
 - (20) Treated wastewater or other discharges meeting requirements of a NPDES permit; and
 - (21) Other discharges determined not to be a significant source of pollutants to waters of the state, a public health hazard or a nuisance.
- (c) Discharges specified in writing by the Director as being necessary to protect public health and safety.
 - (d) Notwithstanding the provisions of subsection (b) of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the Director to be a source of a pollutants to the MS4 or to surface waters, written notice of such determination has been provided to the property owner or person responsible for such discharges, and the discharge has occurred more than ten days beyond such notice.

(Ord. No. 791, § 6; Code 2007)

Sec. 15-406. Specific Prohibitions and Duties.

The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in section 15-405, but are provided to address specific discharges that are frequently found or are known to occur:

- (a) No person shall release or allow to be released any of the following substances into the MS4:
 - (1) Any new or used petroleum product or oil;
 - (2) Any industrial waste;
 - (3) Any hazardous substance or hazardous waste, including household hazardous waste;
 - (4) Any domestic sewage or septic tank waste, grease trap or grease interceptor waste, holding tank waste, or grit trap waste;
 - (5) Any garbage, rubbish or other waste;
 - (6) Any new or used paints, including latex-based paints, oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other associated products;
 - (7) Any yard wastes which have been moved or gathered by a person;
 - (8) Any wastewater that contains soap, detergent, de-greaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;
 - (9) Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner;
 - (10) Any wastewater from commercial floor, rug, or carpet cleaning;

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- (11) Any wastewater from the wash down or other cleaning of pavement that contains any soap, detergent solvent, de-greaser, emulsifier, dispersant, or other cleaning substance; or any waste water from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all such materials have been previously removed;
 - (12) Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blow-down from a boiler;
 - (13) Any ready-mixed concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
 - (14) Any runoff, wash-down water or waste from any animal pen, kennel, fowl or livestock containment area or any pet wastes generally;
 - (15) Any filter backwash from a swimming pool or fountain, except that nothing in this ordinance shall be construed as to require the alteration of the filter discharge plumbing of an existing swimming pool, fountain or spa if such plumbing was compliant with applicable state, federal, and local regulations at the time of construction;
 - (16) Any swimming pool, fountain or spa water containing a harmful level of chlorine (> 0 parts per million), muriatic acid or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;
 - (17) Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine (> 0 parts per million) at the point of entry into the MS4 or surface waters;
 - (18) Any contaminated runoff from a vehicle wrecking or storage yard;
 - (19) Any substance or material that will damage, block, or clog the MS4;
 - (20) Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state;
 - (21) Any other discharge that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES storm water permit, or any state-issued discharge permit for discharges from its MS4.
- (b) No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures.
 - (c) No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4. No property owner shall allow such a connection to continue in use on their property.
 - (d) No person shall use pesticides, herbicides and fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides and fertilizers shall be stored transported and disposed of in a manner to prevent release to the MS4.
 - (e) No person shall tamper with, destroy, vandalize, or render inoperable any BMPs which have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMPs which have been required by the City or by other local, state, or federal jurisdictions.

(Ord. No. 791, § 7; Code 2007)

Sec. 15-407. Inspection and Detection Program.

The Director is authorized to develop and implement a plan to actively detect and eliminate prohibited discharges and connections to the MS4 or surface waters within the City. Such plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited discharges; visual surveys of exterior practices; inspection, sampling and analyses of discharges from out falls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected discharges.

(Ord. No. 791, § 8; Code 2007)

Sec. 15-408. Release Reporting and Cleanup.

- (a) Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.
- (b) In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- (c) In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within three business days of the phone notice.

(Ord. No. 791, § 9; Code 2007)

Sec. 15-409. Enforcement; Designation of Officer; Abatement; Right of Entry; Penalty.

The Director or his or her appointed representative shall be designated as the public officer charged with the administration and enforcement of this Act. The public officer shall authorize the investigation of violations of the Act. If it is determined that a violation of this Act exists, then the officer shall declare such condition a nuisance and is authorized to pursue abatement and enforcement procedures as specified in section 8-302 of the Code.

(Ord. No. 791, § 10; Code 2007)

Sec. 15-410. Severability.

If any section, subsection, paragraph, sentence, clause or phrase in this Act or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Act.

(Ord. No. 791, § 11; Code 2007)

**ARTICLE 5. EROSION AND SEDIMENT CONTROL STANDARDS AND STORMWATER
MANAGEMENT**

(Supp. No. 17, Update 6)

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Sec. 15-501. Purpose and Intent.

To promote the public health, safety and general welfare of the citizens of the City of Roeland Park, Kansas ("City") these stormwater management regulations are hereby enacted for the general purpose of assuring the proper balance between man's use of land and the preservation of a safe and beneficial environment. More specifically, the provisions of these regulations, as amended from time to time, are intended to reduce property damage and human suffering and to minimize the hazards of personal injury and loss of life due to flooding, to be accomplished through erosion and sediment control standards and the approval of stormwater management plans, pursuant to the provisions of these regulations, which:

- (a) Establish the stormwater management systems;
- (b) Define and establish stormwater management practices and use restrictions;
- (c) Establish guidelines for handling increases in volume and peak discharges of runoff;
- (d) Protect all habitable structures from flooding;
- (e) Establish a technical review committee to review decisions of the Public Works Director;
- (f) Balance and promote the coexistence of the natural environment and quality, planned development;
- (g) Assist in the City's efforts to comply with the National Pollutant Discharge Elimination System Phase 2 Post Construction Stormwater Management regulations issued by the Environmental Protection Agency and administered by the Kansas Department of Health and Environment;
- (h) Provide effective stormwater management; manage areas prone to flooding to protect human life and property from damage due to flooding and erosion;
- (i) Improve water quality and reduce water pollution;
- (j) Reduce the percentage of imperviousness, peak flows and velocity of stormwater runoff discharged into the stormwater system;
- (k) Control construction site impacts on stormwater; prevent non-stormwater discharges into the storm sewer system; protect natural stream assets;
- (l) Protect and, where possible, enhance valuable natural water resources;
- (m) Incorporate, where possible, multiple uses into stormwater management facilities;
- (n) Regulate land-disturbance, filling, stripping and soil storage in connection with the clearing and grading of land for construction-related or other purposes and require best management practices when these activities are undertaken; and
- (o) Encourage responsible development and minimize the costs of development.

(Ord No. 809, § 1)

Sec. 15-502. Applicability.

Any person proposing new development or re-development within the City shall apply to the Public Works Director for approval of a stormwater management plan as specified in these regulations. No land shall be developed except upon approval of this plan. Any person disturbing [aan](#) area greater than one acre, whether singularly or cumulative or in one or multiple phases shall comply with the erosion and sediment control standards of the provisions of section 15-503 of this chapter.

