



UPDATED

Full Commission Meeting Agenda

Thursday, November 3, 2022
7:00 PM

Location: HYBRID

We invite you to view the meeting in person in the Commission Chambers, Lobby Level of the Municipal Office Building, 701 N 7th street, Kansas City, Kansas, or virtually via a Zoom webinar.

When: Nov 3, 2022, 07:00 PM Central Time (US and Canada)

Topic: Full Commission meeting November 3, 2022

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/82665168654?pwd=czBkUmZRb3JEOG9kanRvWlpSYWo2dz09>

Passcode: 549671

Or One tap mobile:

US: +13462487799,82665168654# or +16694449171,82665168654#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 669 444 9171 or +1 669 900 9128 or +1 719 359 4580 or +1 253 215 8782 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or 877 853 5257 (Toll-Free) or 888 475 4499 (Toll-Free)

Webinar ID: 826 6516 8654

International numbers available: <https://us02web.zoom.us/j/82665168654>

<u>Name</u>	<u>Absent</u>
Mayor Tyrone Garner	☐
Commissioner At-Large Dist. 1 – Melissa Bynum	☐
Commissioner At-Large Dist. 2 – Tom Burroughs	☐
Commissioner Gayle E. Townsend	☐
Commissioner Brian McKiernan	☐
Commissioner Christian Ramirez	☐
Commissioner Harold Johnson	☐
Commissioner Mike Kane	☐
Commissioner Angela Markley	☐
Commissioner Chuck Stites	☐
Commissioner Andrew Davis	☐

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. INVOCATION GIVEN BY COMMISSIONER HAROLD JOHNSON, FAITH DELIVERANCE CHURCH OF GOD IN CHRIST**
- IV. PLEDGE OF ALLEGIANCE**
- V. REVISIONS TO NOVEMBER 3, 2022 AGENDA
REMOVE ITEM - MAYOR'S AGENDA
Item No. 3 - ORDINANCE: TERM LIMITS
Synopsis: An Ordinance relating to term limits and prohibition and Commission members holding office, submitted by Tyrone Garner, Mayor/CEO.
Tracking #: 212092**
- VI. MAYOR'S AGENDA**

Item No. 1 - COMMUNITY INPUT AND RECOMMENDATIONS

Synopsis: Public forum to allow citizens to express concerns and present solutions relating specifically and solely to the Unified Government's span of interest and control. Participants will be limited to three minutes in duration. Citizens appearing in the Municipal Office Building lobby will be given priority, followed by a limited number of participants who have registered online through the Unified Government Clerk's Office. Those who have registered online may not be given an immediate opportunity to participate due to time constraints to be determined by the Mayor/CEO. If time allows, persons listening online who wish to make comments will be recognized. All interested participants should know that Mayor/CEO Garner has also placed a maximum time limit of 45 minutes to host & conclude these discussions. In the interest of time, there should be no expectation for requested participants guaranteed inclusion to be recognized for comment and participation.

Tracking #: 211539

Item No. 2 - ORDINANCES: AMENDING THE STORM AND SURFACE WATER UTILITY FEE

Synopsis: Approval of the following ordinances:

1. An ordinance amending Section 30 of Article VIII of Chapter 30 of the 1988 Code of Ordinances City of Kansas City, Kansas.
2. An ordinance amending the Storm and Surface Water Utility fee and providing an effective date,
submitted by Jeff Fisher, Executive Director of Public Works.

This item was previously before the Commission on December 2, 2021, and April 7, 2022.

Tracking #: 212016

Item No. 3 - ORDINANCE: TERM LIMITS (REMOVED PER BLUE SHEET)

Synopsis: An Ordinance relating to term limits and prohibition and Commission members holding office, submitted by Tyrone Garner, Mayor/CEO.

Tracking #: 212092

Item No. 4 - PROCLAMATION: GATEWAY HIGHSTEPPERS DAY

Synopsis: Proclamation proclaiming October 24, 2022, as Gateway Highsteppers Day, submitted by Tyrone A. Garner, Mayor/CEO.

Tracking #: 212096

Item No. 5 - PROCLAMATION: EXTRA MILE DAY

Synopsis: Proclamation proclaiming November 1, 2022, as Extra Mile Day, submitted by Tyrone A. Garner, Mayor/CEO.

Tracking #: 212093

Item No. 6 - PROCLAMATION: LEON BRADY DAY

Synopsis: Proclamation proclaiming November 4, 2022, as Leon Brady Day, submitted by Tyrone A. Garner, Mayor/CEO.

Tracking #: 212094

Item No. 7 - PROCLAMATION: NICK SANCHEZ 100TH BIRTHDAY

Synopsis: Proclamation proclaiming November 16, 2022, as Nick Sanchez 100th Birthday, submitted by Tyrone A. Garner, Mayor/CEO.

Tracking #: 212095

VII. CONSENT AGENDA

Item No. 1 - ORDINANCE: AN ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES

Synopsis: Requesting approval for amendments to Chapter 7 of the Animal ordinances: Sections 7-2 (Penalty), 7-79 (Cruelty and Neglect of Animals), 7-216 (Dangerous Animals), 7-217 (Vicious Animals), and adding new Section 7-82 regarding a Reckless Pet Owner declaration and violation, submitted by Casey Meyer, Senior Counsel, and Ashley Scott, Director of Animal Services.

*On October 24, 2022, the **Public Works and Safety Standing Committee**, chaired by Commissioner Bynum, voted unanimously to approve and forward to full commission.*

Tracking #: 212028

Item No. 2 - RESOLUTION: ACCEPTING MATERNAL AND CHILD HEALTH (MCH) UNIVERSAL HOME VISITING EXPANSION FUNDS GRANT

Synopsis: The UGPHD has been awarded a \$75,000 dollar grant through the Kansas Department of Health and Environment, Bureau of Maternal and Child Health, to expand Universal Home Visiting by adding 1 FTE Community Health Worker (CHW) to the MCH population, submitted by Terrie Garrison, Health Department.

*On October 24, 2022, the **Administration and Human Services Standing Committee**, chaired by Commissioner Markley, voted unanimously to approve and forward to full commission.*

Tracking #: 212022

Item No. 3 - AMENDMENTS: ORDINANCE AMENDING CODE OF ORDINANCES RELATING TO TEEN ADVISORY COUNCIL

Synopsis: An ordinance relating to amendments to the Teen Advisory Council of Chapter 2 of the Code of Ordinances of the Unified Government, submitted by Misty Brown, Chief Legal Counsel.

*On October 24, 2022, the **Administration and Human Services Standing Committee**, chaired by Commissioner Markley, voted unanimously to approve and forward to full commission.*

Tracking #: 212027

Item No. 4 - NOMINATIONS: BOARDS AND COMMISSIONS

Synopsis: Nominations for Boards and Commissions:

Joe Caiharr to the Wyandotte County Library Board, 11/3/2022 to 12/15/2025, submitted by Mayor Garner.

Laura Flores to the UG Park Board, 11/3/2022 to 12/15/2025, submitted by Commissioner Davis.

Gregory Todd to the Wyandotte County Library Board, 11/3/2022 to 12/11/2023, submitted by Commissioner Bynum.

Tracking #: 212077

Item No. 5 - WEEKLY BUSINESS

Synopsis: Weekly business materials dated October 13, 2022.

Tracking #: WEEKLY BUSINESS

VIII. PUBLIC HEARING AGENDA

IX. STANDING COMMITTEES' AGENDA

X. ADMINISTRATOR'S AGENDA

Item No. 1 - UPDATE: WARMING SHELTER

Synopsis: An update on the stand-up of a Severe Winter Weather Warming shelter for the 2022-2023 winter season, submitted by Alan Howze, Assistant County Administrator.

For information only

Tracking #: 212091

XI. COMMISSIONERS' AGENDA

Item No. 1 - ORDINANCE/RESOLUTION: AMENDING CODE PROVISIONS FOR OPEN BURN

Synopsis: An Ordinance/Resolution amending the code provisions 3-3 Definitions and 3-17(h)(1)(a) related to Open Burning, submitted by Jon Khalil, Assistant Counsel, Legal Department.

*On July 25, 2022, the **Public Works and Safety Standing Committee**, chaired by Commissioner Bynum, voted unanimously to approve and forward to the full commission. On August 11, 2022, at the request of the Chair, this item was remanded back to the standing committee for further discussion.*

*On September 26, 2022, the **Public Works and Safety Standing Committee**, chaired by Commissioner Bynum, voted unanimously to approve and forward it to the full commission.*

Tracking #: 211743

XII. LAND BANK BOARD OF TRUSTEES' CONSENT AGENDA

XIII. PUBLIC ANNOUNCEMENT

XIV. ADJOURN

**AGENDA UPDATE
UNIFIED GOVERNMENT COMMISSION MEETING
THURSDAY, NOVEMBER 3, 2022**

IX. MAYOR'S AGENDA

REMOVE ITEM

Item No. 3 - ORDINANCE: TERM LIMITS

Synopsis: An Ordinance relating to term limits and prohibition and Commission members holding office, submitted by Tyrone Garner, Mayor/CEO.

Tracking #: 212092



Staff Request for Commission Action

Tracking No. 211539

Full Commission Meeting Date:

Committee: Full Commission

Date of Standing Committee Action:
(If none, please explain):

Publication Required: No

<u>Date:</u>	<u>Contact Name:</u>	<u>Contact Phone:</u>	<u>Contact Email:</u>	<u>Department/Division:</u>
10/31/2022	Tayler Wash	x5010	twash@wycokck.org	Mayor's Office

Item Description:

Public forum to allow citizens to express concerns and present solutions relating specifically and solely to the Unified Government's span of interest and control. Participants will be limited to three minutes in duration. Citizens appearing in the Municipal Office Building lobby will be given priority, followed by a limited number of participants who have registered online through the Unified Government Clerk's Office. Those who have registered online may not be given an immediate opportunity to participate due to time constraints to be determined by the Mayor/CEO. If time allows, persons listening online who wish to make comments will be recognized. All interested participants should know that Mayor/CEO Garner has also placed a maximum time limit of 45 minutes to host & conclude these discussions. In the interest of time, there should be no expectation for requested participants guaranteed inclusion to be recognized for comment and participation.

Action Requested:

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:



Staff Request for Commission Action

Tracking No. 212016

Full Commission Meeting Date: 10/13/2022

Committee: Full Commission

Date of Standing Committee Action:
(If none, please explain):

Publication Required: No

<u>Date:</u> 11/01/2022	<u>Contact Name:</u> Jeff Fisher	<u>Contact Phone:</u> x5415	<u>Contact Email:</u> jfisher@wycokck.org	<u>Department/Division:</u> Public Works
<u>Item Description:</u> An ordinance amending the Storm and Surface Water Utility fee. A presentation from Public Works and consultants will provide a brief presentation on the stormwater rate transition and a brief discussion of a community-based partnership.				
<u>Action Requested:</u> Approval				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> Individually Calculated Chapter 30 Revisions redline for Commission_BV_10.10, Individually Calculated Rate Ordinance.final_BV 10.7.2022, Stormwater Full Commission 10.13.22				

(Summary Ordinance Published _____)

ORDINANCE NO. _____

AN ORDINANCE relating to a Storm and Surface Water Utility fee; amending Section 30-324, 30-229, and 30-330 of Article VIII of Chapter 30 of the 1988 Code of Ordinances City of Kansas City, Kansas.

BE IT ORDAINED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Section 30-324 of Article VIII of Chapter 30 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas be and is hereby amended to read as follows:

Section 30-324. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Base Charge” means the charge established by an ordinance setting or amending the Storm and Surface Water Utility fee that will be charged to every property.

"Bonds" means revenue or general obligation bonds or notes heretofore or hereafter issued to finance the costs of improvements.

“BPU” means the Board of Public Utilities, an administrative agency of the Unified Government.

"Certificate of occupancy" means a certificate issued by the office of central inspection that permits a newly constructed or a new addition to a residential developed property or nonresidential developed property to be occupied.

“City” means all of the territory of Wyandotte County, except the territory of the cities of Bonner Springs, Edwardsville, and Lake Quivira and the unincorporated area of Wyandotte County.

"Costs of capital improvement" means costs incurred in providing capital improvements to the storm and surface water management system or any portion thereof including professional services and studies connected thereto; payment of principal and interest on bonds heretofore or hereafter issued, including payment of delinquencies of principal and interest due on bonds that are otherwise payable from special assessments or any other source of revenue; studies related to the operation of the

system; and the costs of the rate study performed in relation to establishing rates for the storm and surface water utility and other start-up costs of the storm and surface water utility; costs related to the National Pollution Discharge Elimination System permit and any studies associated therewith as mandated by federal laws and regulations; and costs associated with purchasing equipment, computers, furniture, etc., that are necessary for the operation of the utility.

"Debt service" means an amount equal to the sum of (i) all interest payable on bonds during a fiscal year, plus (ii) any principal installments payable on such bonds during such Fiscal Year.

"Director" means the person appointed by the county administrator to be the director of the storm and surface water utility.

"Dwelling unit" means a singular unit providing independent living facilities for one or more persons in a single-family, duplex, multifamily or condominium residential property.

"Exempt property" means public rights-of-way, public streets, public alleys and public sidewalks.

"Extension and replacement" means costs of extensions, additions and capital improvements to, or the renewal and replacement of capital units of, or purchasing and installing of equipment for, the storm and surface water management system, or land acquisition and relocation costs for the storm and surface water management system 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 twelve-month period commencing on the first day of January of any year.

"Impervious area" or "hard surface area" means the number of square feet of surface areas over which the open pore structure of the soil is covered, compacted or chemically sealed by human activity in a manner which either prevents or retards the entry of water into soil mantle, as it entered the unmodified soil with vegetative cover, and/or causes water to run off the surface in greater quantities or at an increased rate of flow than from the unmodified soil with vegetative cover. Impervious area will include, but is not limited to, roofs, roof extensions, patios, porches, driveways, sidewalks, pavement, athletic courts, and compacted dirt or graveled areas. For the purpose of calculating Storm Water Utility fees, natural rock outcrops, permanent pools of water, gravel landscape mulch, gravel railroad track ballast, playground sand and riparian sand flats will not be included in the calculation of impervious area.

"Impervious Area Charge" means the monthly impervious area charge, calculated per the impervious area rate established by an ordinance setting or amending the Storm and Surface Water Utility fee.

"In lieu of franchise fee" means a fee of not to exceed five percent of gross revenues of the utility that is imposed by the Unified Government Commission and that is paid to the city for use of public streets, alleys, sidewalks, and other public rights-of-way from revenues as if the utility was a person, firm or corporation using public rights of way pursuant to K.S.A. 12-2001 et seq.

"Non-Residential Property" means any Property other than Single-Family Residential Property.

“Non-residential storm water customer” means a customer whose electric utility account with BPU is classified as non-residential. ~~Minimum Charge” means the charge established by an ordinance setting or amending the Storm and Surface Water Utility fee.~~

"Operating budget" means the annual storm and surface water utility operating budget adopted by the Unified Government for the succeeding fiscal year.

"Operations and maintenance" means without limitation the current expenses, paid or accrued, of operation, maintenance and current repair of the system, as calculated in accordance with sound accounting practice, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses, equipment costs, in lieu of franchise fee payments, labor costs, and the cost of materials and supplies used for current operations.

“Property” means land, buildings, and other improvements together considered as a parcel as identified by the tax parcel established by the County Appraiser.

"Revenues" means all rates, fees, assessments, rentals, fines, penalties, interest, or other charges or other income received by the storm and surface water utility in connection with the ownership, management and operation of the storm and surface water management system, including amounts received from the investment or deposit of monies in any fund or account, as calculated in accordance with sound accounting practice.

“Residential storm water customer” means a customer whose electric utility account with BPU is classified as residential.

“Service Area” means all of the area which is contained within the boundaries of the municipal limits of the city of Kansas City, Kansas except for the area contained within the boundaries of the Fairfax Drainage District.