(Ord. No. 809, § 1)

(Supp. No. 17, Update 6)

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Sec. 15-503. Erosion and Sediment Control Standards

- (a) *Authority.* The Public Works Director is authorized to adopt erosion and sediment control standards for construction within the City.
- (b) *Contents and principles.* Standards include design criteria, standard drawings and specifications. Standards are based on the following principles:
- (1) Fit the development to existing site conditions;
 - (2) Minimize the extent of exposure;
 - (3) Minimize duration of exposure;
 - (4) Break work activities into phases when possible;
 - (5) When possible, protect disturbed areas from any unnecessary run-on of stormwater from adjacent sites, at least during the construction period;
 - (6) Stabilize disturbed areas;
 - (7) Keep runoff velocities low;
 - (8) Retain sediment on the site;
 - (9) Inspect and maintain control measures;
 - (10) Use performance measures and outcomes; and
 - (11) Timely employ and maintain all measures.
- (c) *Design criteria.* Division V. - Design Criteria, Section 5100 - Erosion and Sediment Control (Section 5100) of the Standard Specifications and Design Criteria, published by the Kansas City Metropolitan Chapter of the American Public Works Association (KC-APWA), is hereby incorporated by reference as the design criteria for the city, except those sections which are specifically omitted or modified as specified below. This adoption shall apply to the revision of Section 5100 adopted and approved by KC-APWA on ~~September 15, 2010~~[August 13th, 2003](#). Any future revisions of Section 5100 shall not be in force until adopted by the City in writing. Not less ~~that~~[than](#) one copy of Section 5100 shall be marked "Official Copy as Adopted by Ordinance No. 809," with all sections or portion thereof intended to be omitted or modified clearly marked to show any such omissions or modifications, and to which shall be attached a copy of this incorporating ordinance, and shall be filed with the City Clerk and open to inspection and available to the public at all reasonable business hours.

The following exceptions shall apply:

- (1) Section ~~5102~~[5101.4](#), "~~Education, Training, and Certification~~" shall not apply.
- (2) Section ~~5103-5104~~ "Plan Requirements," add the following:

The erosion and sediment control (ESC) plan shall be on separate plan sheets from other construction plans. Except when waived by the City for simple or limited construction, separate ESC plan sheets shall be provided for the following stages of construction:

- A. initial BMP installation and perimeter controls prior to land disturbance; and
- B. BMP installations after completion of all site improvements and site grading but prior to final stabilization. Additionally, this plan must show staging/phasing of construction either on separate plan sheets or with a "staging chart" during the following project stages (when applicable):

- sanitary sewer installation
- mass grading
- storm sewer installation
- street construction
- during construction of buildings on the site.

(3) Section 5103.3 "Verification of Design Performance" shall not apply.

(4) Section 5104.1.1 "Single Family Residential Lot"; Template 5104-1; and the "Single Family Residential Standard Design Booklet" shall not apply. The guidance provided in the City of Overland Park publication "Single Family Residential Erosion and Sediment Control Standards," January 2004, or latest version, is hereby adopted by reference as Template 5104-1. One copy of this document shall be stamped or marked "Official Copy" and filed with the City Clerk and kept with Section 5100, to be open to inspection and available to the public at all reasonable hours.

(5) Section 5108.1-6 E. "Straw Bale Barrier," ~~add the following paragraph:~~

Straw bales are discouraged for general use and are prohibited for use as ditch checks.

(6) Section 5108.3-5 "Sediment Fence," ~~delete Table 5108-1 and~~ add the following:

AA.1. Site Perimeter and Protection of Paved Areas:

Perimeters of all construction sites and all paved areas must be adequately protected from erosion by use of silt fences or other equivalent perimeter controls. Controls at the site perimeter and at edge of pavement shall meet minimum requirements indicated in Table 5108-1A below.

Table 5108-1A			
Silt Fence Protection for Paved Areas and Site Perimeters			
Maximum flow path length (4)	Average Ground Slope		
	<3%	3% to 5%	>5%
< 20 ft	No Control Required (1)	Single Row (1)	Single Row
20 - 100 ft	Single Row	Single Row	Single Row
100 - 200 ft	Single Row	Single Row	Double Row (2)
200 - 300 ft	Single Row	Double Row (2)	Double Row (2)
300 + ft	Double Row (2)	Double Row (2)	Double Row (2)
Notes:			
1. When perimeter of the site is a developed yard or a stream corridor, a silt fence or other barrier shall ALWAYS be provided.			
2. A wire reinforced silt fence in accordance with APWA Standard Detail ESC-12 may be substituted for a double row of standard silt fence.			
3. The requirements in this table are MINIMUMS. If silt fence indicated in this table do not satisfactorily control erosion, the City may require additional controls.			
4. Flow path length is measured from the top of the watershed for each silt fence location. Do not reduce length due to intermediate silt fence placed on the slope.			

In addition to site perimeters and paved areas, interior portions of the site must be protected through use of Silt fence or alternative BMPs in accordance with the following:

B. Interior Site Silt Fence Placement:

Silt fence or equivalent controls shall be installed on all disturbed sites at the following maximum intervals:

Average Ground Slope	Spacing
< 3%	150 ft
3 - 5%	100 ft
5 - 10%	75 ft
10% - 20%	50 ft
> 20%	N/A*

* For slopes exceeding 20%, provide silt fence at the toe of slope, but use alternative controls along the slope.

- (7) ~~Remove Section 51085109 "Temporary Sediment Basin", add the following paragraph~~Section "TemporarySection "Temporary Sediment Basin";

A5109.1. ApplicabilityGeneral:

Temporary silt basins are required for all site discharges from sites with disturbed areas exceeding 10 acres in any subbasin or watershed. The City may waive this requirement on a case-by-case basis when installation of this type of basin is not feasible due to construction or site constraints. Phased construction shall generally not be considered a constraint that will relieve this requirement. For residential subdivision development, temporary withholding or phased release of one or more residential lots may be necessary to allow adequate area for sediment basin facilities. When existing lakes, other water bodies or sensitive areas are located immediately downstream from a construction site, the City may require silt basins for discharges from subbasins smaller than 10 acres. Additionally, any earthen stormwater detention facilities shall be designed to act as a sediment basin during the construction period unless waived by the City.

B5109.2. Design Requirements:

General:

- 1) Maximum drainage area to a single sediment basin shall be 40 acres unless approved by the City. Basins serving greater than 40 acres shall require hydrograph routing computations.
- 2) Design inflow/outflow for sediment basins serving less than 40 acres may be computed without considering hydrograph attenuation due to storage. Rational method flow computations are acceptable for basins serving 40 or less acres.
- 3) The construction drawings shall indicate all of the following design data. It may be included in a table or shown on the plan/profile of the basin:

Hydrology/Hydrologic data:

- Tributary Area to Basin

Commented [CT1]: Two potential options. 1. Accept Section 5109 Sediment Basin as is in the current KCAPWA standards, or 2. Replace it with the current existing section.