“Single-Family Residential Property” means a property with up to four dwelling units.

"Storm and surface water management system," "sewer system" or "system" means storm sewers that exist at the time the ordinance codified in this chapter is adopted or that are hereafter established and all appurtenances necessary in the maintaining and operating of the same, including, but not limited to, pumping stations, main sewers, intercepting sewers, lateral 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 ponds and basins and other flood control facilities and works for the collection, transportation, pumping, treatment, and disposing of storm or surface water and pollutants born or carried in such waters.

"Storm and surface water utility" or "utility" means the utility created by this chapter to operate, regulate, maintain and improve the storm and surface water management system and for such other purposes as are set forth in this chapter.

“Storm Water Utility fee” or “storm water user fees” means a service fee authorized by Charter Ordinance CO-04-08, this chapter and as set forth in an ordinance adopted or amended by the Unified Government Commission that is established to pay operation and maintenance, extension and replacement and debt service associated with the storm and surface water management system.

“Storm Water Customer” means the person, partnership, corporation, public agency, or other entity who occupies, controls, possesses, and/or owns, benefits from property and to whom Storm Water Utility fees are billed as provided herein. ~~Storm Water Customers shall be divided into two classes: residential and non-residential.~~

“Unified Government” means the Unified Government of Wyandotte County/Kansas City, Kansas.

“Unified Government Commission” means the governing body of the Unified Government.

(Ord. No. 0-56-08, § 1(30-324), 7-31-2008)

Section 2. That Section 30-329 of Article VIII of Chapter 30 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas be and is hereby amended to read as follows:

Section 30-329. Storm Water Utility fee.

- (a) Fee Established. Subject to the provisions of this chapter, there is imposed on each and every single-family residential property and non-residential Storm Water Customer property in the City Service Area, a service fee to be known as a storm water utility fee. (Ord. No. O-56-08, § 1(30-329), 7-31-2008; Ord. No. O-57-08, § 1, 7-31-2008; Ord. No. O-59-09, § 1, 7-30-2009; Ord. No. O-45-10, § 1, 7-29-2010)
- (b) Each and every Property’s Impervious Area shall be measured in square feet. Each Property shall pay a Stormwater Utility Fee calculated as the sum of a Monthly Base Charge and a Monthly Impervious Area Charge. The Monthly Impervious Area Charge shall be determined by multiplying every five hundred square feet of Impervious Area by the impervious area rate.
- (c) Based upon the projected annual budget adopted by the unified government board of commissioners, the county administrator shall each year recommend to the unified government board of commissioners the monthly base charge and monthly impervious area rate. The unified government board of commissioners shall establish by ordinance the monthly base charge and monthly impervious area rate to ensure that the sewer system generates adequate annual revenues to pay the annual costs of operation and maintenance including replacement of the unified government's sewer system, to satisfy costs associated with any obligations and to provide for costs associated with the unified government capital improvement plan and the expenses of the annual operation. Changes to the rate ordinance shall be published in the official unified government newspaper.
- (d) Storm Water Utility fee credit. The Administrator may adopt regulations and procedures that establish credits and/or incentives that reduce the Storm Water Utility fee that would otherwise be assessed against properties. If adopted, all procedures pertaining to credits shall be per the Unified Governments Stormwater Utility Fee Credits and Appeals Manual. In no event shall a Storm Water Utility fee credit exceed 75% of the property’s Impervious Area Charge, for either an individual type of credit that is approved for a property and/or as an aggregate of all types of credits that are approved for a property. Storm Water Utility fee credits are applicable to only the Impervious Area Charge and Non-residential property.

Section 3. That Section 30-330 of Article VIII of Chapter 30 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas be and is hereby amended to read as follows:

Section 30-330. Appeal procedure.

(a) Any persons disagreeing with their monthly Storm Water Utility fee, and/or disagreeing with whether their property is served by the Storm Water Utility may appeal to the director. Any owner of a property for which a Storm Water Utility fee has been assessed may appeal the Storm Water Utility fee for that property for the following reason: (i) identification of customer classification reasons: (i) designation of property classification and/or ownership, (ii) calculations of the Storm Water Utility fee, (iii) designation of impervious area square feet, and (iv) determination of Storm Water Utility fee credit.

(b) Appeals must be in writing to the director. The director or their designee shall thereafter hold an informal hearing. The director or their designee will coordinate with BPU to address the appeal. The director or designee, prior to such hearing, may request that the appealing party provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor showing dwelling units, total property area, and impervious area as appropriate, if such information is deemed to be material by the director or designee. The director or designee may consider any relevant evidence. Based on information provided, the director or designee shall make a determination as to whether the Storm Water Utility fee should be adjusted for such property. The director or designee shall notify parties in writing of the decision.

(c) Right to appeal; appeal board; appeal hearing.

(1) A person shall have the right to appeal the decision of the director to the storm and surface water utility appeals board. Such appeal shall be made within twenty days of the date the director notifies the person of the director's decision in the informal proceedings. Such appeal shall be in writing and shall be filed with the director.

(2) The storm and surface water utility appeals board shall consist of the following members: County Administrator or his designee, County Engineer or his designee, Director of Public Works or his designee.

(3) A hearing on such appeal shall be held within thirty days from the date the notice of appeal is received, and the applicant shall be given seven days' advance notice of the time and date the appeal hearing is to be held. At such hearing, the appellant shall present evidence concerning the ~~drainage~~ Stormwater Utility fee for the property in question and the director and/or his/her designee shall present evidence concerning their findings from the informal proceedings. The storm and surface water utility appeals board shall render a decision in writing that sets forth findings that support their decision within seven days of the hearing. The decision of the storm and surface water utility appeals board shall be final, and any further appeal of such decision shall be to the Judicial District Court of the State of Kansas by way of the provisions of K.S.A. 60-2101(d). (Ord. No. O-56-08, § 1(30-330), 7-31-2008) (Ord. No. O-56-08, § 1(30-330), 7-31-2008)

Section 4. This ordinance shall take effect and be in fully force after its passage, approval and publication of the Summary Ordinance in the official Unified Government Newspaper.

PASSED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS ____ DAY OF _____, 2022.

APPROVED:

Tyrone Garner, Mayor/CEO

ATTEST:

Unified Government Clerk

Approved as to form:

Misty S. Brown, Chief Counsel

(Published _____)

ORDINANCE NO. _____

AN ORDINANCE amending the Storm and Surface Water Utility fee and providing an effective date.

WHEREAS, the Board of Commissioners for the Unified Government of Wyandotte County/Kansas City has under consideration an amendment to the Storm and Surface Water Utility fee ordinance which requires the Board of Commissioners to amend the Storm and Surface Water Utility fee; and

WHEREAS, the County Administrator has recommended rates as set forth herein based upon input by City staff; and

WHEREAS, the Board of Commissioners have evaluated the recommendations and have determined that the fees set forth herein below are reasonable and necessary and are in accordance with the provisions of Ordinance No.CO-04-08; and

WHEREAS, the Board of Commissioners have determined it to be appropriate to implement the stormwater utility fee set forth herein as of the effective date of this resolution.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. Stormwater Utility Fee Established. Each and every Property in the City Service Area shall be assessed a monthly Storm Water Utility Fee as per the provisions of this ordinance.

Section 2. This Ordinance shall become effective upon its adoption and after January 1, 2024. Each and every Property within the City Service Area shall begin paying the established monthly stormwater utility fee on January 1, 2024 according to the below schedule.

Section 3. Each and every Property's Impervious Area shall be measured in square feet. Each Property shall pay a Stormwater Utility Fee calculated as the sum of a Monthly Base Charge and a Monthly Impervious Area Charge. The Monthly Impervious Area Charge shall be determined by multiplying every five hundred square feet of Impervious Area by the rate per five hundred square feet of Impervious Area.

	2024	2025	2026
Monthly Base Charge	\$4.15	\$4.67	\$5.38
Monthly Impervious Area Rate per 500 square feet	\$0.70	\$0.81	\$0.85

Section 4. The rates for 2025 should be effective January 1, 2025 and the rates for 2026 should be effective January 1, 2026.

Section 5. The Unified Government, the Mayor, the County Administrator and the Unified Government's other officers, agents, and employees are hereby authorized and directed to take such further action, and execute such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED
GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,
THIS _____ DAY OF _____, 2022.**

Tyrone Garner, Mayor/CEO

ATTEST:

Unified Government Clerk

Approved as to form:

Misty S. Brown, Chief Counsel

The Future of Stormwater for the Unified Government

Speakers:

Jeff Fisher, Director of Public Works

Debbie Jonscher, Deputy CFO

Troy Shaw, County/City Engineer

Prabha Kumar, Black & Veatch Project Director



DEPARTMENT OF
PUBLIC WORKS



BLACK & VEATCH

Our Discussions Today

PART 1

OUR SYSTEM & NEEDS

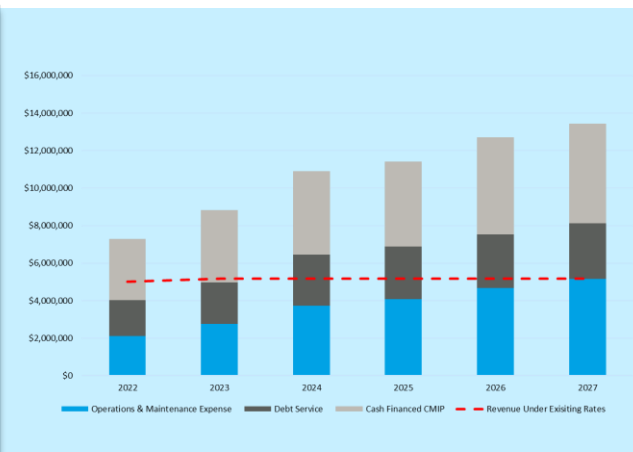


*Our System and
Regulations*

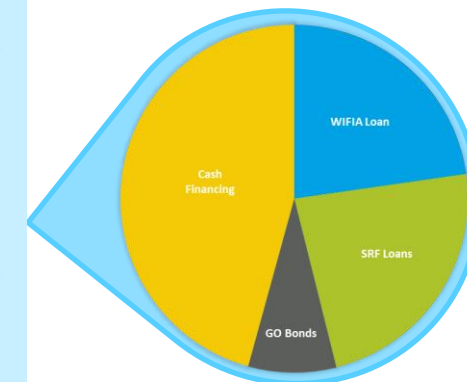
Stormwater Program

PART 2

FUNDING STRATEGIES & IMPLICATIONS



Stormwater Financial Plan



*Stormwater Capital Program
Funding Strategies*



Stormwater Financing & Rate Structure Implications

Part I: Our System and Needs

The Current State

Key Cost Drivers

- Consent decree mandates and compliance requirements
- Significant capital improvement investments to fulfill consent decree
- Higher than CPI O&M cost increases

UG Wastewater System



Primary Source of Wastewater Utility Revenues

- Volume based **Sanitary Sewer Charges**
- Consent decree requirements agreed upon with the EPA
- Aligned with consent decree, funding capacity projected and capped with rates defined for 26 years

Key Cost Drivers

- O&M cost increases needed to address backlog of deferred maintenance
- Capital investments for infrastructure rehabilitation for water quality
- Significant drainage improvements to mitigate flooding (quantity)

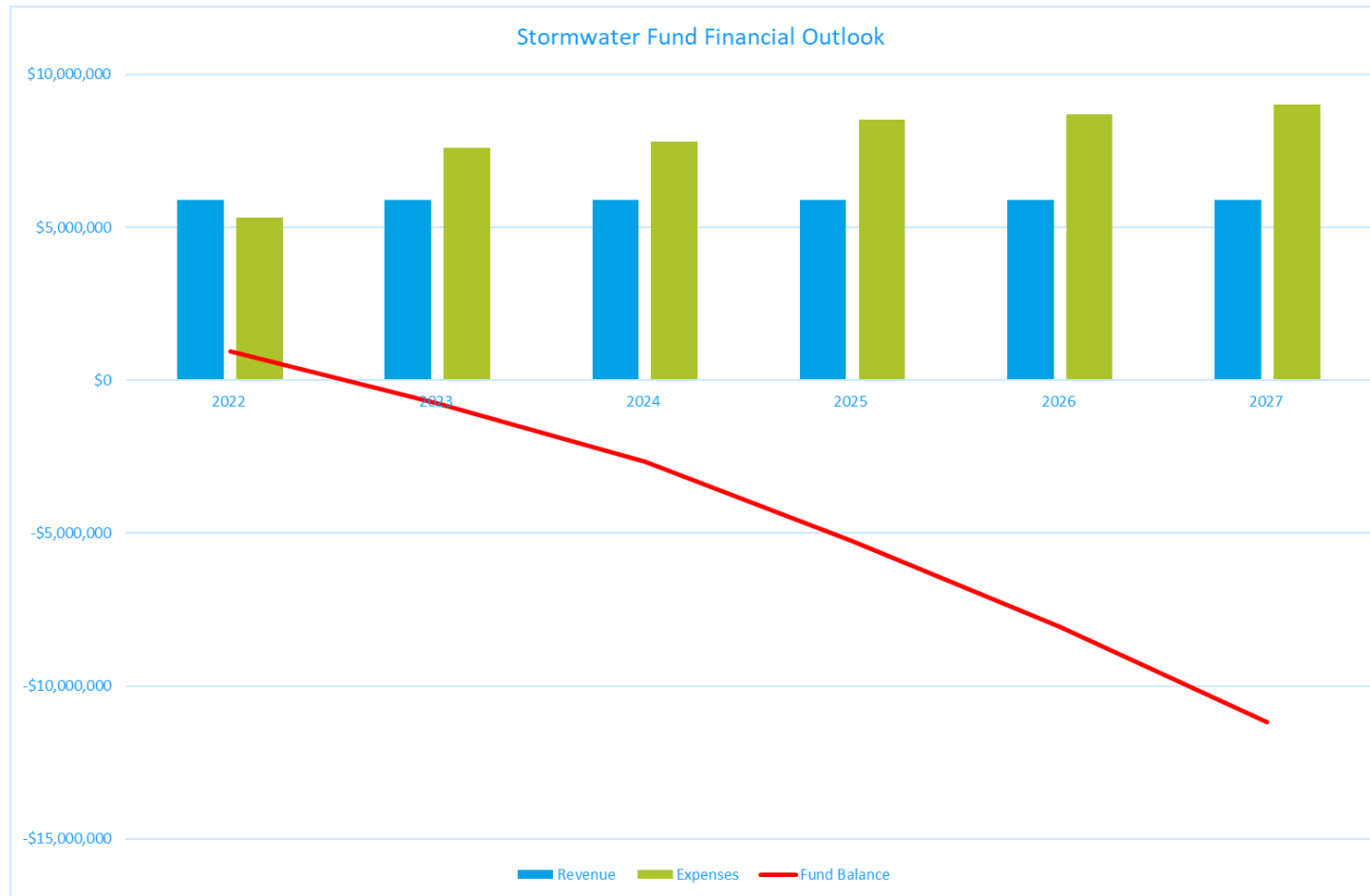
UG Stormwater System



Primary Source of Stormwater Utility Revenues

- Flat Stormwater Charge **per Electric or Water Account**
- Flat monthly stormwater charge (**Residential = \$6.00**)
- Flat monthly stormwater charge (**Non-residential = \$14.00**)
- Cost recovery approach impacts equity and funding capacity

Projected Fund Balance at Existing Revenue and Existing Service Levels



- Deficit enterprise fund situation
- Existing revenue will not support even existing services:
 - basic operational costs
 - emergency capital maintenance needs, and
 - current debt service payment obligations

With additional revenue, tax revenue will be needed to fund the stormwater program

Stormwater Program and Needs

O&M Level of Service

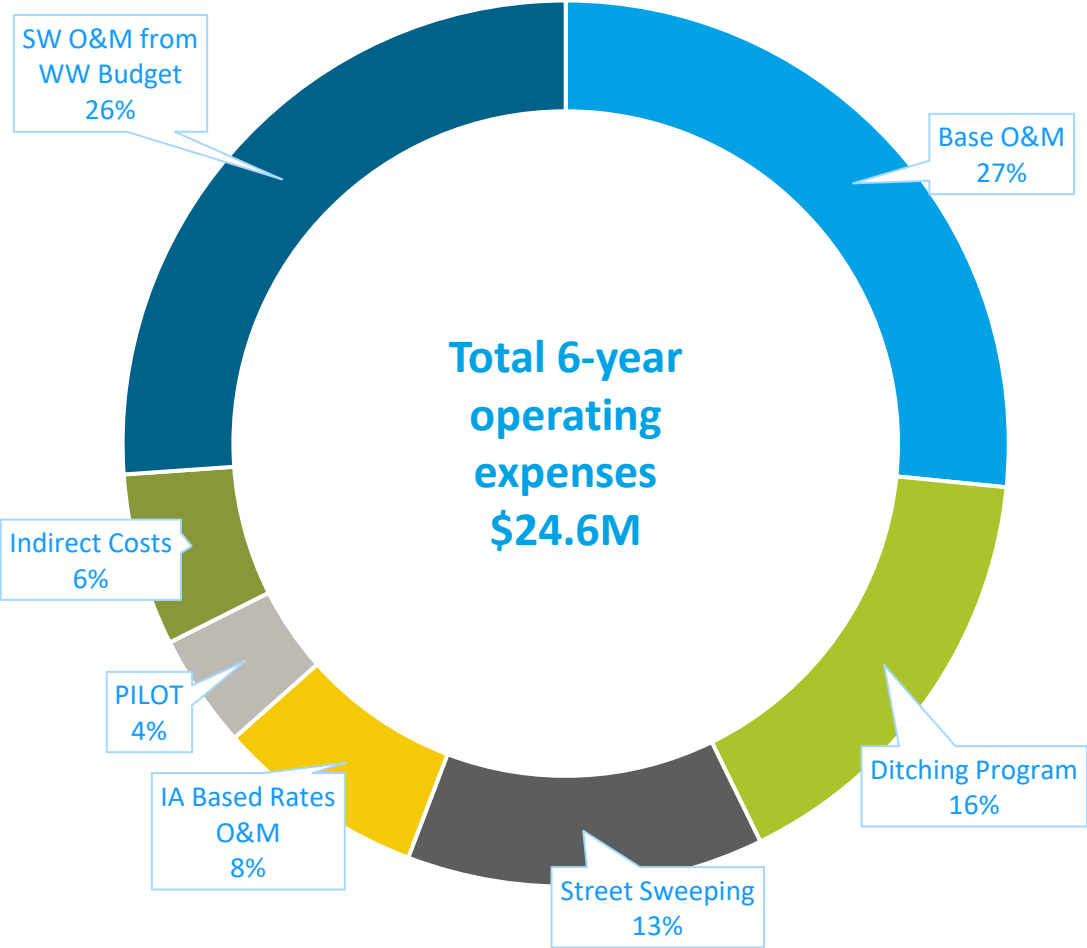


Enhanced Level of Services

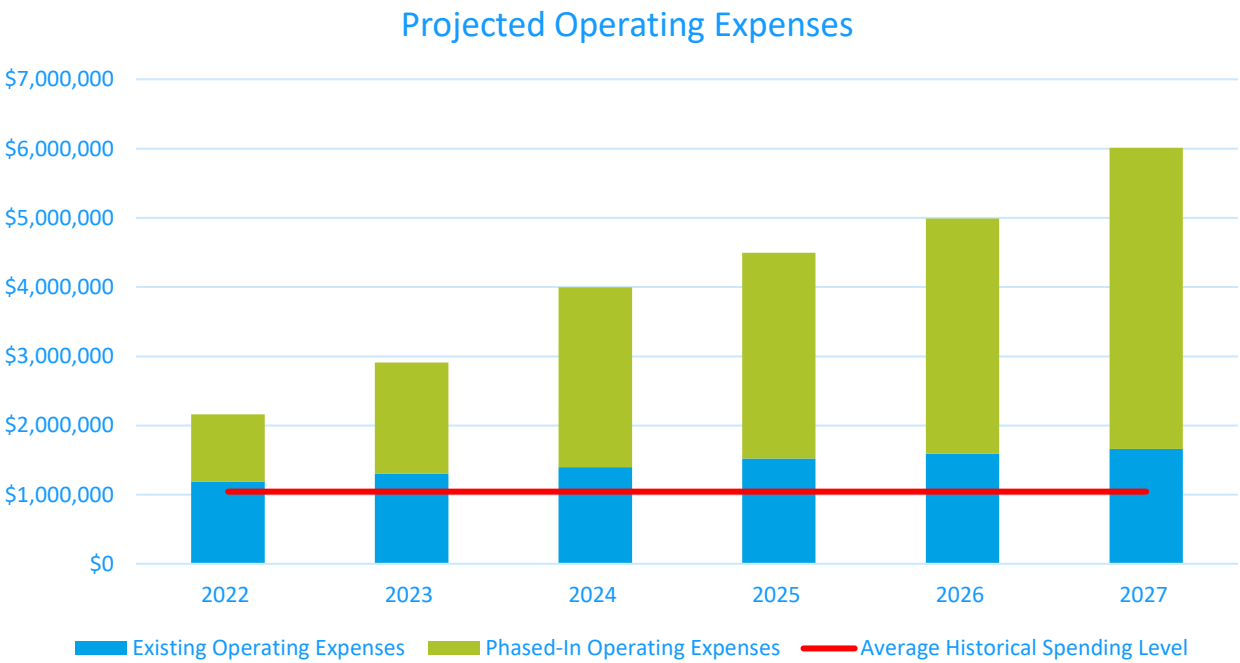
- Street Sweeping – \$600,000 transition to Stormwater over 3 years provides relief for General Fund
- Ditching Program - \$750,000 phased in over 3 years
- Transition stormwater rates O&M from wastewater – \$2.5M/year phased in over 5 years will provide relief for Wastewater and promote equitably cost recovery



Operation & Maintenance Needs

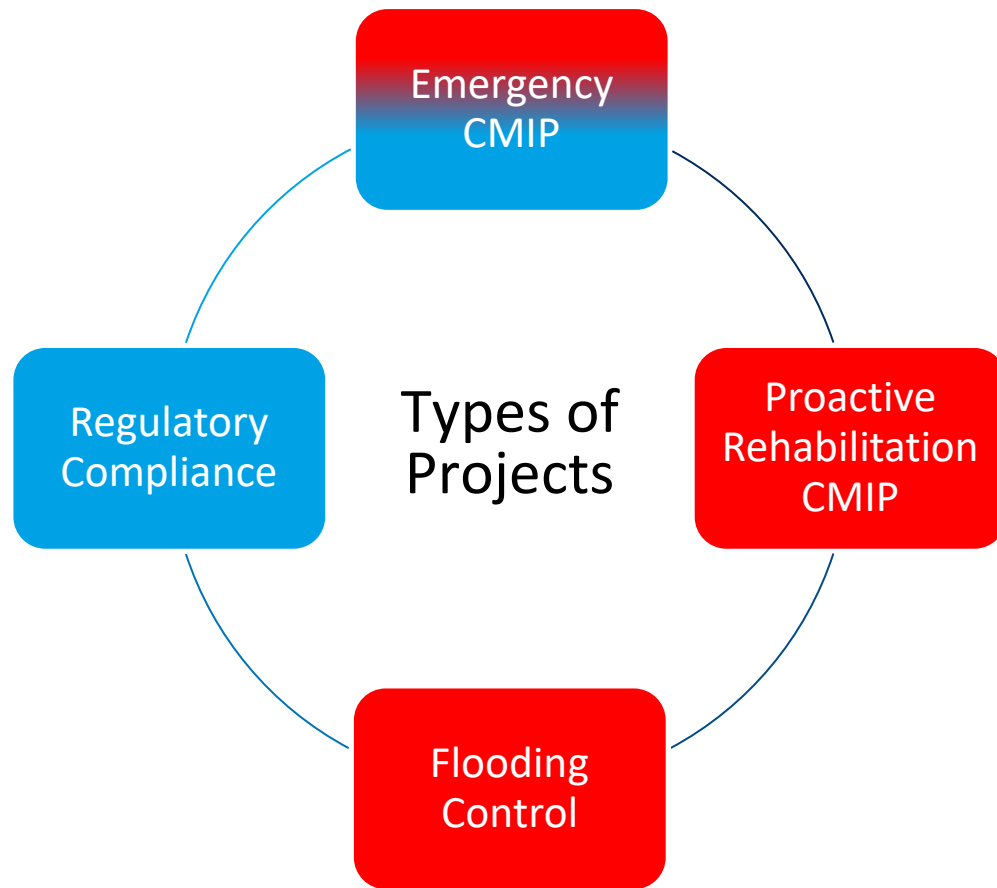


9-year historical O&M expense averaged just \$1M/year



Operation & Maintenance expenses increase an average of 23% per year through 2027

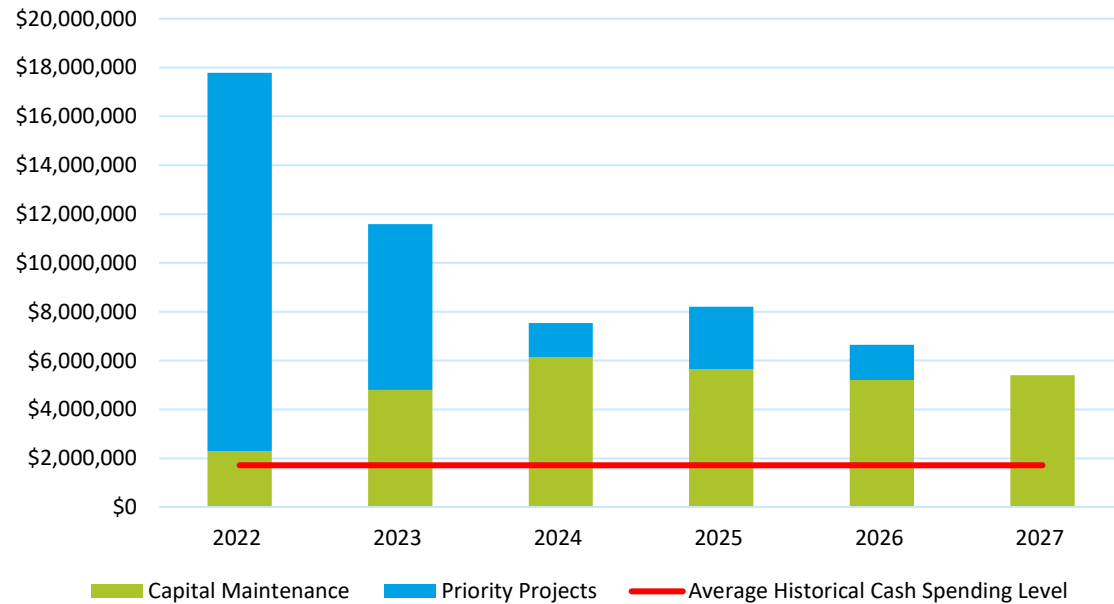
Capital Maintenance Improvement Program



- Average annual cash spend from 2013 - 2021 was \$1.7M
- Current revenue does not provide enough funds to address flooding issues, proactive maintenance, and emergency repairs

Projected CMIP Needs (2022 – 2027)

Projected Capital Needs



Total CMIP Needs: \$57M

- Capital Maintenance Projects expenditure level will increase
- Seven Priority Capital Projects will be debt funded



Watershed-Based Stormwater Masterplan

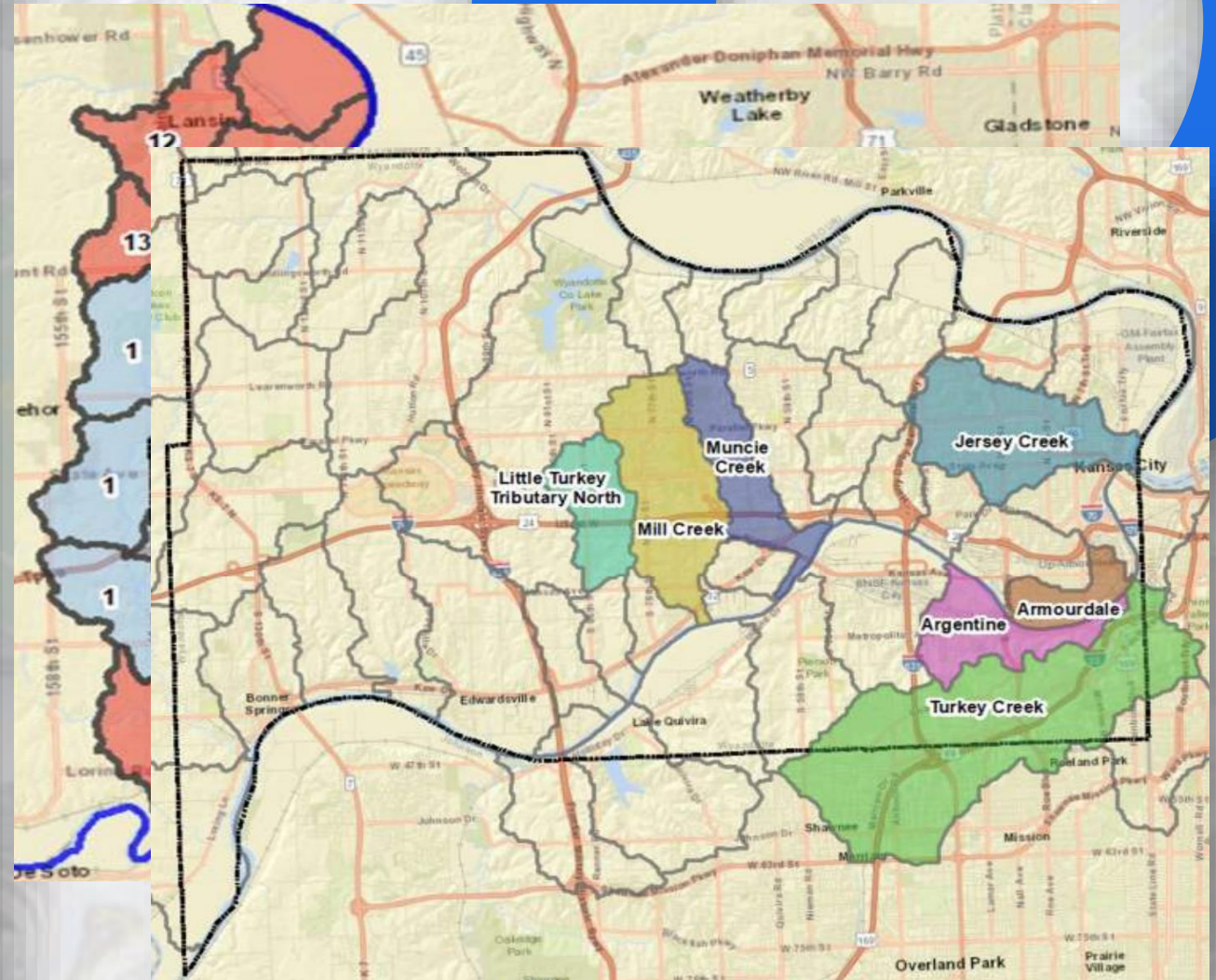
Phase I - Watershed Deficiency

Overall

- 50+ basins within MS4 Permit
- 87 individual areas of impairment

Focused

- 40 areas investigated within 7 watersheds
- 12 priority capital projects identified
- **\$140 Million**



Priority Capital Projects Included in the Proposed Financial Plan

\$27.8M could fund only the significantly deficient, priority projects

Project Types

Key Benefits

Deficiency Study
Capital Projects
\$13.7 M

- 1 Jersey Creek – East Jersey Creek Outfall \$2.7M
- 2 Argentine – 12th & Ruby Improvements \$6.7M
- 3 Muncie – Speaker/Royal/59th Ln Improvements \$4.3M

Improve structural integrity and conveyance; mitigate flooding

Improvement
Capital Projects
\$4.9 M

- 4 Stormwater Renewal and Replacement \$4.9M

Improve structural integrity and mitigate flooding

Consent Decree
Green Infrastructure
Capital Projects
\$9.2 M

- 5 Eighth Street Park Stormwater Concept \$6.1M
- 6 Census Track 422 – Clifton Park Stormwater Concept \$1.1M
- 7 Wyandotte High/Lombardy Drive Stormwater Concept \$2.0M

Supports regulatory compliance; conveyance; flooding mitigation; aesthetics

A large green circle is partially visible on the left side of the slide, extending from the top to the bottom.