I am fine with the current design in KCAPWA but the edits below reflect option 2.

- 50% (2 year) design flow to basin
- 4% (25 year) design flow to basin
- 50% (2 year) design stormwater surface elevation
- 4% (25 year) design stormwater surface elevation

Sediment Basin Data:

- Required sediment storage volume
- Sediment basin bottom elevation
- Sediment basin cleanout elevation
- Permanent pool elevation (if not a dry pond)
- Dewatering device connection to riser pipe elevation
- Top of Principal Spillway Riser elevation
- Emergency Spillway elevation
- Top of dam elevation

Basin Shape Data:

- A = Area at normal pool (or at bottom of dewatering device if dry pond)
- L = Flow path length for all discharges into pond
- We = Effective Width = A/L
- Length to width ratio = L/We (if less than 2, baffles are required)

Principal Spillway Data:

- Riser pipe diameter
- Barrel (outflow) pipe diameter

Dewatering Device:

- Type of Dewatering device
- Size and spacing of perforations (See Table 5108.12A below for additional design guidance)

Emergency Spillway Data:

- 4% design storm depth in spillway
- 4% design storm discharge velocity

Table 5108.12A5109.1 - Drawdown Mechanism Sizing Chart				
Tributary Drainage Area	Perforated Riser Hole Diameter (1)			
	Single Column Riser (inches)	4-Column Riser (inches)	12-Column Riser (inches)	Skimmer (inches)
3 to 5 acres	1.0	N/A	N/A	2.0
5.1 to 10 acres	1.3	0.5	N/A	2.6
10.1 to 15 acres	N/A	0.7	N/A	3.3
15.1 to 20 acres	N/A	0.8	0.5	4.0

20.1 to 25 acres	N/A	0.9	0.5	4.4
25.1 to 30 acres	N/A	1.0	0.6	4.8
30.1 to 35 acres	N/A	1.1	0.6	5.1
35.1 to 40 acres	N/A	1.2	0.7	5.5
Notes:				
(1) Perforated riser hole diameters based on 6-inch on center spacing vertically.				
(2) Minimum diameter - ½ inch, Maximum diameter 1½ inch.				
(3) Source of data - Interpolated from Penn State University Fact Sheet #F253 - "Controlling Dewater of Sediment Basins."				
(4) Drawdown based on 134 CY/acre storage volume and 49-hour 49-hour target drawdown period.				

4) Storage Design Requirements:

- a) If the length to width ratio is less than 2, interior silt fence baffles shall be provided to reduce short circuiting of the basin.
- b) The storage volume shall be 134 cubic yards per tributary acre to the basin. The tributary area shall include all areas that drain to the basin, including any offsite areas or undisturbed areas.
- c) All storage shall be considered "dry" storage. A permanent pool may be allowed on a case-by-case basis when the sediment basin will become a permanent water feature for the site, or if adequate safety measures are employed.

5) Interior basin slopes shall not exceed 3:1. Outside embankment slopes shall not exceed 2.5:1.

6) Principal Spillway Requirements:

- a) The principal spillway shall be designed to pass the 50% (2 year) storm without overtopping the emergency spillway.
- b) For drainage basins less than 10 acres, a rock check dam around a horizontal discharge pipe may be used in lieu of a riser pipe.
- c) The principal spillway shall include a drawdown device designed to empty the silt basin in not less than 24 hours and not more than 48 hours. Acceptable devices include a floating skimmer (preferred) to draw water from the surface, a perforated riser, and perforated drainage tube attached to the principal spillway riser.
- d) The principal spillway shall include a trash rack or other device to prevent clogging.
- e) The principal spillway riser pipe, and outflow pipe shall be a minimum diameter of 15 inches.
- f) The principal spillway riser pipe shall include a Red Painted line to delineate the storage level when sediment storage has reduced the sediment storage to 75% of the design volume. (TypicallyTypically, 100 cubic yard per acre for a basin designed for 134 cubic yards per acre). The line shall be clearly marked "Cleanout Level."

7) Emergency Spillway Design:

- a) Emergency spillways shall be located in a non-fill location when feasible and shall be lined with a non-erodible material, such as rip-rap or turf reinforcement mat.
- b) The emergency spillway shall be located a minimum of 1 foot above the principal spillway overflow elevation.
- c) The emergency spillway shall be designed for the 4% (25 year) storm. A minimum of 1 foot freeboard must be provided from the 4% (25 year) design storm elevation to the top of dam.
- d) Emergency spillways can be omitted with approval of the City if the primary spillway is designed for the 4% storm AND the tributary area is less than 20 acres. If the emergency spillway is omitted, a minimum of 2-foot of freeboard must be provided from the 4% design storm elevation to the top of dam.

8) Maintenance/Safety Considerations:

- a) The permit holder or contractor shall clean out deposited sediment when the sediment storage exceeds the level of the cleanout mark.
- b) Sediment basins shall be fenced using construction fencing or other material for safety reasons and include warning signs reading "Danger, Keep Out".

(8) Addition of Section 5108.7-8 "Check Dams," ~~add the following:~~

All swales or concentrated drainages exceeding 2 acres in tributary area must be adequately protected with check dams and/or lining material capable of withstanding concentrated flows. Protection must be installed within 14 days of grading. Silt fences may not be used across concentrated flow for tributary drainage areas exceeding 2 acres.

(9) Addition of Section 5108.9-7 D "Culvert Inlet Protection Restrictions", ~~delete paragraph entitled "Sediment Fence Culvert Inlet Protection."~~ Silt fence as inlet or outlet protection for culverts is not permissible.

(10) Addition of Section 5108.8-7 E "Drop or Curb Inlet Protection," ~~add the following:~~

Silt fence for area inlet protection must be reinforced with a supporting frame structure or with wire reinforcement.

(11) Where there is a contradiction between specific materials or installation requirements included in Section 5100 and the Standard Drawings and Specifications which follow in this document, the Standard Drawings and Specifications shall govern. Any item discussed in Section 5100 which is prohibited for use by the Standard Drawings and Specifications is not allowed.

(12) Additional guidance for design of erosion and sediment control found in the following documents may be considered, subject to City approval:

EPA. Stormwater Management for Construction Activities - Developing Pollution Prevention Plans and Best Management Practices. (EPA 832-R-92-005). Sept. 1992.

Missouri Department of Conservation and the St. Charles County Soil and Water Conservation District, with revisions by the Mid America Association of Conservation Districts (MAACD). Protecting Water Quality.

(13) Section 5100 may contain errors and omissions. Final approval of specific erosion and sediment control designs lies with the City. Professional judgment shall be used in applying these design standards.