Part 2: Funding and Rate Structure Strategies and Implications

CMIP Funding

Current Approach to Funding

Current Capital Funding Sources:

- Limited GO Bonds issued on annual basis
- Limited annual Cash Financing

Severely constrained capital program
funding capability

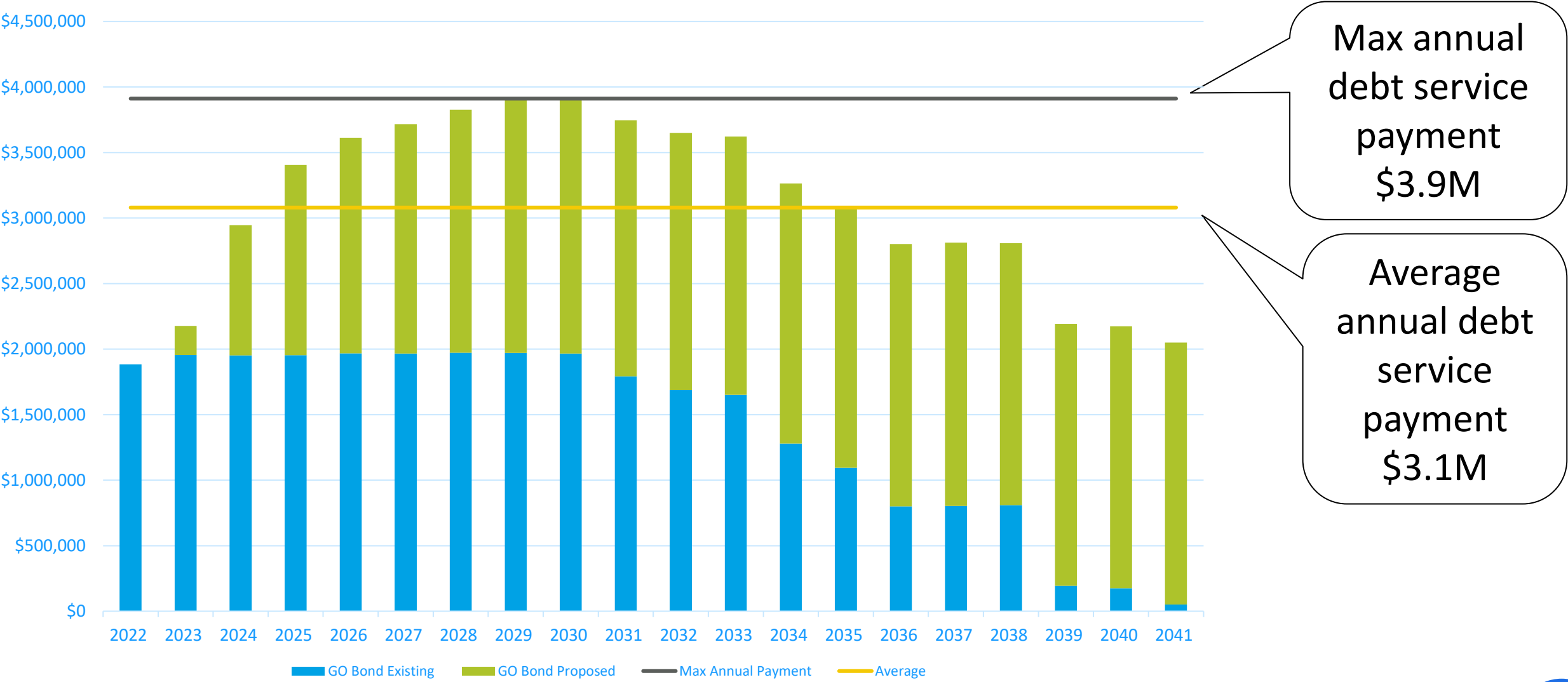
Proposed Approach to Funding

Proposed Capital Funding Sources (2022 – 2027):

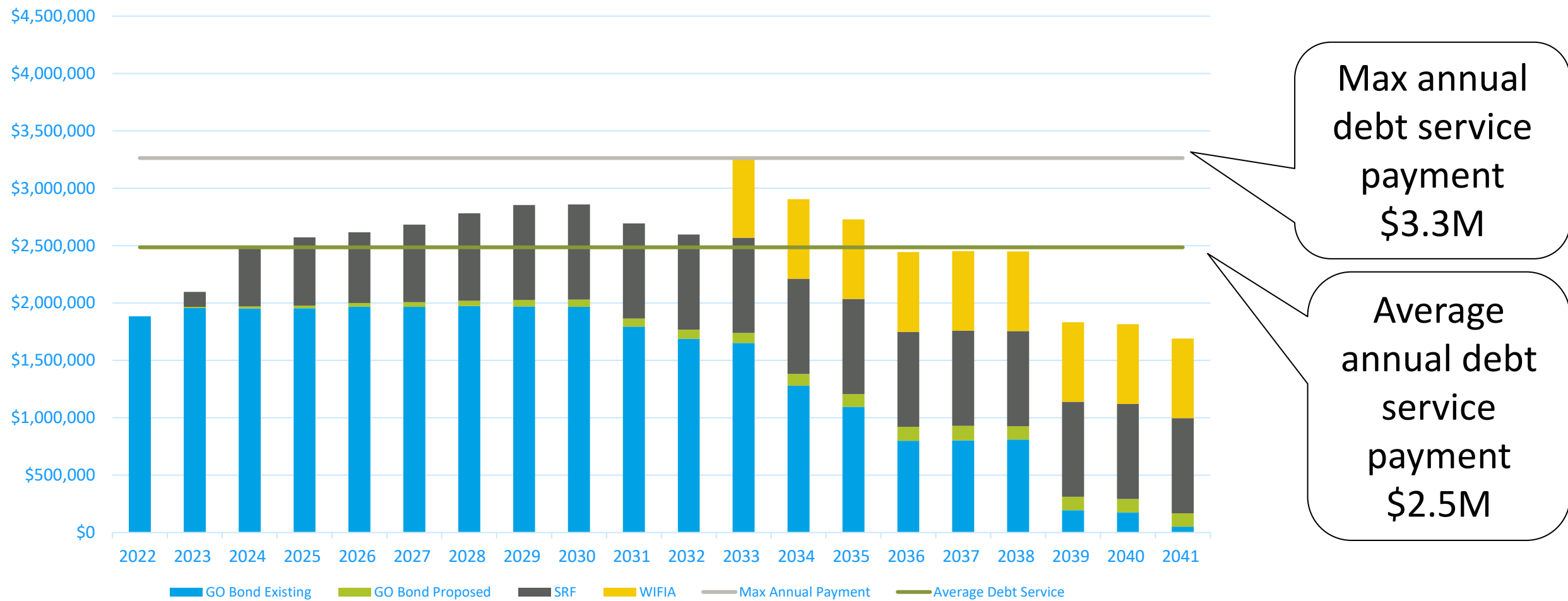
- Multi-layer funding
 - Low Interest WIFIA/SRF Loans: \$27.6 M
 - GO Bonds: \$ 3.4 M
 - Cash Financing \$26.0 M
- Total Capital Program Funding **\$57.0 M**

WIFIA and SRF opportunities provide low-interest loans and WIFIA provides deferred payment schedule

Projected Annual Debt Service Current Approach

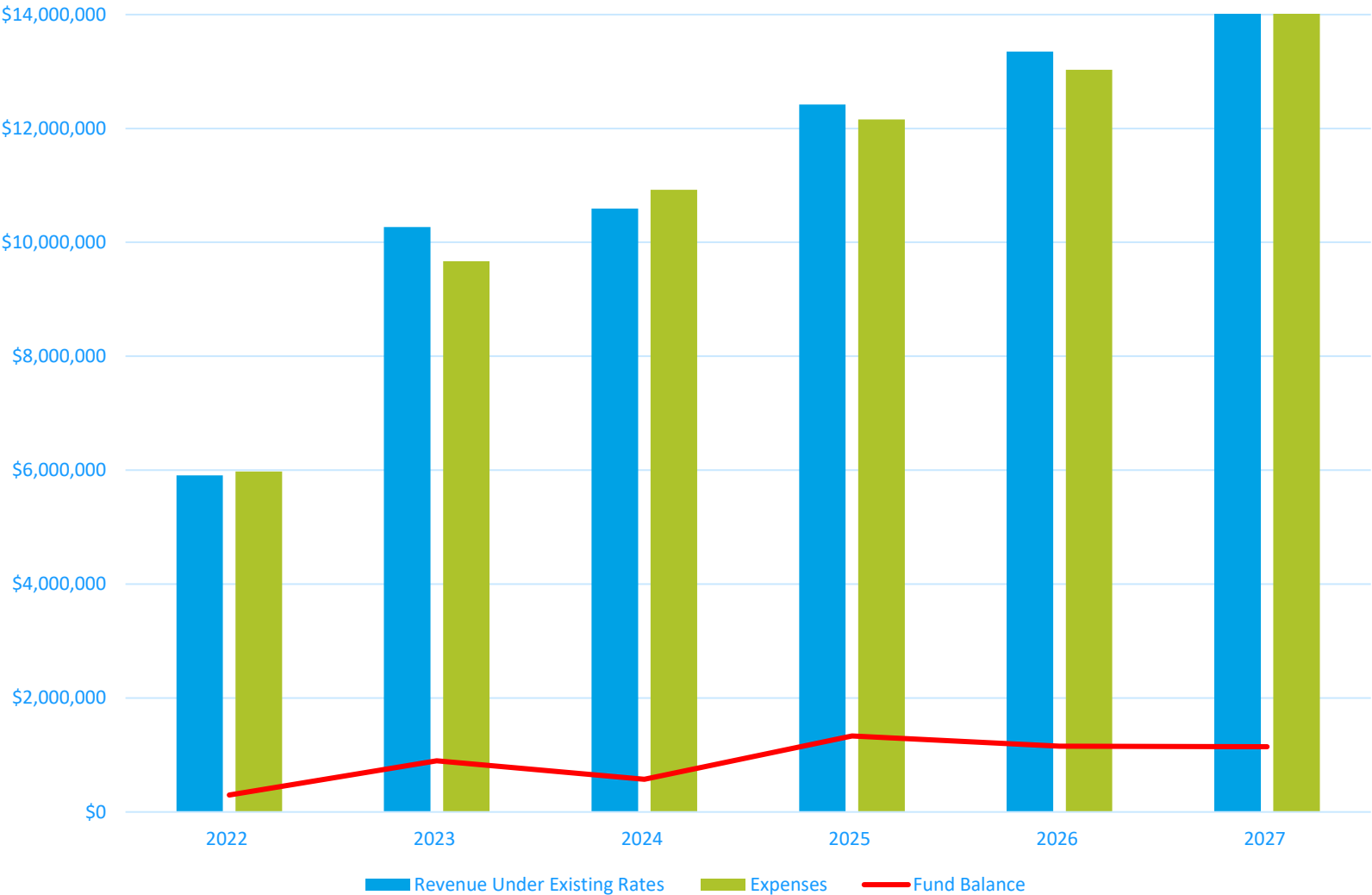


Projected Annual Debt Service Multilayering Approach



Projected Fund Balance With Proposed Revenue Level

Stormwater Fund Financial Outlook



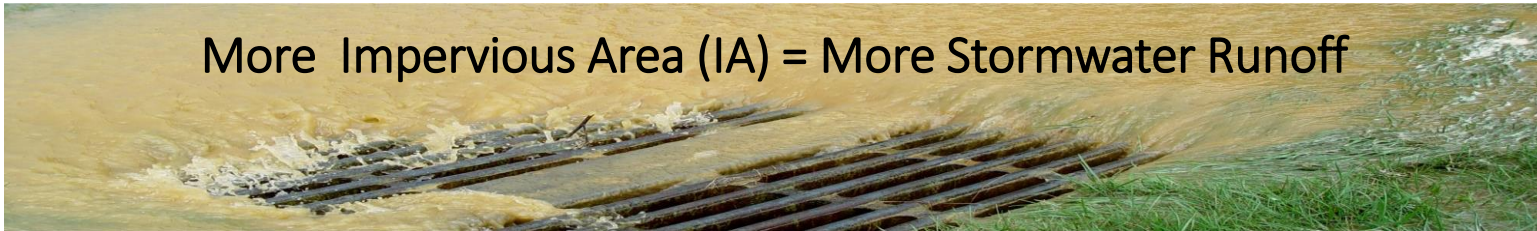
With additional revenue Stormwater Enterprise Fund’s fee revenues will:

- Move the enterprise fund out of deficit and wean from GF support
- Support enhanced operational services
- \$56 M of most critical capital projects

The projected fund balance achieves the target of 90 days of cash on hand

Rate Structure Strategies

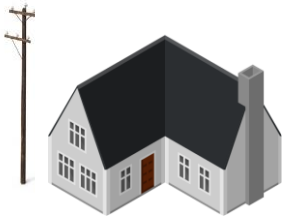
What is Rate Structure Transition?



More Impervious Area (IA) = More Stormwater Runoff

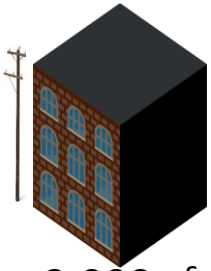
Existing Cost Recovery Approach

- Charge assessed per Electric or Water Account
- No consideration of the stormwater runoff a property contributes

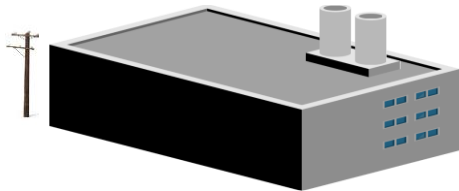


3,000 sf

Residential Accounts: \$6.00 / Month



3,000 sf



20,000 sf

Non-residential Accounts: \$14.00 / Month

Change Cost Recovery Approach

- Charge based on Property's Impervious Area (IA)
- Recognize the demand a property places on the System



Residence



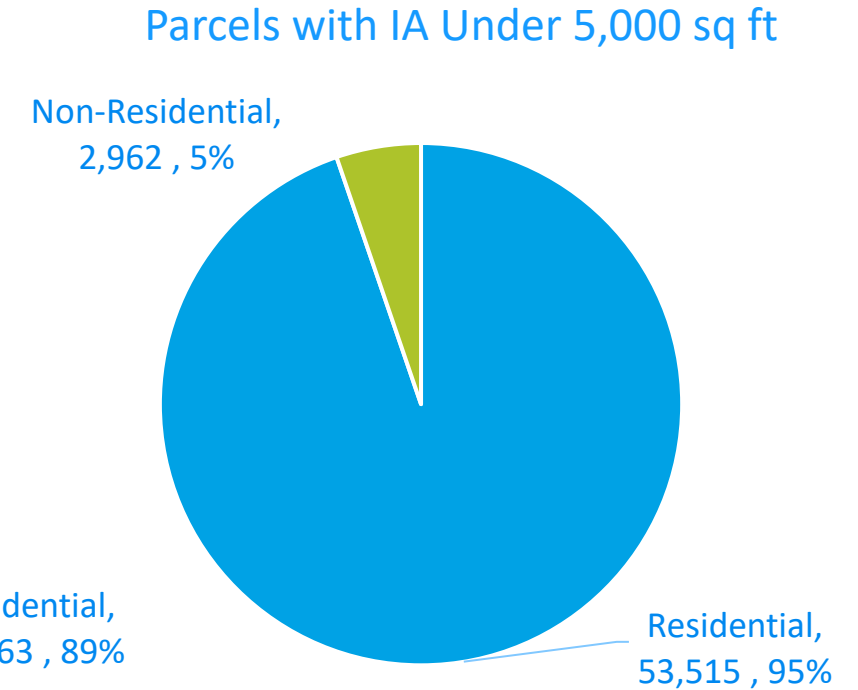
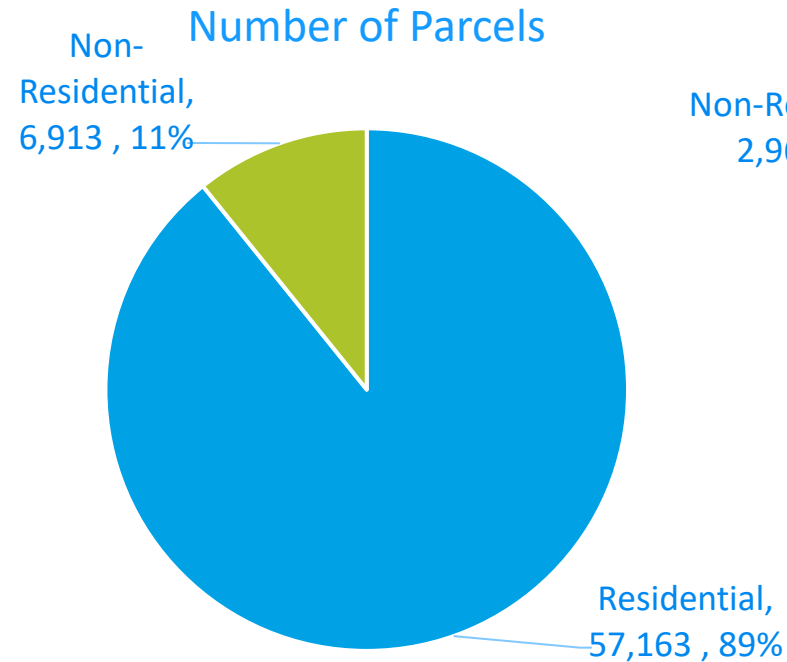
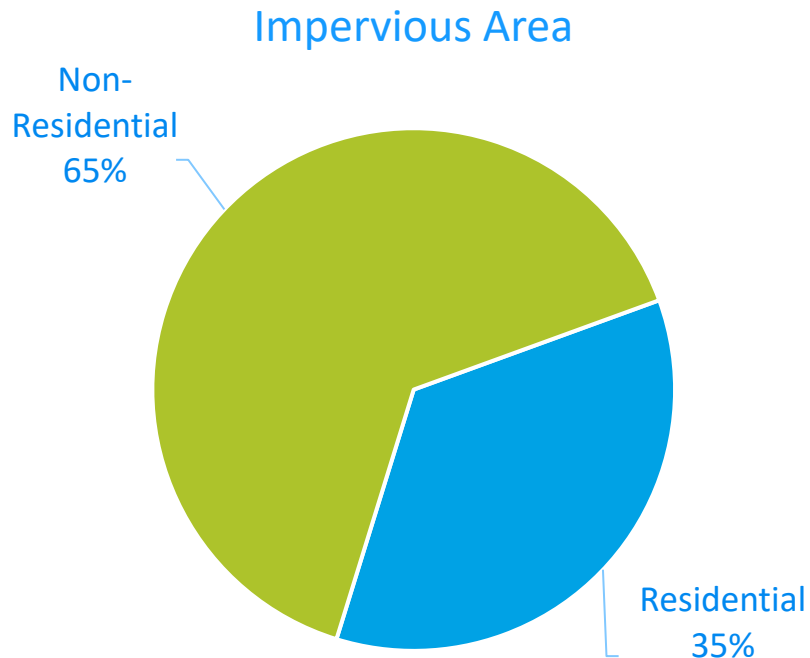
Big Box Store



Medical Center

What's the Challenge?

- Residential class consists of 89% of the total parcels, but has only 35% of the total system impervious area
 - Residential customers disproportionately pay 78% of the total revenue under the current rates
- 88% of the total UG parcels have less than 5,000 square feet of impervious area
 - Of the 88%, 95% are Residential (53,500 parcels) and 5% are Non-residential (2,900 parcels)
- These properties pay more relative to the demand they place on the stormwater system



Bill Impact under Proposed Individually Calculated

Proposed Monthly Rates - Individually Calculated					
		2024		2025	2026
Monthly Base Charge	\$	4.15	\$	4.67	\$ 5.38
Monthly Rate per 500 sq feet of Impervious Area	\$	0.70	\$	0.81	\$ 0.85

Residential Monthly Bill Examples				
	Hard Surface Area	2024	2025	2026
Small	1,200 square feet	\$5.83	\$6.61	\$7.42
Medium	2,500 square feet	\$7.65	\$8.72	\$9.63
Large	4,000 square feet	\$9.75	\$11.15	\$12.18

Non-Residential Monthly Bill Examples				
	Hard Surface Area	2024	2025	2026
Small	5,500 square feet	\$11.85	\$13.58	\$14.73
Medium	12,000 square feet	\$20.95	\$24.11	\$25.78
Large	75,000 square feet	\$109.15	\$126.17	\$132.88

Key Outcomes

- Under this structure monthly charges will be based on parcel Impervious Area
- All properties will be assessed a stormwater charge that aligns with their Impervious Area
- Will provide “high level of equity” in cost recovery across parcels with varying levels of impervious area

If Rate Structure Transition or Increase in Existing Flat Charges Do not Occur . . .

Capital Program

WIFIA/SRF Funding Not Possible Impacting Priority SW Projects

Alternative Funding Not Possible Impacting Future Watershed Impairment Projects

Stormwater CMIP Program Projects Deferred & Compromised

O&M Program

Ditching Program Unfunded

Street Sweeping Unfunded

Stormwater O&M Cannot be Moved from Wastewater

Wastewater Implications

Stormwater O&M Must Remain in Wastewater Adding Funding Pressure

Wastewater CMIP and Partial Consent Decree Funding Compromised

Multi-Layering Funding Source Opportunities

- Programming Opportunities
 - FEMA
 - USACE
 - KDHE
- Grant Opportunities
 - Infrastructure Investment and Jobs Act (IIJA)
- Earmarks
 - Omnibus Bill

Rate Structure Transition provides opportunity for UG to participate in other fund programs

***Strong Program**

***Known Projects**

***Identified CIP Schedule**

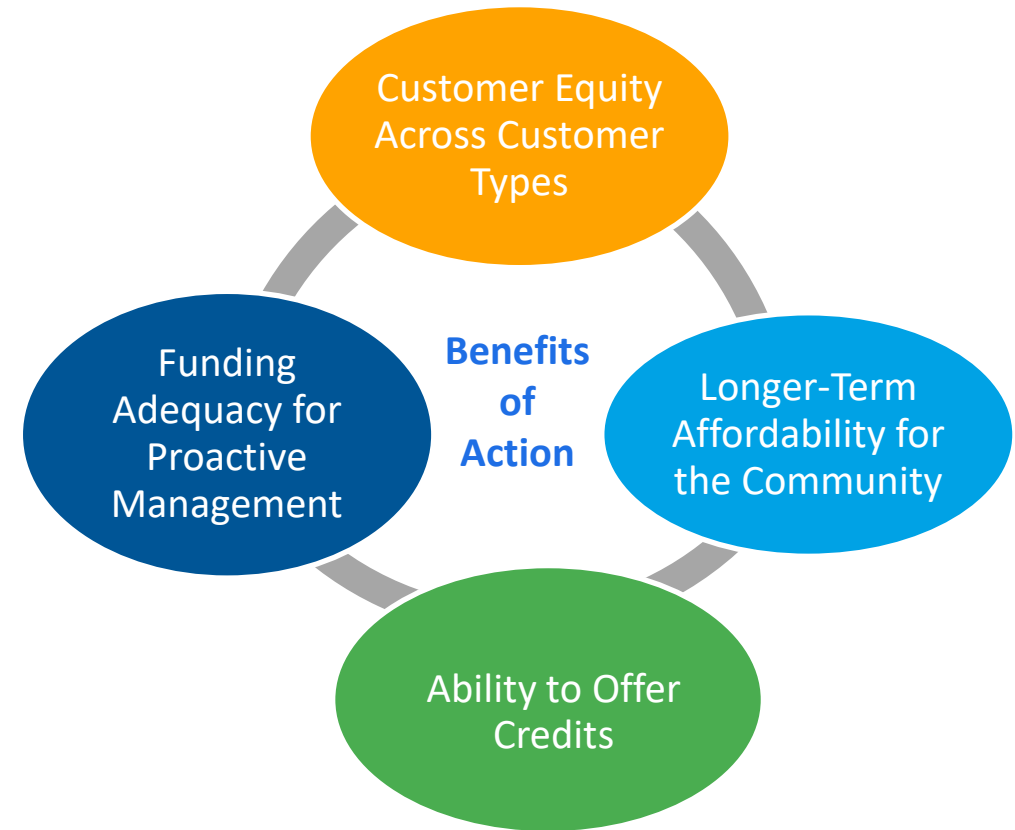
**NOAA, NASA, BASE, EDA, MARC
submittals that included
Stormwater/Stormwater
Support Projects**

*Supplemental funding sources cannot
replace a dedicated funding source, but
they can extend its reach*

*All supplemental funding sources
are competitive*

Why Now?

- 1 The cost of inaction results in a disproportionate charge increase for residential class **and** non-residential class with very low impervious area
- 2 The stormwater enterprise fund is in “deficit” and is subsidized by the wastewater utility and the General Fund
- 3 Current revenue levels severely limits our ability to pursue available capital funding opportunities





BLACK & VEATCH

We Can and We Must



Staff Request for Commission Action

Tracking No. 212092

Full Commission Meeting Date:

Committee: Full Commission

Date of Standing Committee Action:
(If none, please explain):

Publication Required: No

<u>Date:</u> 11/03/2022	<u>Contact Name:</u> Ana Marin	<u>Contact Phone:</u> x5010	<u>Contact Email:</u> amarin@wycokck.org	<u>Department/Division:</u> Legal
<u>Item Description:</u> An Ordinance relating to term limits and prohibition and Commission members holding office, amending original sections 2-51, 2-52, and 2-60 of the Code of Unified Government of Wyandotte County/Kansas City Kansas, submitted by Tyrone Garner, Mayor/CEO.				
<u>Action Requested:</u>				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> term.limits.Ordinance (002)				

ORDINANCE NO. _____

AN ORDINANCE relating to term limits and prohibition on Commission members holding office; amending original Sections 2-51, 2-52 and 2-60 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas.

Whereas, Chapter 3 of the Wyandotte County/Kansas City, Kansas Consolidation Study Commission Report, dated January 13, 1997 considered the rules and procedure for succession, termination and election recall “used by the Kansas City, Kansas and Wyandotte County governments” and “added emphasis was placed on the idea of term limits. The Consolidation Study Commission examined the trend toward limited terms for public officers” and

Whereas, the Board of Commissioners wish to limit the term of public office for the Mayor, at-large Commissioners and district Commissioners; and

Whereas, the Board of Commissioners wish to increase the prohibitions on commission members holding office after the expiration of their term of office.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY,
KANSAS:**

Section 1. That Section 2-51 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-51. Composition and eligibility.

- (a) The unified board of commissioners shall be an 11-member governing body hereinafter referred to as the "commission" composed of a chief executive/mayor (hereinafter "mayor") nominated and elected at large, and ten commission members. Eight of the commission members shall be nominated and elected from districts. Two at-large commission members shall be nominated from districts and elected at-large. The mayor and each district and at-large commission member shall be at the time of filing for the office a citizen of the United States, a qualified elector of Wyandotte County and, except for the mayor, must reside in either the district or the at-large district for which the person has filed to be elected and thereafter for the duration of their term continuously maintain said qualifications. The mayor must at all times reside within Wyandotte County.
- (b) From and after January 1, 2017, any person desiring to become a candidate for the office of mayor or for a position as a commission member shall file before the filing deadline with the election commissioner of the unified government (hereinafter "election commissioner") a statement of candidacy on a form furnished by the election commissioner. Each filing for mayor shall be accompanied by a filing fee equal to one percent of the annual salary for such position, or in lieu of such filing fee, a petition signed by 1,400 qualified electors of the unified government. Each filing for the position of at-large commission member shall be

accompanied by a filing fee equal to one percent of the annual salary for the position, or, in lieu of such filing fee, a petition signed by 700 qualified electors. Each filing for the position of district commission member shall be accompanied by a filing fee equal to one percent of the annual salary for the position, or, in lieu of such filing fee, a petition signed by 175 qualified electors.

- (c) No person shall be eligible to be a candidate for Mayor who has been elected Mayor in two regular municipal elections after January 1, 2024 and served as Mayor for two full terms of office. No person shall be eligible to be a candidate for at-large commissioner who has been elected at-large commissioner in two regular municipal elections after January 1, 2024 and served as an at-large Commissioner for two full terms of office. No person shall be eligible to be a candidate for district commissioner who has been elected district commissioner in two regular municipal elections after January 1, 2024 and served as a district commissioner for two full terms of office.

(Code 1988, § 2-541; Res. No. R-1-97, § 3.01, 10-2-1997; Res. No. R-141-98, § 1, 11-5-1998; Ord. No. O-23-16, § 1, 5-5-2016)

Section 2. That Section 2-52 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-52. Elections and terms.

- (a) After January 1, 2017, the nonpartisan primary election for mayor and commission members shall be held on the first Tuesday in August of every odd number year commencing in 2017. The general election shall be held on the Tuesday succeeding the first Monday in November of odd numbered years, both elections to be conducted in the manner prescribed in this division and Kansas law applicable to elections of first class cities to the extent such law does not conflict with unified government ordinances or resolutions. In 2017, and in each subsequent year in which the term of the mayor or commission member expires, and if there are more than two candidates who have filed for any position, a primary election shall be held for the nomination of two candidates for that position. Each qualified elector of Wyandotte County in the primary election for mayor and each qualified elector of the expiring commission member's at-large district or district commission member shall be entitled to vote for one candidate from among the candidates seeking election to the position. The two candidates receiving the greatest number of votes shall be placed on the general election ballot as the candidates nominated for election as mayor, district member or at-large commission member.
- (b) In the general election all qualified electors of the county shall be entitled to vote in the nonpartisan election of the mayor. Between the two candidates nominated for the office of mayor, the candidate receiving the highest number of votes in the general election shall be elected as mayor. As of January 1, 2017, the election for the office of mayor shall be held every four years on the Tuesday succeeding the first Monday of November. The term of the

mayor shall expire on the Monday before the second commission meeting in December after a biennial unified government election, when the newly elected mayor shall take office.