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(d) *Standard Drawings.*

- (1) The following standard drawings, available from the City, are hereby adopted:
 - Curb Inlet Sediment Filter
 - Concrete Block Curb Inlet Sediment Filter
 - Area Inlet Protection
 - Rock Dam Ditch Check
 - Silt Basin (2 sheets)
 - Sediment Fence Layout
 - Sediment Fence
 - Straw Bale Drop Inlet Protection
 - Temporary Diversion
- (2) Standard Drawings for Temporary Water Pollution Control approved by the Kansas Department of Transportation (KDOT) are also acceptable for use in appropriate situations.
- (3) [Division III Standard Drawings for Erosion and Sediment Control approved by the KC-APWA, dated October 24, 2016, and bound in Division III of the KC-APWA Standard Specifications and Design Criteria, Volume III](#) are also approved, except as follows:

ESC-02, ESC-13, ESC-19, ES-28, and ES-31 are not applicable.

(e) *Specifications.*

- (1) The basic specification for all erosion and sediment control work performed within the City shall be the [Kansas City Metropolitan Chapter American Public Works Association, Division II, Construction and Material Specifications, Section 2150 Erosion and Sediment Control, approved February 15, 2017, KDOT Standard Specifications for State Road and Bridge Construction, current edition, as modified by the following Special Provisions \(latest versions\):](#)

90P-151-R8 "Temporary Erosion and Pollution Control"

90P-138-R1 "Fertilizers"

90P-152-R2 "Seeds"

90P-153-R3 "Mulching, Slope Protection and Erosion Control"

90P-177-R02 "Silt Fence"

90P-193-R03 "Erosion Control Materials"

- (2) In addition, all projects or plans must contain the following requirements:
 - A. *Concrete washout:* Concrete wash or rinsewater from concrete mixing equipment, tools and/or ready-mix trucks, tools, etc, may not be discharged into or be allowed to run directly into any existing water body or storm inlet. One or more locations for concrete wash out will be designated on site, so that discharges during concrete washout will be contained in a small area where waste concrete can solidify in place and excess water evaporated or infiltrated into the ground.
 - B. *Chemical handling:* Chemicals or materials capable of causing pollution may only be stored onsite in their original container. Materials stored outside must be in closed and sealed water-proof containers and located outside of drainageways or areas subject to flooding. Locks and other

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means to prevent or reduce vandalism shall be used. Spills will be reported as required by law and immediate actions taken to contain them.

- (3) Specifications for items not covered by these specifications or covered completely by the Standard Drawings shall be developed by the Engineer for each project specifically. Information relevant for these specifications may be taken from manufacturer's information and may be supplemented by guidance given in other publications and standards, subject to approval by the City.

(f) *Performance standard and innovation.*

- (1) This ultimate standard of the City is that practices used in the field perform without failure, and work together as part of integrated systems to prevent sediment from leaving the construction zone and to prevent sediment from contaminating downstream waterways. Practices that fail to perform in the field shall be replaced with more effective substitutes, regardless of prior City reviews. Innovations that engineers or contractors propose which have a high likelihood of improving performance are encouraged and will be considered by the City. All these innovations require City approval for use.

(Ord. No. 809, § 1)

Sec. 15-504. Post Construction Stormwater Runoff Management System.

These sections of this article (15-504—15-512) establish the post construction stormwater runoff management system of the City, which shall be composed of all natural and manmade watercourses and drainage structures, both public and private, located in the City, as well as management controls and management practices as hereinafter established. These controls and practices shall limit any activity that will adversely affect the hydraulic function of detention facilities, open channels, drainage swales or enclosed stormwater conveyance systems.

(Ord. No. 809, § 1)

Sec. 15-505. Public and Private Responsibilities.

(a) *Public responsibilities:*

- (1) *Administration:* The administration of these regulations shall be the responsibility of the Public Works Director, who shall review and approve stormwater management plans as provided herein.
- (2) *Operation and maintenance of publicly-owned facilities:* The City Public Works Department shall be responsible, during and after construction, for the operation and maintenance of all drainage structures and improved courses that are part of the stormwater runoff management system under public ownership and that are not constructed and maintained by or under the jurisdiction of any state or federal agency.

(b) *Private responsibilities:*

- (1) Each developer of land within the City has the responsibility to provide on the developer's property all approved stormwater runoff management facilities to ensure the adequate drainage and control of stormwater on the developer's property both during and after construction of these facilities.
- (2) Each developer or owner has the responsibility and duty before and after construction to properly operate and maintain any on-site stormwater runoff control facility that has not been accepted for maintenance by the public. This responsibility is to be transmitted to subsequent owners through appropriate covenants or maintenance agreements as detailed in this article.

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- (3) At the sole discretion of the City, the City may accept dedication of any existing or future stormwater management facility for maintenance, provided those facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for regular inspection and maintenance.

(Ord. No. 809, § 1)

Sec. 15-506. Procedures for Submittal.

No development shall increase the quantity and rate of stormwater emanating from land areas, except in accordance with an approved stormwater management plan, as provided in these regulations. The stormwater management plan shall be prepared by a licensed professional engineer in the state. No building permits shall be issued until and unless the stormwater management plan has been approved by the Public Works Director.

(Ord. No. 809, § 1)

Sec. 15-507. Submission of Preliminary Stormwater Management Plan.

- (a) The purpose of the preliminary stormwater management plan is to determine whether City stormwater requirements will be met with the proposed stormwater management system. The preliminary stormwater management plan for any proposed development shall be submitted with the development plan.
- (b) The submission requirements in this article are not intended to be duplicative of other provisions of this chapter or any other provision of the Roeland Park City Code as they correspond to development-related activities. Accordingly, the relevant submission requirements may be included in or with any other development application(s) or submission(s) otherwise required by Chapter XVI of the Roeland Park City Code or any City Code provision. Therefore, to the extent that the proposed development activities require compliance with multiple sections and, consequently, require the submission of application components pursuant to different Code sections, these Code sections should allow for the substitution of similar application materials, regardless of presentation format, and should otherwise be interpreted in a light conducive to facilitating the application process; provided, that all the information required therein is in a form that can reasonably be evaluated by the designated decision maker. The decision concerning the form of the information submitted shall be made in the Public Works Director's sole discretion. In addition, the primary decision maker has authority to waive submission requirements determined not to be necessary to the evaluations that are required by this article.

(Ord. No. 809, § 1)

Sec. 15-508. Review of Preliminary Stormwater Management Plan.