- (c) In the general unified government election all qualified electors of each district shall be entitled to vote in the nonpartisan election of the district commission member from the district where said elector resides. Between the two candidates nominated from each district, the candidate receiving the highest number of votes in the general election shall be elected as the commission member from the district. The term of the district commission members subject to election shall expire on the Monday before the second commission meeting in December after a biennial unified government election, when the newly elected commission members shall take office.
- (d) All qualified electors of the county shall be entitled to vote in the nonpartisan general election of both at-large members. Between the two candidates nominated from each at-large district, the candidate receiving the highest number of votes in the general election shall be elected as the at-large commission member from the at-large district. The term of the at-large commission member shall expire on the Monday before the second commission meeting in December after a biennial unified government election, when the newly elected at-large commission member shall take office.
- (e) In the election held on the Tuesday succeeding the first Monday of November 2017, the following positions of district commissioner shall be subject to election: At-Large District 2; District 1; District 5; District 7; and District 8. In the election held on the Tuesday succeeding the first Monday of November 2019, the following districts shall be subject to election: At-Large District 1; District 2; District 3; District 4; and District 6.
- (f) Except as otherwise provided by law, the election commissioner shall cause notice of the time of the holding of any general election to be published once at least 15 days before such election, except in the case of special elections, when ten days' notice shall be given. Such notice shall be published in the official unified government newspaper. Such notice shall state the date and times of such election, the name of each person nominated for any public office to be voted upon, and any propositions to be voted upon. If such election is not held in conjunction with another election for which notice of voting areas and polling places has been published, the notice required by this section shall also include such information.
- (g) Commencing in the term beginning January 1, 2032, no person may hold the office of mayor, at-large commissioner, or district commission member for more than two full consecutive terms of office. Persons elected as mayor, at-large commissioner or district commission member prior to date this ordinance takes effect are included within the term limits established by this section.

(Code 1988, § 2-542; Res. No. R-1-97, § 3.02, 10-2-1997; Res. No. R-141-98, §§ 2, 3, 11-5-1998; Ord. No. O-23-16, § 2, 5-5-2016; Ord. No. O-13-20, § 1, 3-12-2020)

Section 3. That Section 2-60 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-60. Prohibitions on commission members holding office.

No commission member shall hold any other office or employment under the control and authority of the unified government during the term for which the member was elected to the commission. No former commission member shall hold any compensated appointive office or employment until ~~one~~ four year years after expiration of the term for which the commission member was elected or appointed to the commission.

(Code 1988, § 2-550; Res. No. R-1-97, § 3.10, 10-2-1997)

Section 4. This ordinance shall take effect and be in full force after its passage, approval, and publication in the official Unified Government newspaper.

PASSED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CIYT, KANSAS

THIS _____ DAY OF _____, 2022.

Tyrone Garner
Mayor/CEO

ATTEST:

Unified Government Clerk

Approved as to form:

Misty Brown, Chief Counsel



PROCLAMATION

- WHEREAS,** the Gateway Highsteppers Drill Team was founded on October 24th, 1997 by LaVeda Davis and Telicia Walton with the mission of “Motivating Youth Through Action” based on a desire to give back to the community at large; and
- WHEREAS,** the Gateway Highsteppers Drill Team has been a creative outlet for youth throughout the Wyandotte County area, promoting leadership, academic success, service, dedication, and camaraderie; and
- WHEREAS,** the Gateway High Steppers Drill Team has been a source of love, hope, and encouragement for children in the community and continues to be a beacon of light for youth in KCK; and
- WHEREAS,** the Gateway Highsteppers have been recognized nationally for their precise steps, energetic performance, and supreme showmanship on every dance floor they touch; and
- WHEREAS,** the Gateway Highsteppers have helped thousands of Kansas City youth graduate from high school with many members going on to pursue secondary education; and
- WHEREAS,** many alumni members of the Gateway Highsteppers Drill Team continue to serve the Wyandotte County community in the areas of education, public safety, public health, local government and more; and
- WHEREAS,** many alumni members of the Gateway Highsteppers Drill Team continue to serve the Wyandotte County community in the areas of education, public safety, public health, local government and more; and

NOW, THEREFORE, I, Tyrone Garner, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, do hereby proclaim October 24th, 2022, as:

“Gateway Highsteppers Day”

in Wyandotte County/Kansas City, Kansas as a celebration of the impact of the Gateway Highsteppers drill team on youth throughout the entire Wyandotte County community. In witness whereof, I have hereunto set my hand and the seal of the Unified Government of Wyandotte County/Kansas City, Kansas.

TYRONE GARNER, MAYOR/CEO



PROCLAMATION

- WHEREAS,** Kansas City, Kansas, is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and
- WHEREAS,** Kansas City, Kansas, is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and
- WHEREAS,** Kansas City, Kansas, is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and
- WHEREAS,** Kansas City, Kansas, acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2022.

NOW, THEREFORE, I, Mayor of Kansas City, Kansas, do hereby proclaim November 1, 2022, to be Extra Mile Day. I urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

“Extra Mile Day”

in Wyandotte County/Kansas City, Kansas
and call upon all residents to join the
Extra Mile Day. In witness whereof, I have
hereunto set my hand and the seal of the
Unified Government of Wyandotte
County/Kansas City, Kansas.

TYRONE GARNER, MAYOR/CEO



Unified Government of Wyandotte County/Kansas City, Kansas

PROCLAMATION

- WHEREAS,** Leon Brady taught young people in the Kansas City, KS, School District music at Northeast Junior High School and Sumner High School from 1966 to 1978; and
- WHEREAS,** Brady took his marching band to New Orleans for the Sugar Bowl Parade in 1969, garnering a national TV audience; and
- WHEREAS,** Brady took his segregated Sumner High School stage band to Paris, France in 1972, winning an International Jazz Band Competition. Upon return the band recorded the album "Sumner in Paris '72" and became internationally known; and
- WHEREAS,** Brady's stage band performed at the opening of Arrowhead Stadium in Aug. 1972 to a crowd of more than 78,000 fans; and also took his stage band to Washington D. C. during the 1970's to perform on the steps of the Capitol; and
- WHEREAS,** until recently, Brady spends his time instructing young percussionists on the finer points of playing the drums and has spent the majority of his career making sure young people grow up with an appreciation and understanding of music; and
- WHEREAS,** in 2019, Brady's recognition went beyond Kansas City, KS when he received a bronze marker at 18th and Vine Streets and was inducted in the Kansas City Jazz Walk of Fame; and
- WHEREAS,** Brady has launched the careers of many other successful musicians including pianist Charles Williams, saxophonist and instructor Felicia Smith Safir and drummer John Cushon.; and
- WHEREAS,** Brady is the subject of a new book entitled "From the Heart of the Hood to the Pinnacle of Paris" and the entire city of Kansas City, KS, has deep pride in Brady's accomplishments; and
- WHEREAS,** Brady turns age 90 on Nov. 4, 2022, a proclamation is hereby issued to Leon Brady.

NOW, THEREFORE, I, Tyrone Garner, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, do hereby proclaim November 4, 2022, as:

"Leon Brady Day"

In Wyandotte County/Kansas City, Kansas and urge all citizens to recognize musician and local treasure Leon Brady. In witness whereof, I have hereunto set my hand and the seal of the Unified Government of Wyandotte County/Kansas City, Kansas.

TYRONE GARNER, MAYOR/CEO



PROCLAMATION

- WHEREAS,** Ignacio “Nick” Sanchez was born on November 16, 1922, the first-born son to Mexican immigrants Francisco M. Sanchez & Eligia Huerta Sanchez; and
- WHEREAS,** Nick met his childhood sweetheart Mercedes “Mercy” Vargas while both attended Clara Barton, an historic school within the Hispanic- American community of Kansas City, Kansas, during the days of racial segregation; and
- WHEREAS,** Nick and Mercy married on March 19, 1945 at Saint John the Divine, a staple in the KCK community of Argentine; and
- WHEREAS,** Nick enlisted in the United States Army Air Force, served as a Turret Gunner aboard a B-17 Bomber during WWII, participated in 35 Combat Missions (to include the D-Day Invasions), continued to serve his country for a total of 22 years in the Active-Duty Air Force, retired in 1965 as a Master Sergeant; and
- WHEREAS,** Nick distinguished himself during his military career by earning the Distinguished Flying Cross, Air Medal with three Oak Leaf Clusters, Good Conduct Medal with three Oak Leaf Clusters, American Campaign Medal, European Campaign Medal, World War II Victory Medal, National Defense Service Medal, Air Force Longevity Service Award Ribbon with four Oak Leaf Clusters, and the rarely awarded French Legion of Honor; and
- WHEREAS,** Nick and Mercy started a family and raised 7 children, Mary, Darlene, Linda, Nick Jr., Frank, Richard, Bernadette, 17 grandchildren, 15 great-grandchildren, and 3 great-great grandchildren, who have been raised knowing the roots of their family were in Kansas City, Kansas; and
- WHEREAS,** Nick continues to represent WWII Veterans, Hispanic-Americans, and the people of Kansas City, Kansas by recalling his extensive life experiences, and life lessons learned along the way, to audiences ranging from school children to Veterans groups to sporting event attendees to members of his own family; and
- WHEREAS,** the Sanchez family’s American Dream began in adject poverty, in the era of the 1920s, amongst the makeshift worker camps of the Santa Fe Railroad, in a period of open/violent racial discrimination against Hispanic Americans, but Nick and his siblings persevered and made a better life for themselves and future Sanchez descendants.

NOW, THEREFORE, I, Tyrone Garner, Mayor/CEO of the Unified Government of Wyandotte County/Kansas City, Kansas, do hereby proclaim November 16, 2022, as:

“Nick Sanchez 100th Birthday”

in Wyandotte County/Kansas City, Kansas and urge all citizens to recognize Nick Sanchez. In witness whereof, I have hereunto set my hand and the seal of the Unified Government of Wyandotte County/Kansas City, Kansas.

TYRONE GARNER, MAYOR/CEO



Staff Request for Commission Action

Tracking No. 212028

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action: 10/24/22
(If none, please explain):

Publication Required: No

<u>Date:</u> 10/25/2022	<u>Contact Name:</u> Casey Meyer	<u>Contact Phone:</u> x2851	<u>Contact Email:</u> cmeyer@wycokck.org	<u>Department/Division:</u> Legal
<u>Item Description:</u> Requesting approval for amendments to Chapter 7 of the Animal ordinances: Sections 7-2 (Penalty), 7-79 (Cruelty and Neglect of Animals), 7-216 (Dangerous Animals), 7-217 (Vicious Animals), and adding new Section 7-82 regarding a Reckless Pet Owner declaration and violation, submitted by Casey Meyer, Senior Counsel, and Ashley Scott, Director of Animal Services.				
<u>Action Requested:</u> To approve the ordinance.				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> Amended Chapter 7 - Animal Ordinances Redline 2022				

Published _____

ORDINANCE NO. _____

An ordinance relating to Chapter 7 – Animals - amending Article I, Section 7-2 – Penalty; Article III, Section 7-79 – Cruelty and Neglect of Animals; Article VI, Sections 7-216 – Dangerous Animals; 7-217 – Vicious Animals; and adding a new Section 7-82 in Article III – Reckless Pet Owner Declaration and Violation, of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Chapter 7 - Animals, amending Sections 7-2 – Penalty; 7-79 – Cruelty and Neglect of Animals; 7-216 – Dangerous Animals; 7-217 – Vicious Animals; and adding a new Section 7-82 in Article III – Reckless Pet Owner Declaration and Violation of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas, to read as follows:

Sec. 7-2. Penalty.

- (a) Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction of any such violation, shall, unless another specific penalty or specific penalty range be provided by another subsection of this section, be punished by a fine of not less than \$50.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment.
- (b) Any person violating any of the provisions of sections 7-14, 7-212, 7-218, 7-261, 7-266, or 7-267 shall, upon conviction and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with reference to initial or subsequent violation of the particular section:
 - (1) First offense, \$50.00.
 - (2) Second offense, \$100.00.
 - (3) Third offense, \$150.00.
 - (4) Fourth or any subsequent offense, \$600.00.
- (c) Any person violating any of the provisions of section 7-79 shall, upon conviction and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with references to initial or subsequent violation of the particular section:

-
- (1) First offense, \$300.00.
 - (2) Second offense, \$800.00.
 - (3) Third offense, \$1,000.00.
 - (4) After the first or any subsequent offense, the court may, in its discretion, revoke the license for the animal(s), or remove the animal as provided by section 7-78.
- (d) Any person violating any of the provisions of section 7-106 shall, upon conviction, be punished by a fine of not less than \$350.00 nor more than \$500.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment.
- (e) Any person violating any of the provisions of section 7-7, 7-157-213, 7-214, or 7-215, of this chapter shall, upon conviction, and after the court, subsequent to such conviction, has examined any prior conviction record to determine if the person has previously been convicted of the same offense, be sentenced by the court according to the following schedule of fines with reference to initial or subsequent violation of the particular section:
- (1) First offense, \$100.00.
 - (2) Second offense, \$200.00.
 - (3) Third offense, \$500.00.
 - (4) Fourth offense, or a conviction of subsection 7-215(f)(5), the court may, in its discretion, impose a fine, revoke license for the animal(s), and/or order the director of animal control to remove the animal from the residence to the unified government shelter for disposition as provided by this chapter.
- (f) Any person violating section 7-216 shall, upon conviction, be punished by a fine of not less than \$500.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment. The court may, in its discretion, revoke the license for the animal(s), or refuse to return the animal(s) back to the owner, keeper, or harborer. In addition to the foregoing penalties, any person who violates this article shall pay all expenses, including shelter, food, handling, and veterinary care necessitated by the enforcement of this article.
- (g) Any person violating section 7-217 shall, upon conviction, be punished by a fine of not less than \$500.00 nor more than \$1,000.00, by imprisonment in the county jail for a term not to exceed 180 days, or by both such fine and imprisonment. Violation of section 7-217 shall constitute a misdemeanor. Upon conviction of keeping a ~~dangerous~~-vicious animal, the municipal court judge may order restitution be paid to the victim up to the maximum amount allowed by law. The owner of a vicious animal shall pay all costs associated with impoundment, removal, or euthanasia of said animal. The owner shall pay any other associated costs incurred.
- (h) Each day's violation of or failure, refusal or neglect to comply with any provision of this chapter shall constitute a separate and distinct offense.
- (i) Court costs shall be imposed as authorized by ordinance.

(Code 1988, § 7-2; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-45-05, § 1, 6-2-2005; Ord. No. O-8-15, § 1, 1-29-2015)

Cross reference(s)—Court costs, § 23-13.

Sec. 7-79. Cruelty to and neglect of animals.

- (a) It is unlawful for any person to intentionally kill, maim, disfigure, torture, beat with a stick, chain, club or other object, mutilate, burn or scald with any substance, or overdrive any animal, except that reasonable force may be employed to drive off vicious or trespassing animals.
- (b) It is unlawful for any person to drive or work any animal cruelly.
- (c) It is unlawful for any person to fail, refuse or neglect to provide any animal in his charge or custody, as owner or otherwise, with adequate care, food, health care, shelter, and water.
- (d) It is unlawful for any owner or keeper to abandon any animal. For purpose of this section, "to abandon" means for the owner or keeper to leave an animal without demonstrated or apparent intent to recover or resume custody or to leave an animal for more than 12 hours without providing for adequate food, water and shelter for the duration of the absence.
- (e) It is unlawful for any person by any means to make accessible to any animal, with the intent to cause harm or death, any substance which has in any manner been treated or prepared with a harmful or poisonous substance. It is not the intent of this section to prohibit the use of poisonous substances for the control of vermin that pose a threat to the public health.
- (f) It is unlawful for any person to carry any animal or cause any animal to be carried in or upon any vehicle in a dangerous or careless manner.
- (g) *Legislative findings.* It is the purpose of this section to promote the health and safety of the residents of the city and protect dogs from neglect by reducing the number of improperly tethered dogs. The unified government recognizes that dogs that are continuously and improperly tethered have an increased potential to be poorly socialized, act aggressively toward humans, and be neglected by their owner. In order to better protect the safety of its citizens and the welfare of the animal, restraint by tethering must meet certain standards.
- (h) Tethered animals must not:
 - (1) Be tethered unattended to any utility pole, parking meter, building, structure, fence, sign, tree, shrub, bench or other object on public property or on private property without the prior permission of the person or agency in charge thereof, and no pet animal shall be tethered within ten feet of, or in such a manner as to permit it to intrude upon, neighboring property, a public sidewalk or street;
 - (2) Be tethered directly with chains or other tethers, restraints or implements without the proper use of a collar, harness or other device designed for tethering;
 - (3) Be tethered with a chain, leash, rope or tether that is shorter than ten feet in length;
 - (4) Be tethered with a chain, leash, rope, collaring device, tether, or any assembly or attachments thereto that due to weight, inhibit the free movement of the animal within the area tethered;
 - (5) Tether ~~a dog~~any animal in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, posts or other man-made or natural obstacles.
- (i) It is unlawful for any person to have, keep or harbor any animal that is infected with any dangerous or incurable and/or painfully crippling condition except as hereinafter provided. A municipal court judge may order a person convicted under this section to turn the animal involved over to the animal control division. If, in the opinion of a licensed veterinarian, the animal appears to be

diseased or disabled beyond recovery for any useful purpose, the animal may be humanely euthanized. This section shall not be construed to include veterinary hospitals or animals under active veterinary care.

- (j) It is unlawful for any person to cause, instigate, stage, train or torment any animal for or permit any fight between any animal and another animal or human.
- (k) It is unlawful for any person to attend or solicit attendance at or be an umpire, judge, or other official at a fight staged between any animal and another animal or human.
- (l) It is unlawful for any person to give or to offer to give a live animal as a prize, a business inducement, or any other form of gratuity, except purebred livestock given away as a part of a farm youth organization program.
- (m) It is unlawful for any person to use as a toy or for display or decorative purposes, to sell or offer for sale, to expose for sale, to subject to any form of mistreatment or careless handling, or to dye any newly hatched fowl or newly born rabbit.
- (n) It is unlawful for any person to confine calves, sheep or hogs by tying their legs, except during a properly licensed rodeo, or in any way confine them in closed boxes or otherwise, or have in his possession any calves, sheep or hogs so tied or confined, or load into any freight car or into any other conveyance, for the purpose of transportation, any animal in a cruel or inhumane manner.
- (o) It is unlawful for any person to induce or encourage any animal in an animal exhibition, rodeo or circus to perform through the use of the chemical, mechanical, electrical or manual devices in a manner which will cause or is likely to cause physical injury or suffering.
- (p) It is unlawful for any person to display for sale, sell, exchange, barter, or give away any animal except in the following places:
 - (1) A commercial animal establishment having a valid business license and licensed with the state department of agriculture.
 - (2) A private kennel or cattery licensed with the state department of agriculture.
 - (3) A private residence, provided that should the residence exceed the limit of animals sold under K.S.A. 47-1701(f), that residence is licensed with the state department of agriculture.
- (q) It is unlawful for any person to intentionally use a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall for the purpose of sport or entertainment.
- (r) The provisions of this section shall not apply to:
 - (1) Normal or accepted veterinary practices;
 - (2) Bona fide experiments carried on by commonly recognized research facilities;
 - (3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of K.S.A. 32-101 et seq. or K.S.A. 47-101 et seq.;
 - (4) Rodeo practices accepted by the Rodeo Cowboys' Association;
 - (5) The humane killing of an animal which is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control by the owner thereof, by the agent of such owner residing outside of a city, by the owner thereof within a city if no animal shelter, pound or licensed veterinarian is within the city, by a licensed veterinarian at the request of the owner thereof, by any officer or

agent of an incorporated humane society, by the operator of an animal shelter or pound, by a local or state health officer, or by a licensed veterinarian five working days following the receipt of any such animal with tags identifying its owner at such society, shelter or pound;

- (6) With respect to farm animals, normal or accepted practices of animal husbandry;
 - (7) The killing of any animal by any person at any time which may be found outside the owned or rented property of the owner or custodian of such animal and which is found injuring or posing a threat to any person, farm animal or property;
 - (8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods; or
 - (9) Laying an equine down for medical or identification purposes.
- (s) As used in this section, the term "equine" means a horse, pony, mule, jenny, donkey or hinny.
- (t) Cruelty to animals is a Class A violation.

(Code 1988, § 7-57; Ord. No. O-22-03, § 1, 6-5-2003; Ord. No. O-8-15 , § 1, 1-29-2015)

Sec. 7-216. Dangerous animals.

- (a) It shall be unlawful for the owner of any animal to keep or maintain such animal in the city so as to constitute a dangerous animal. A dangerous animal is any animal which has done any of the following:
- (1) Caused a bite injury, other than a bite that resulted in great bodily harm, disfigurement, or death, to any person, or
 - (2) Killed another dog or cat.
- (b) A "bite injury" is any contact between an animal's mouth and teeth and the skin of a bite victim which causes visible trauma, such as a puncture wound, laceration, abrasion, ~~bruise~~ or other piercing of the skin.
- (c) Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous if any injury or damage is sustained by a person or animal who, at the time such injury or damage was sustained, was:
- (1) A member of the household; or
 - (2) Teasing, tormenting, abusing or assaulting the dog or committing or attempting to commit a crime; or
 - (3) Protecting or defending a human being within the immediate vicinity of the animal from an unjustified attack or assault.
 - (4) The provisions of this article shall not apply to a police dog being used to assist one or more law enforcement officers acting in an official capacity.
- (d) Notwithstanding the definition of a dangerous animal above, no animal may be declared dangerous based solely on size or breed, or mix of breed; or if death to a dog or cat occurred solely due to a size disparity between the animals and there was no sustained vicious attack on the dog or cat.

-
- (e) Any dangerous animal which is in the custody of an animal control officer and which in the judgment of the director of animal control or municipal court judge, would constitute a menace to the health, safety or welfare of the public if released from custody, may be held pending a hearing on any charges or complaints filed in the municipal court to determine the disposition thereof. If not so determined, the animal may, after having been held pursuant to section 7-108, be returned to its owner, keeper, or harbinger until final determination is made by the municipal court as to whether a violation of this section has occurred. If returned pending the final disposition of the case, the animal must be kept securely confined and must be muzzled while in public until final determination is made as to whether a violation of this section occurred.
- (f) Any violation of this section shall be punishable pursuant to the provisions of subsection 7-2(f). Upon conviction, the court may order that the animal be humanely euthanized and direct the director of animal control, or his or her designee, to ensure that the order is enforced.
- (g) Upon conviction of keeping a dangerous animal, the municipal court judge may order restitution be paid to the victim of the violation of subsection (a).
- (h) Upon conviction of keeping a dangerous animal, and the animal returning to its owner, the animal shall be kept subject to the following standards:
- (1) *Leash and muzzle.* No person shall permit a dangerous animal to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate object such as trees, posts, buildings, etc. In addition, all dangerous animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such animal from biting persons or other animals.
 - (2) *Confinement.* All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel when not indoors, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous animals must be locked with a key or structure. Such structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All structures erected to house dangerous animals must comply with all zoning and building regulations of the city. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition, and must not be the primary enclosure for keeping of the animal. Animal control Officers shall have the authority to monitor and inspect the keeping of all dangerous animals.
 - (3) *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in a part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when screen doors are the only obstacle preventing the animal from exiting the structure.
 - (4) *Signs.* All owners, keepers or harborers of dangerous animals within the city shall within ten days of conviction, display in a prominent place on their premises a signs easily readable by the public using the words "Beware of Dog" or "Beware of Dangerous Animal", whichever is applicable.
 - (5) *Insurance.* All owners, keepers or harborers of dangerous animals must within ten days of conviction provide proof to the director of animal control of public liability

insurance in a single incident amount of \$~~1,000,000~~500,000.00 for bodily injury to or death of any person or persons or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. The insurance policy will provide that no cancellation of the policy will be made unless ten days written notice is first given to the director of animal control.

- (6) *Identification photographs.* All owners, keepers or harborers of dangerous animals must within ten days of conviction provide to the animal control two color photographs of the registered animal clearly showing the color and approximate size of the animal.
- (7) *Microchip.* All owners, keepers or harborers of dangerous animals must within ten days of conviction microchip the animal and provide microchip information to the animal control to register the animal as dangerous.
- (8) *Spaying/neutering.* All owners, keepers or harborers of dangerous animals must within ten days of conviction spay or neuter the animal and provide proof of sterilization to the director of animal control.
- (9) *Sale or transfer of ownership prohibited.* Sale—No person shall sell, barter or in any other way dispose of a dangerous animal registered with the city to any person within the city unless the recipient person resides permanently in the same household and on the same premises as the registered owner of such animal; provided that the registered owner of a dangerous animal may sell or otherwise dispose of a registered dog or the offspring or such dog to persons who do not reside within the city.
- (10) *Failure to comply.* It shall be unlawful for the owner, keeper or harborer of an animal deemed by the municipal court to be a dangerous animal to fail to comply with the keeping requirements and conditions set forth in this article. Any animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply with the provisions of this article is deemed a separate offense. Upon conviction, the court shall order the revocation of the license of such animal resulting in the immediate removal of the animal from the city.

(Ord. No. O-8-15 , §§ 2, 3, 1-29-2015)

Editor's note(s)—Ord. No. O-8-15 , §§ 2 and 3, adopted Jan. 29, 2015, repealed and reenacted § 7-216, as herein set out. The former § 7-216 pertained to disposition of vicious dogs, and derived from the Code of 1988, § 7-127, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

Sec. 7-217. Vicious animals.

It shall be unlawful to keep, possess, or harbor a vicious animal within the city limits. A vicious animal means any animal which has caused great bodily harm, disfigurement, or death to any person.

(a) A vicious animal does not include an animal that has caused great bodily harm to any person while a person was committing a criminal offense on the property of the owner, keeper, or harbinger of the animal. The provisions of this article shall not apply to a police dog being used to assist one or more law enforcement officers acting in an official capacity.

(b) Upon conviction, the court shall order that the animal be removed from the city or humanely euthanized and direct the director of animal control to ensure that the order is enforced. Upon an order of removal, the owner, keeper or harbinger of the animal shall remove it within fourteen days of the order. ~~or humanely euthanized, and direct the director of animal control to ensure that the order is enforced.~~

(c) If the court orders removal per subsection (b), the owner shall provide proof of removal to the Municipal Court clerk through an affidavit with the address at which the animal will reside, no later than five business days after the fourteen day removal period.

(d) Failure to comply. It shall be unlawful for the owner, keeper or harbinger of an animal ordered removed from the city per subsection (b) to fail to comply with the provisions of this section. In addition, failure to comply with the provisions of (b) or (c) is deemed a separate offense. Any animal found to be the subject of a violation of (b) shall be subject to immediate seizure and impoundment. Upon conviction of a violation of subsection (b), the court shall order that the animal be humanely euthanized. If an appeal is timely filed, the Municipal Court shall suspend the euthanasia order pending the final determination of the court in which the appeal is under review.

(Ord. No. O-8-15 , §§ 2, 3, 1-29-2015)

Editor's note(s)—Ord. No. O-8-15 , §§ 2 and 3, adopted Jan. 29, 2015, repealed and reenacted § 7-217, as herein set out. The former § 7-217 pertained to vicious dogs, determination, notice and hearing, confinement and destruction, and derived from the Code of 1988, § 7-128, and Ord. No. O-22-03, § 1, adopted June 5, 2003.

Sec. 7-82. Reckless Pet Owner; Declaration; Violation

(a) Upon a fourth conviction of any violation of Chapter 7 within a 36-month time period, the convicted person shall be deemed a Reckless Pet Owner. Upon the fourth conviction, the Municipal Court may issue a notification of the declaration of Reckless Pet Owner to the person with the following:

(1) Name and address of the person subject to the declaration, and;

(2) Description, violation, and convictions that lead to the declaration, and;

(3) Name and description of all pets subject to the effects of the declaration, and;

(4) Instructions on appealing the declaration to District Court.

(b) Violation. Once declared a Reckless Pet Owner, a person shall not own, keep, possess, or harbor any additional animals for a period of five (5) full years from the date of the declaration. No Reckless Pet Owner will be allowed to own, keep or possess an animal deemed dangerous by the Municipal Court. If convicted of possessing a dangerous animal or any additional animal after being declared a Reckless Pet Owner, that violation constitutes a separate and distinct offense subject to the penalty provisions of Section 7-2.

Section 2. That said original Sections 7-2 – Penalty; 7-79 – Cruelty and Neglect of Animals; 7-216 – Dangerous Animals; 7-217 – Vicious Animals of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after the passage, approval, and publication in the official Unified Government newspaper.

PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS,

THIS _____ DAY OF _____, 2022.

Tyrone Garner/Mayor CEO

Attest:

Unified Government Clerk

Approved As To Form:

Unified Government Counsel



Staff Request for Commission Action

Tracking No. 212022

Full Commission Meeting Date: Will request Full Commission Approval on November 3, 2022 pending Administration and Human Services Standing Committee approval on 10/24/2022.

Committee: Administration & Human Services

Date of Standing Committee Action:

(If none, please explain): Presenting to Standing Committee for approval on 10/24/2022

Publication Required: No

Date:	Contact Name:	Contact Phone:	Contact Email:	Department/Division:
10/25/2022	Terrie Garrison	x6726	tgarrison@wycokck.org	Health Department

Item Description:

The Unified Government Public Health Department Clinical Services division has been awarded \$75,000 grant funds to expand the MCH Universal Home Visiting program through June 2023.

Action Requested:

Approval to accept the MCH Universal Home Visiting Expansion grant funds.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

UHV Expansion Project Request for Application 2022 FINAL, Acceptance of Universal Home Visit grant reso

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
BUREAU OF FAMILY HEALTH

Universal Home Visitation Expansion Project

Request for Application: Supplemental Funding

Project Period: October 1, 2022 – June 30, 2023

TABLE OF CONTENTS

SECTION 1 - APPLICATION OVERVIEW	3
1.01 Purpose.....	3
1.02 Project Period.....	3
1.03 Eligible Applicants.....	3
1.04 Funding	3
1.05 Schedule of Important Dates.....	3
RFA Issued	4
Applications Due	4
Notice of Award and Contract.....	4
1.08 Right to Reject Applications/Cancellation of RFA.....	4
1.09 Financial Accountability.....	4
1.10 Data Collection and Evaluation.....	4
SECTION 2 - APPLICATION CONTENT.....	4
2.01 Application Instructions.....	4
2.02 Application Outline	5
General Information.....	5
Personnel	5
Goals and Objectives	5
Performance Measures:.....	6
2.03 Budget.....	7
Non-allowable use of funds.....	7
Line Item Budget	7
Indirect or Administrative Costs.....	8
SECTION 3 - EVALUATION PROCESS AND CRITERIA	8
3.01 Review Process.....	8
3.03 KDHE Program Staff Contact Information	8

SECTION 1 - APPLICATION OVERVIEW

1.01 Purpose

The purpose of the Request for Application (RFA) is to provide guidance for current Kansas Department of Health and Environment (KDHE) Maternal and Child Health (MCH) grant recipients to submit applications to expand services provided by their current MCH home visiting program through the Universal Home Visiting Expansion Project (UHVEP)

1.02 Project Period

The project period for this supplemental funding is October 1, 2022 – June 30, 2023.

1.03 Eligible Applicants

Only current MCH grantees are eligible to respond to this RFA.

1.04 Funding

The funding for this project is provided by the Children’s Initiative Fund and administered by KDHE. Funding requests above \$75,000 will not be considered.

Applicants are applying for funds for a nine-month project period. Actual total awards and individual contract funding levels may vary depending on availability of funding and other funding considerations determined by KDHE. Applicants must submit a detailed budget and budget narrative as discussed in Section 2 of this RFA.

1.05 Schedule of Important Dates

The table below lists important dates in the application and award process.

EVENT	DATE
UHV Expansion Request for Application Released	August 12, 2022
Application Submission Due Date	September 12, 2022
Notice of Awards Sent to Applicants	September 21, 2022
Project Period Start Date	October 1, 2022
Project Period End Date	June 30, 2023

RFA Issued

KDHE will send an email to all current primary agency points of contact containing a reminder that the RFA window is open on August 12, 2022. The RFA will remain posted through the application due date. A link to the KGMS system will be sent in this email notification.