- (a) Following receipt of the preliminary stormwater management plan and information to be included with this plan, the general drainage concepts and planning proposals will be reviewed by the Public Works Director. A review meeting then may be scheduled by the Public Works Director with representatives of the developer, including the developer's engineer, to review the overall concepts included in the preliminary stormwater management plan. The preliminary stormwater management plan shall be submitted with the preliminary plat or development plan and shall not:
- (1) Cause flooding outside of the existing flood plain boundary during a one-percent frequent flood that would not have occurred without the proposed improvements;
 - (2) Cause or increase flooding of existing structures;

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- (3) Contribute to unacceptable channel erosion as predicted using criteria established by the City. Unacceptable erosion will include: erosion outside the one-percent flood plain, erosion encroachment close to existing structures, erosion encroachment into roads and infrastructure, threats to designated stream assets, and rapid progression of the channel erosion upstream;
 - (4) Contribute sedimentation to the channels or detention areas (The developer will be responsible for the removal and disposal of all sedimentation that occurs from failure of an approved erosion plan that has been contributed by the proposed development in the joint-use detention basins downstream of the proposed improvements); and
 - (5) Create or contribute adverse impacts to water quality;
- (b) The City shall consider the impacts to existing structures and other property downstream of the proposed project. This consideration shall extend to immediate impacts on adjacent properties and to the point where the proposed facility drainage area is 10 percent or less of the basin area. The impacts from the flow rate, the velocity and the quality of the runoff shall be considered. The velocity shall not erode or deposit sediments in designated stream assets. The runoff should not contain excessive sediment concentrations, biological oxygen demand, dissolved oxygen, nutrient, organic, total dissolved solid, heavy metal or pathogen levels that threaten the viability and health of the designated stream assets or the joint-use or regional retention system. The threshold of acceptable limits shall be based on the limits set by KDHE in Article 16 Water Pollution Control, Surface Water Quality Standards, KAR 28-16-28e.
 - (c) In addition, the City's review and approval process shall involve the consideration of the applicant's use of alternative design methods to reduce imperviousness, peak flows, and velocities to minimize erosion and sedimentation and to protect the water quality of the stormwater runoff discharged into the stormwater system [through the use of structural or non-structural BMP controls](#).
 - (d) Finally, the City shall consider the applicant's incorporation of multiple uses into the stormwater management facility/system. To the extent that recreational use, trails, open space, are utilized, the level of imperviousness may be increased at the discretion of the City.

(Ord. No. 809, § 1)

Sec. 15-509. Final Stormwater Runoff Management Plan.

Following review of the preliminary stormwater management plan and general approval of the preliminary stormwater management plan by the Public Works Director, a final stormwater management plan shall be prepared for each phase of the proposed project, as each phase is developed and prior to the issuance of any building permit. A professional engineer, registered in the state, shall sign and properly seal the plan. The final plan shall constitute a refinement of the concepts approved in the preliminary stormwater management plan and shall include the information required in 15-507.

(Ord. No. 809, § 1)

Sec. 15-510. Review and Approval of Final Stormwater Management Plan.

- (a) Final stormwater management plans shall be reviewed by the Public Works Director. The Public Works Director may, based on review of the submittal, approve the Plan if the proposed development will provide management of stormwater runoff in accordance with the purposes, design criteria and performance standards of these regulations and the City's watershed management program and will not be detrimental to the public health, safety and general welfare. The Public Works Director may approve the stormwater management plan or conditionally approve the stormwater management plan, setting forth the conditions thereof. If it is determined that the proposed development will not properly manage stormwater runoff in

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accordance with these regulations, the Public Works Director shall reject the final stormwater management plan. If rejected, the application and data shall be returned to the applicant for resubmittal.

- (b) The Public Works Director shall have the authority to waive the requirement of a stormwater management plan meeting all of the requirements in those individual cases that involve the construction of a single building or an addition to an existing building or otherwise have no significant effect on the drainage characteristics of the watershed.

(Ord. No. 809, § 1)

Sec. 15-511. Design Criteria.

- (a) The following documents shall jointly govern the design of improvements with respect to managing stormwater:
 - (1) Unless otherwise provided, Section 5600 Storm Drainage Systems and Facilities of the Standard Specifications and Design Criteria of the Kansas City Metropolitan Chapter of the American Public Works Association, dated February 15, 2006, is hereby incorporated by reference for the purpose of regulating the design of improvements with respect to stormwater runoff. Not less than one copy of Section 5600 shall be marked "Official Copy as Adopted by Ordinance No. 809," with all sections or portions thereof intended to be omitted or modified clearly marked to show any such omissions or modifications, and to which shall be attached a copy of this incorporating ordinance, and shall be filed with the City Clerk and open to inspection and available to the public at all reasonable business hours.
 - (2) Sections 5601.5 and 5608.4 of the Storm Drainage Systems and Facilities of the Standard Specifications and Design Criteria of the Kansas City Metropolitan Chapter of the American Public Works Association, dated February 15, 2006, are hereby repealed and new Sections 5601.5 and 5608.4 are added to read as follows:
- (b) General Guidelines:
 - (1) Natural channels are to be preserved to the maximum extent practicable as site conditions permit. Design standards for natural channels are addressed in Section 5605. Engineered channels, the next highest priority system component, shall be designated and coordinated with the design of building lots and streets in accordance with the design criteria and performance standards addressed in Section 5607.
 - (2) To the maximum extent possible, drainage systems, street layout and grades, lot patterns and placement of curbs, inlets and site drainage and overflow swales shall be concurrently designed in accordance with the design criteria and performance standards set forth in this document. Curb and gutter may be omitted or modified where approved by the City Engineer and deemed feasible in conjunction with other stormwater management practices including water quality BMPs.
 - (3) Enclosed conveyance systems consisting of inlets, conduits and manholes may be used to convey stormwater runoff where site conditions and open space requirements will not permit the use of natural or engineered channels. Where used, these systems must be designed in accordance with design criteria and performance standards addressed in Section 5606.
 - (4) Generally, a public storm drainage system is constructed when the peak discharge is greater than 8 cfs for the 10% design storm and the drainage is generated by more than one lot or the drainage area is greater ~~than~~ 2 acres.
- (c) Open Systems: Where feasible, open systems consisting of open or engineered channels shall be used if all of the following design criteria and the conditions of Section 5601.8 are met:

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- (1) The channel slope is less than or equal to 5 % or where appropriate armoring techniques are used to prevent erosion; or
 - (2) The 50% design storm velocity is less than or equal to 5 feet per second (fps) or where appropriate armoring techniques are used to prevent erosion;
- (d) Enclosed Systems: Enclosed systems consisting of underground pipes, culverts and similar underground structures shall be used to convey stormwater at all locations whenever one of the following design criteria and the conditions of 5601.8 are met:
- (1) Where natural channels or open systems are not feasible per the requirements set forth in Section 5605 and Section 5601.5-A1; or
 - (2) Within the right-of-way of streets with curbs, regardless of system design capacity.
- (e) Stormwater Management:
- (1) New development or redevelopment as defined in Section 5601.2 shall incorporate stormwater management measures to control runoff from the site. The allowable runoff is defined by the volume, timing, and peak rate of runoff and is dependent on the watershed characteristics. Allowable runoff may be limited by the need to minimize flood damage, prevent erosion, and/or minimize impacts to the ecology and water quality of the downstream drainage system.
 - (2) Stormwater management for site development may include structural facilities and/or non-structural solutions. The Developer shall evaluate the site development plan according to the flowchart in Figure 5601-1. This chart provides decision criteria for determining the potential impacts of the site on the watershed. Beginning with the hexagon-shaped dialog box in the upper left of the chart, check the requirements as indicated, then proceed to the next dialog box to the right. Determine the "yes" or "no" answer to the question in the dialog box, and continue to next box to the right or below, according to the answer. Where runoff controls are required, low-impact development practices or off-site control of runoff in addition to or instead of the standard wet or dry bottom basins may be used. See Section 4-5-E-15 (B).
 - (3) Notwithstanding the foregoing, it is the opinion of the City that any development will degrade water quality, cause stream erosion and contribute to adverse ecological impacts. Therefore, at the discretion of the Public Works Director, controls shall be implemented for the 10% and 100% storms.
 - (4) Flood problems are defined as one or more of the following conditions;
 - A. Homes, buildings, or other structures downstream from a proposed development are flooded in a 1% or more frequent flood;
 - B. Flood damage problem areas for the 1% or more frequent flood have been identified, or an engineering study indicated the proposed development would cause or increase such flooding;
 - C. Street flooding as defined in 5601.5-A-4-b or as defined by the City/County; and
 - D. To identify existing local flooding problems, the stormwater management study for a development project shall include an analysis of the existing downstream drainage system to the point the development's land mass is less than 10% of the total watershed, unless waived by the City. The City may require additional analysis of the downstream drainage system to identify flooding problems, especially in sensitive areas or where flooding has occurred downstream.
 - (5) If flooding problems will occur, as defined above, runoff from the development shall be controlled by limiting the stormwater release rates for the 1%, 10% and 100% design storms to the predevelopment peak flow rates for the 1%, 10% and 100% storms respectively. If flooding problems will not occur, as defines above, detention of the 1% storm will not be allowed.

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- (6) Additionally, the City may require a study to verify downstream predevelopment peak flow rates are not increased at specific downstream locations due to the development. Some communities may also establish more stringent release rates in sensitive watersheds.
- (f) **Overflow Systems:** Each conveyance element of the stormwater drainage system (whether open, enclosed, or detention) shall include an overflow element. When the in-system capacity defined in Sections 5601.8 and 5608 is exceeded, the overflow element shall be designed to route the surcharge downstream. Types of overflow systems are site-dependent and may include streets, channels, overland surfaces, redundant piping, or spillways, or combinations thereof. The in-system capacity combined with the overflow system capacity shall be sufficient to convey the peak discharge generated by the 1% design storm without flooding problems. The maximum water surface elevation of the 1% storm stage at any point along the drainage system shall be no greater than:
- (1) One foot below the lowest elevation at which water may enter any proposed or existing building or structure; AND
 - (2) A depth of 7 inches at the lowest point of the traveled roadway. This may be the curb flowline, the road centerline, or somewhere in between, depending on the site.

(Ord. No. 809, § 1)

Sec. 15-512. Performance Criteria.

- (a) *Computational methods:*
- (1) *Time of concentration and travel time:* Refer to Section 5602 for acceptable hydrology methods.
 - (2) *Temporary storage volume:* A preliminary value of the storage requirement may be obtained through methods outlined in (SCS, 1986, Chapter 6) or other acceptable methods. The storage shall be checked during routing or design hydrographs through the basin and adjusted appropriately.
 - (3) *Hydrograph routing:* The storage indication method (Modified Puls) of routing a hydrograph through a detention basin may be utilized. Reference: (Chow, 1964).
- (b) *Release rate:* The maximum release rate from any development for the 1%, 10%, and 100% storms shall be limited according to section 5601.5-A-4 and the decision flowchart in Figure 5601-1, "Guide to Stormwater Management for Site Development."
- (c) *Detention Basin Size:* Owners/engineers may utilize methodology outlined in (SCS, 1986). A Type II rainfall distribution shall be the required storm hyetograph. Hydrologic simulation models shall be based on not less than Antecedent Moisture Condition II (see Section 5602.2). Maximum detention storage shall be based upon the allowable release rate and upon the developed condition for the site. Basin volume shall be sized for the largest applicable, 24-hour design storm. The City Engineer may establish additional standards for other storm sizes to provide stream channel and water quality protection.
- (d) *Primary outlet works:* The primary outlet shall be designed to meet the following requirements:
- (1) The outlet shall be designed to function without requiring attendance or operation of any kind or requiring use of equipment or tools, or any mechanical devices.
 - (2) All discharge from the detention facility when inflow is equal or less than the (largest applicable design storm) inflow shall be via the primary outlet.
 - (3) The design discharge rate via the outlet shall continuously increase with increasing head and shall have hydraulic characteristics similar to weirs, orifices or pipes.

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- (4) For dry detention basins, the design shall allow for discharge of at least 80 percent of the detention storage volume within 24 hours after the peak or center of mass of the inflow has entered the detention basin.
 - (5) Ponds shall be designed with a non-clogging outlet such as a reverse-slope pipe, or a weir outlet with a trash rack. A reverse-slope pipe draws from below the permanent pool extending in a reverse angle up to the riser and established water elevation of the permanent pool. Because these outlet draw water from below the level of the permanent pool, they are less likely to be clogged by floating debris.
 - (6) All opening shall be protected by trash racks, grates, stone filters, or other approved devices to ensure that the outlet works will remain functional.
 - (7) If a detention basin is to be used as a water quality BMP, the basins must be sized to detain the entire water quality storm such that the entire water quality storm leaves the basin no sooner than 40 hours after the start of the rainfall event.
 - (e) *Emergency spillways:* The emergency spillway may either be combined with the outlet works or be a separate structure or channel meeting the following criteria:
 - (1) *Elevation:* Emergency spillways shall be designed so that their crest elevation is 0.5 feet or more above the maximum water surface elevation in the detention facility attained by the largest applicable design storm.
 - (2) *Capacity:* In cases where the impoundment/emergency spillway is not regulated by either State or Federal agencies, the emergency spillway shall be designed to pass the 1% storm with one foot of freeboard from the design stage to the top of the dam, assuming zero available storage in the basin and zero flow through the primary outlet. This design provides an added level of protection in the event of a clogged primary outlet or a subsequent 1% storm event that occurs before the flow pool from the initial storm even recedes to the principal outlet elevation.
 - (f) *Draw down provision:* Drain works consisting of valves, gates, pipes, and other devices as necessary to completely drain the facility in 72 hours or less when required for maintenance or inspection shall be provided.
 - (g) *Erosion control:* Primary outlet works, emergency spillways, and drain works, as well as conveyance system entrances to detention basins, shall be equipped with energy dissipating devices as necessary to limit shear stresses on receiving channels. See Tables 5605-1 and 5606-2 for shear stress criteria.
 - (h) Detention basins designed to accommodate the 1% storm event shall not be combined with bio-retention.
 - (i) **The Manual of Best Management Practices for Stormwater Quality, dated September 2003-2012** and published by the Mid-America Regional Council and the American Public Works Association is hereby incorporated by reference for the purpose of providing guidance for planning and implementing best management practices that will control volumes and quality of stormwater discharges and thereby provide crucial assistance in protecting human life and property, maintaining overall water quality and for creating more environmentally sensitive site design. One copy of this document shall be stamped or marked "Official Copy" and filed with the City Clerk and kept with Section 5600, to be open to inspection and available to the public at all reasonable hours.
 - (j) The selected BMP(s) must be properly integrated into the overall landscape design, providing aesthetic value in addition to the desired function. It is understood that required planting areas may need to be increased to accommodate stormwater management practices.
 - (k) *Applicability of these standards:* These standards shall apply to all development occurring in the City after the effective date of this section; provided, however, that the standards shall not apply to:

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- (1) Land which is covered by an approved final development plan, site plan or final plat where approval was given on or before September 4, 2007, and where construction of any approved detention facility was begun on or before that date; or
 - (2) Land which is covered by an approved preliminary development plan or preliminary plat, where approval was given on or before September 4, 2007, and where construction of any approved detention facility was not yet begun on that date, shall only be required to comply with these standards by modifying the detention basin to provide 50%, 10% and 1% storm protection and appropriate clean stormwater BMPs, but only to the extent that the modification does not change the lot count or significantly alter the character of any lots shown on the approved preliminary development plan or plat.

Notwithstanding the foregoing, if any development plan, site plan or plat covering land exempted pursuant to subsections (1) and (2) above is amended to a substantial or material degree, compliance with these standards shall be required.

(Ord. No. 809, § 1)

Sec. 15-513. Performance Bonds and Other Assurances for Completion of Stormwater Management Improvements.

Upon approval of the final stormwater management plan, but before the issuance of the engineering permit, the Public Works Director shall require the applicant to post a performance bond, cash escrow, certified check or other acceptable form of performance guaranty for the amount of the work to be done pursuant to the approved stormwater management plan.

Sec. 15-514. Maintenance Bond.

A two-year maintenance bond against defects in material and workmanship may be required by the City for any portion of the stormwater management improvements dedicated to the public.

Sec. 15-515. Inspection and Maintenance.

The Public Works Director shall be responsible for determining whether the stormwater management plan is in conformance with requirements specified in section 12- of this article [these regulations] and whether development is proceeding in accordance with the approved stormwater management plan.

(a) *Inspection.*

- (1) *Inspection during construction.* The Public Works Director, or ~~third-party~~third-party inspector hired by the developer, shall inspect the stormwater management systems during all critical phases of construction. These phases may include grading, installation of pipes and structures, and planting/landscaping.

Stormwater management system components and/or grading are part of public improvements and shall be inspected as such, even if the system will be owned and maintained by private entities. All system components shall be substantially complete prior to issuing any building permits, unless otherwise stated in the developer agreement or plans.

- (2) *Periodic inspection by City.* The Public Works Director shall be authorized to inspect all stormwater management systems during the first year of operation and at least once every three years thereafter. The Public Works Director shall notify in writing any property owner of any violations that are found during the inspections pursuant to the criteria set forth in this article.

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- (3) *Annual inspection by private owner.* The owners of the property containing private stormwater management systems installed pursuant to this article shall have all stormwater management systems inspected on an annual basis. On or before May 1 of each year, the owner of each stormwater management system shall furnish certification by an engineer, licensed by the State of Kansas, to the City Engineer that all stormwater management systems are functioning in accordance with the approved plans. All certifications and inspections shall be on forms provided by the City. The certification shall contain the following:

- A. The name and address of the land owner;
- B. The recorded book and page number of the lot of each stormwater management system;
- C. A statement that an inspection was made of all stormwater management systems;
- D. The date the inspection was made;
- E. A statement that all inspected stormwater management systems are performing properly and are in compliance with the terms and conditions of the stormwater management plan required by this ordinance; and
- F. The original signature and seal of the Engineer.

(b) *Maintenance.*

- (1) *Responsibility for maintenance.* The owners of the property containing private stormwater management systems shall be responsible for maintenance of those systems. In the cases where there is joint maintenance provided by the City and the property owner, the City shall be responsible for structural maintenance only as specified on the plans and in the developer/maintenance agreement for the specific systems.
- (2) *Maintenance agreement.* Whenever a stormwater management plan is required for property pursuant hereto, no building permit shall be issued until the owner of the private stormwater management system executes a maintenance agreement to be recorded in the land records and binding upon all subsequent owners of the property, providing that:
 - A. The property owner shall maintain all stormwater management systems in accordance with the establishment and maintenance plan.
 - B. The property owner shall permit the City to inspect the stormwater management systems at any time.
 - C. The property owner shall correct any violations in the system.
 - D. If the City intends to make corrections as a result of violations at the property owner's expense, as allowed under this article, the property owner will provide access to the stormwater management system.

(Ord. No. 809, § 1)

Sec. 15-516. Action Upon Noncompliance

(a) *Enforcement during construction.*

- (1) If it is determined through inspection that development is not proceeding in accordance with the approved stormwater management plan, the Public Works Director shall issue written notice to the developer and the surety of the nature and location of the alleged noncompliance, specifying what remedial work is necessary to bring the project into compliance, and setting forth the time period allowed to correct the noncompliance. The written notice shall be accompanied by documentary

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evidence demonstrating noncompliance. The developer so notified shall, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within the time allotted by the City. Upon satisfactory completion of the remedial work, the Public Works Director shall issue a notice of compliance and the development may proceed.

- (2) If the permittee or land owner fails to make the required corrections within the time period allotted by the City, the Public Works Director may post a stop work order at the site directing that all construction activity cease immediately. For the purposes of this section, a stop work order effective upon posting a copy of the stop work order on the site. A person must not continue or permit the continuance of work in an area covered by a stop work order, except work required to correct violations under this article. No inspections shall be performed and no additional permits will be issued by the City for the site while a stop work order is in effect. Any person who shall continue to work after a stop work order has been posted, except such work as that person is directed by the City to perform to remove a violation or unsafe condition, is guilty of a public offense and may be subject to penalties as prescribed herein.
- (3) The City must provide written notice to the permittee or a representative of the permittee when a stop work order is issued. A copy of the order, in the case of work for which there is a permit, shall be mailed by first class mail, postage prepaid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person listed as owner of the property by Johnson County land records. That notice must specify the extent to which work is stopped and the conditions under which work may resume. The permittee is responsible for the actions of agents of the permittee and must notify those agents when a stop work order is issued that will affect an area within which the agents are to work. In this regard, "agent" is defined as any person who acts at the instruction, with the permission, or to the benefit of the permittee.
- (4) Failure of the permittee to make the necessary corrections within ten days after a stop work order is posted shall constitute a public offense and is punishable as prescribed in this article. Upon such failure, the City may:
 - A. Issue a notice to appear, setting a date and time for appearance in Municipal Court. The Public Works Director and the Public Works Director, and their designees, shall have authority to issue a notice to appear under this article. The City may seek all criminal and civil penalties allowed by this chapter, as well as any injunctive relief that may be appropriate; and/or
 - B. Correct or abate the violation.
- (5) If the City performs work to correct a violation of this article, the costs incurred by the City to perform this work shall be paid by the owner or permittee out of the performance guaranty required by section 15-513. If the cost of the work necessary to correct the violation exceeds the amount of the performance guaranty, the permittee shall continue to be firmly bound under a continuing obligation for payment of all excess costs and expenses incurred by the City. The cost of necessary work in excess of the performance guaranty shall be certified by the City Clerk to the Clerk of Johnson County, Kansas, and shall, to the extent authorized by law, become a lien upon all property and all rights to property, real or personal, of any person liable to pay that cost. The cost of necessary work shall be listed on the tax bill and be collected in the manner of ordinary taxes to the extent authorized by law. In the event no performance guaranty was posted, the cost, plus interest at the rate authorized by the City, plus a reasonable administrative fee shall be billed to the owner. If in any event the amount due is not paid, the City Clerk shall certify the amount due to the Clerk of Johnson County, Kansas, and it shall, in accordance with law, become a lien upon all property and all rights to property, real or personal, of any person liable to pay the amount due. This amount shall be listed on the tax bill and be collected in the manner of ordinary taxes as authorized by law.

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- (6) The Public Works Director and their designees shall have authority, but not the obligation, to issue additional notices and extend the time given to a permittee to perform any action required under this section.

(b) *Enforcement of maintenance requirements.*

- (1) When a property owner violates the maintenance requirements of this section, the Public Works Director or his or her designee shall notify the property owner in writing of the nature and location of the violation, describe the required corrective action, and the time period to have the violation corrected. Failure of the property owner to make the necessary corrections within the specified timeframe shall constitute a public offense and is punishable as prescribed in this article.
- (2) If, after receiving notice of a violation of maintenance requirements, a property owner fails to perform the required corrective action within the time prescribed in the notice of violation, the City may:
 - A. Issue a notice to appear, setting a date and time for appearance in Municipal Court. The Public Works Director and the Public Works Director's designees, shall have authority to issue a notice to appear under this article. The City may seek all criminal and civil penalties allowed by this chapter, as well as any injunctive relief that may be appropriate; and/or
 - B. Correct or abate the violation.
- (3) If the City performs work to correct a violation of this article, the property owner shall be liable for the costs incurred by the City to perform this work. Within 30 days after performing the work necessary to correct the violation, the City shall issue a written notice containing the nature of the work performed, the date the work was performed, the cost of such work, and a statement that the property owner must pay for the cost of the work within 30 days to avoid having a lien filed against the property. The cost to correct the violation, plus interest at the rate authorized by the City, plus a reasonable administrative fee shall be billed to the property owner. If in any event the amount due is not paid, the City Clerk shall certify the amount due to the Clerk of Johnson County, Kansas, and it shall, in accordance with law, become a lien upon all property and all rights to property, real or personal, of any person liable to pay the amount due. This amount shall be listed on the tax bill and be collected in the manner of ordinary taxes as authorized by law.
 - A. Enforcement against homes associations.
 1. For purposes of this article, the term "homes association" shall mean an organization representing property owners within a planned development that is responsible for the ownership and maintenance of a stormwater management system.
 2. If a homes association fails to correct a violation within the time period identified in this section, then the City may choose any of the remedies provided in this section. If the City performs work to correct a violation of this article, the homes association shall be responsible for the costs incurred by the City to perform this work. Within 30 days after performing the work necessary to correct the violation, the City shall issue a written notice containing the nature of the work performed, the date the work was performed, the cost of such work, and a statement that the association must pay for the cost of the work within 30 days to avoid having a lien filed against the property. If the homes association fails to pay for the cost of the work within 30 days after receiving the notice, the City shall hold a public hearing for the purpose of determining how the cost of the work shall be assessed against the properties within the planned development. All property owners represented by the homes association shall be given notice of such hearing. After determining how the cost of work shall be assessed, the City Clerk shall certify the amount due by each property owner within the planned development to the Clerk of Johnson County, Kansas, and it shall, in accordance with law, become a lien upon all property and all rights to property,

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real or personal, of any person liable to pay the amount due. This amount shall be listed on the tax bill and be collected in the manner of ordinary taxes as authorized by law.

- (c) Any person who violates a provision of this article, fails to comply with any of the requirements thereof, or fails to comply with a directive of the City as authorized by this article is guilty of a public offense and shall be subject to penalties as provided in section 10-410 of this Code. In addition, the City may seek such additional remedies as are allowed by law.

(Ord. No. 809, § 1)

Sec. 15-517. Appeals.

Any person aggrieved by a decision of the Public Works Director may appeal any order, requirement, decision or determination as set forth below.

- (a) A written request shall be submitted within ten working days to the Public Works Director. The Public Works Director shall notify the person, in writing, of his decision within a reasonable time after receiving the appeal.
- (b) The decision of the Public Works Director may be appealed to the Governing Body as follows:
- (1) A written request shall be submitted to the Governing Body within 14 working days of the Public Works Director's decision.
- (2) The Governing Body may:
- A. Accept the request and direct the Public Works Director to issue an approval; or
- B. Deny the request and accept the decision of the Public Works Director.
- (3) The Governing Body shall act on the appeal within a reasonable time after receiving the appeal.
- (c) The decision of the Governing Body shall be considered final. No further appeal will be permitted.

(Ord. No. 809, § 1)

Sec. 15-518. Minimum Standards.

The performance standards and design criteria set forth herein establish minimum requirements which must be implemented with good engineering practice and workmanship. Depending upon the individual circumstances, additional design criteria and performance standards may be necessary. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City or its officers and employees of the adequacy or safety or any stormwater management structure or use of land, nor shall it constitute approval of damages caused by stormwater runoff. The degree of protection required by this article is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by manmade or natural causes. This article, therefore, shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

Sec. 15-519. Violation and Penalties.

Unless otherwise provided, penalties for violations of this chapter shall be assessed as provided in section 1-117 of the Roeland Park City Code.

(Ord. No. 809, § 1)

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Item Number: II. Discussion
Items



City of Roeland Park
Action Item Summary

Submitted By:

Keith Moody

Committee/Department: Administration

Title: Executive Session - I 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 _____.

Item Type: Presentation

Recommendation:

Details:

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:

None