Applications Due

Applications must be completed by 5:00 p.m. September 12, 2022 in the KGMS platform.

Notice of Award and Contract

Selected applicants will be sent a contract with KDHE for the UHVEP on September 21, 2022. Signed contracts should be emailed to Holly Frye, Holly.M.Frye@ks.gov, no later than October 1, 2022.

1.08 Right to Reject Applications/Cancellation of RFA

KDHE reserves the right to reject, in whole or in part, any or all applications based on applicant ineligibility, applicant past performance, availability of funds or other determining circumstances.

1.09 Financial Accountability

The grantee shall maintain sufficient financial accountability and records and shall disclose each irregularity of accounts maintained by the applicant discovered by the applicant's accounting firm, the applicant, audit findings, or any other third party.

1.10 Data Collection and Evaluation

The applicant must fully participate in the data collection system, DAISEY, and all federal and state evaluation efforts. The applicant must collect data required by MCH Universal Home Visiting. The deadline for monthly data entry is the 10th of the following month.

SECTION 2 - APPLICATION CONTENT

2.01 Application Instructions

Each agency administrator will complete the application process in KGMS.

- Submitted applications must meet all eligibility requirements outlined in this RFA.
- Any information or materials not required to be submitted as an attachment by the RFA application will not be considered in the review process.

2.02 Application Outline

Applicants must complete each section outlined below.

General Information

In this section the applicant should identify the authorizing official, fiscal contact, and primary point of contact for the UHVEP.

Personnel

List your Universal Home Visiting program staff names, positions and email addresses that will be providing direct services with the UHVEP award. If new staff will be hired, please note that in the application. Applicants DO NOT need to submit a resume.

Goals and Objectives

Applicants should provide home visitation services for the UHVEP to improve health and development outcomes for mothers, families and infants.

The goals and objectives of the Universal Home Visiting expansion project are listed, below. Describe your plans for **working to achieve each goal**.

1. **Goal 1: All Universal Home Visiting clients will receive consistent support, screening, and education related to critical health issues.** Applicant sites can choose which screening or education model they will deliver, but any model chosen must include the following components:
 - Screening for social determinants of health (SDOH)
 - Screening for perinatal behavioral health
 - Screening/conversation/education around intimate partner and domestic violence
 - Screening for developmental delays (infants/toddlers)
 - Education on Post Birth Maternal Warning Signs (PBMWS)
 - Education on breastfeeding
 - Education on safe sleep
 - Education on safe home environments (poisoning, lead, car seat safety)

Describe the screening or educational tool that will be used for each item listed above as well as when/how often that screening or discussion/education will take place. It is recommended that programs utilize and enter screening tools provided through DAISEY for MCH programs but not required.

2. **Goal 2: Mothers and families will be connected to appropriate support regardless of what agency or facility they approach for services.** Through the Universal Home Visiting expansion project, grantees will work with hospitals and birthing centers to refer to home visiting and other community services that may be needed, before a woman is discharged. Provide a letter of support (LOS) or memorandum of understanding (MOU)

from the hospital(s) and/or birthing center(s) that you will be partnering with to provide home visiting services.

3. **Goal 3: Meaningful and impactful support services will be provided to all Universal Home Visiting clients.** Face to face interaction is the primary preferred contact between clients and home visitors, but these visits are not required to take place in the home. Possible settings could include clinics (including health department) or schools. Other settings that are acceptable may include safe community spaces (libraries, community centers, etc.).

Virtual visits should/can be conducted in situations where the caregiver is unable/unwilling to attend an in-person meeting. A virtual visit is defined as an interaction which entails a video call (Zoom, other telehealth platforms). All visits should include the core components (outlined, above). Provide a description of how home visitors will interact with clients, including specifics regarding telehealth platforms if one will be used.

4. **Goal 4: All Universal Home Visiting staff will receive consistent and high-quality training.** Within the first 60 days of employment all Universal Home Visitor direct service staff will complete the trainings as outlined in the UHV Orientation and Training Checklist. Describe your agency's onboarding plan that will ensure staff will complete training as outlined within the required timeframes.

Performance Measures:

There are two performance measures for this contract period.

Performance Measure #1:

Grantees will increase the number of Universal Home Visiting clients being served. Provide a baseline (estimate current number of home visiting clients served by your program through MCH Home Visiting services between July 1, 2022 – September 30, 2022).

Performance Measure #2:

Grantees will ensure all clients are receiving screening and education services as outlined in Goal 1. Provide an overview of which of the screenings/education tools are currently being provided to MCH Home Visiting clients.

KDHE will review reports in KGMS that describe progress towards each performance measure quarterly. The quarters for this contract period are:

1. October 1, 2022 - December 31, 2022
2. January 1, 2023 - March 31st, 2023
3. April 1, 2023 - June 30, 2023

2.03 Budget

Non-allowable use of funds

Universal Home Visiting funds shall not be used for the provision of direct medical care or legal services. Medical care includes physical, mental, or oral health care.

This section is used to describe the details of the applicants proposed expenses to implement the project as described in this RFA. Proposed expenses and budget details must be adequate and reasonable to support the work outlined in the application.

Line Item Budget

Applicants shall provide a budget adequate to support the work outlined in the application based on the specific line item categories outlined below. A budget narrative should be included and describe how the budget was calculated and justify the expenses detailed.

Direct Costs Categories

Allowable budget line categories for direct cost expenses include:

1. **Salary Information** - the applicant will include a justification for each staff charged to this project and will include the staff position title, the annual salary, and staff salary amounts including %FTE for Universal Home Visiting Expansion Project, %FTE other funding streams (if not 100% UHVEP) as well as projected merit increases.
2. **Fringe Benefits** - the applicant will include fringe amounts directly funded, wholly or partially, with UHVEP funds.
3. **Training/Travel** - Expenditures **associated** with traveling for the purpose of conducting agency related activities to include, conferences, trainings, business meetings and client and customer meetings, for example.
4. **Supplies/Communication** - The applicant will include detailed costs associated with program supplies, other consumables and telecommunications, costing less than \$500 to include printing, postage, general office supplies

5. **Contractual** - Professional services rendered by legally binding contract.
6. **Other** - This category may include items such as office supplies, educational supplies, project supplies, incentives, communication, rent and utilities (if not included in Administrative or Indirect Costs), training, information technology-related expenses, travel, etc. and shall reflect any major activities required to accomplish the work plans as outlined within the application. This category also includes any items not meeting the above definition for equipment.

Indirect or Administrative Costs

Applicants may charge an indirect rate in accordance with their federally approved Indirect Cost Rate Agreement or an Indirect Cost Plan recognized by a state cognizant agency (local governments). If the applicant charges indirect costs, a copy of the current, signed federally approved indirect cost rate agreement or the Indirect Cost Plan recognized by a state cognizant agency must be submitted as an attachment to the application.

SECTION 3 - EVALUATION PROCESS AND CRITERIA

3.01 Review Process

Please complete applications in the KGMS system no later than 5 p.m. on September 12, 2022.

Technical Review: The submitted application will be reviewed by KDHE Staff for the applicant's compliance with the mandatory requirements, such as eligibility and application content. Applications that fail to satisfy the mandatory requirements may be rejected. KDHE will notify the applicant of a rejection that occurs during the technical review phase.

3.03 KDHE Program Staff Contact Information

Carrie Akin, Community Partnerships Unit Director, Carrie.Akin@ks.gov, 785-296-1234

Holly Frye, MCH Consultant, Holly.M.Frye@ks.gov, 785-296-1308

KDHE UNIVERSAL HOME VISITING EXPANSION PROJECT (UHVEP)

Local Home Visitor Orientation & Training Checklist*

Local UHVEP Agency:	
Employee Name:	
Title/Position:	
Hire Date:	
Supervisor Name:	

*All requirements to be Date Completed in coordination with the Supervisor. Refer to the *Kansas Maternal & Child Health Service Manual* for detailed information about MCH workforce qualifications, responsibilities, orientation, and training requirements.

UNIVERSAL HOME VISITING EXPANSION PROJECT ORIENTATION

Must complete **within 30 days** of award/hire.

- ☐ Orientation to all programs, policies, procedures and staff in the local health agency **Date Completed:** _____
- ☐ Orientation to referral resources in the community, county, and service areas **Date Completed:** _____
- ☐ Consultation with the nurse or social work supervisor/other designated professional regarding public health services in Kansas (if new to public health/local agency) **Date Completed:** _____
- ☐ Review requirements for *Child Abuse and Neglect Reporting* [A Guide for Reporting Child Abuse and Neglect in Kansas](#) **Date Completed:** _____
- ☐ Review requirements for *Confidentiality* related to the [Health Insurance Portability and Accountability Act](#) (HIPAA) **Date Completed:** _____
- ☐ Complete review of the *Kansas Maternal and Child Health Service Manual Section 230*. **Date Completed:** _____
- ☐ Review MCH Aid to Local Grant/Contract Application and Reporting Guidelines with the Supervisor. Refer any questions to the KDHE MCH Program Consultant. **Date Completed:** _____
- ☐ Kansas Basic Home Visitation Training (<http://www.kdheks.gov/c-f/healthy.html>) Part 1 (online): Home Visitors **and** Supervisors (Must complete **within 30 days** and prior to providing services) **Date Completed:** _____

UHVEP INITIAL TRAINING

Must complete **within 60 days** of award/hire AND before providing home visit services

- ☐ Shadow an experienced home visitor on at least two visits **Date Completed:** _____
- ☐ Conduct one visit accompanied by the Home Visiting Supervisor **Date Completed:** _____
- ☐ MCH Navigator (<http://mchnaviagor.org/>) Complete 2 courses from each module that best fits your role in the agency/program:
- ☐ [MCH 101](#) **Date Completed 1:** _____ **Date Completed 2:** _____
- ☐ [MCH Orientation](#) **Date Completed:** _____ **Date Completed 2:** _____
- ☐ Institute for the Advancement of Family Support Professionals: instituteofsp.org
- ☐ [Home Visiting 101: Importance of Home Visiting](#) **Date Completed:** _____
- ☐ [Home Visiting 102: Home Visitor Skills and Strategies](#) **Date Completed:** _____
- ☐ [Home Visiting 103: Professional Practice](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 101: Service Delivery Overview](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 102: Preparing Yourself and Families](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 103: Engaging Families](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 104: Facilitating Parent-Child Connections](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 105: Screening and Assessment](#) **Date Completed:** _____
- ☐ [Virtual Home Visiting 106: Supporting the Whole Family](#) **Date Completed:** _____
- ☐ Family Planning Certification <https://www.essentialaccess.org/learning-exchange/family-planning-health-worker-options>

UHVEP ONGOING TRAINING

Must complete **within 90 days [three months]** of award/hire.

- ☐ Kansas Tobacco Cessation Help (KaTCH) Training (<https://quitlogixeducation.org/kansas/>) **Date Completed:** _____
- ☐ Kansas Basic Home Visitation Training (<http://www.kdheks.gov/c-f/healthy.html>) Part 2 (face to face): Home Visitors ONLY (Must complete **within 9 months, if available**) **Date Completed:** _____

Employee Signature

Date

Supervisor Signature

Date

RECOMMENDED/OPTIONAL: Go beyond as an MCH professional supporting women, children, and families in your community and state! If you aren't sure where to begin learning and/or you'd like to use a structured approach that ties training to personal and organizational goals, start by assessing your knowledge of and skills in addressing the MCH Leadership Competencies. The [MCH Navigator Self-Assessment](#) is an easy-to-use online tool.

RESOLUTION NO. _____

**A RESOLUTION FOR THE ACCEPTANCE OF THE UNIVERSAL HOME VISITING
EXPANSION PROGRAM GRANT**

WHEREAS, home visiting supported by the Kansas Department of Health and Environment (KDHE) and the Wyandotte County Health Department is a voluntary program that brings a trained family-support profession to a family's home at no cost to the family; and

WHEREAS, Kansas Home Visiting is a longstanding program, administered by KDHE, offering information, guidance, risk assessment, and parenting support interventions at home; and

WHEREAS, the typical home visit is designed to improve some combination of pregnancy outcomes, parenting skills, and early childhood health and development; and

WHEREAS, the Universal Home Visiting Project grant is designed to expand home visits for families expecting a baby and through the first 12 months after birth; and

WHEREAS, the grant will allow the Wyandotte County Health Department to visit every expecting family in Wyandotte County who wishes to participate in the program.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS AS FOLLOWS:

Section 1. The Unified Government Board of Commissioners hereby approves the acceptance of the Universal Home Visiting Expansion Project grant from KDHE totaling \$75,000.00.

SECTION 2. The Mayor/CEO, County Administrator, and other officials and employees of the Unified Government are hereby further authorized and directed to take such actions as may be appropriate or desirable to accomplish the purposes of this Resolution.

**APPROVED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE
UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,
THIS 3rd DAY OF NOVEMBER, 2022.**

Tyron Garner, Mayor/CEO

Attest:

Unified Government Clerk

Approved as to Form:



Staff Request for Commission Action

Tracking No. 212027

Full Commission Meeting Date:

Committee: Administration & Human Services

Date of Standing Committee Action: 10/24/22
(If none, please explain):

Publication Required: No

<u>Date:</u> 10/25/2022	<u>Contact Name:</u> Theresa Duke	<u>Contact Phone:</u> x5052	<u>Contact Email:</u> tduke@wycokck.org	<u>Department/Division:</u> Legal
<u>Item Description:</u> An ordinance relating to amendments to the Teen Advisory Council of Chapter 2 of the Code of Ordinances of the Unified Government, submitted by Misty Brown, Chief Legal Counsel.				
<u>Action Requested:</u>				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> Youth.Council.Ordinance.10.14				

ORDINANCE NO. _____

AN ORDINANCE relating to amendments to the Teen Advisory Council pertaining to its name, purpose, composition, qualifications, and responsibilities; amending original Sections 2-481, 2-482, 2-483, 2-484, 2-485, 2-486, 2-487, 2-488, 2-489, and 2-490 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas.

Whereas, Chapter 2, Article VIII, Division 7 of the Code of the Unified Government of Wyandotte County/ Kansas City, Kansas contains provision for a Teen Advisory Council; and

Whereas, there is a desire to amend provisions pertaining to the Teen Advisory Council so as to revitalize the council, create public awareness and better support Wyandotte County youth.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS
OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY,
KANSAS:**

Section 1. That Section 2-481 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-481. Creation and purpose.

- (a) A ~~teen advisory~~ mayor's youth council is created to generate broad-based public awareness of and support for youth. The ~~teen advisory~~ mayor's youth council, under the direction of the mayor and the supervision of the county administrator, will be advisory in nature, evaluating current issues affecting youth in the county and the city and bringing those issues to the attention of the unified government board of commissioners and other boards and commissions as necessary. The ~~teen advisory~~ mayor's youth council has no responsibility or authority over public officials or unified government employees.
- (b) One of the purposes of the ~~teen advisory~~ mayor's youth council shall be to familiarize the youth of the county with the municipal governance process. To this end, as scheduled, key elected officials or appointed unified government staff will educate the ~~teen advisory~~ mayor's youth councilmembers on different facets of municipal government.
- (c) ~~Another purpose of the teen advisory council is to provide an opportunity for members of the council to participate in a program of community service and an opportunity for the community to benefit from the contributions by the councilmembers of their talents, energy, and creativity.~~

(Code 1988, § 2-1121; Ord. No. O-26-05, § 1, 3-24-2005)

Section 2. That Section 2-482 of Chapter 2 of the Code of the Unified Government of

Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-482. Task force.

- (a) ~~The county administrator shall appoint a task force of ten persons who either work or volunteer in the management and operation of private not-for-profit or charitable organizations providing services primarily to youth within the county. The members of the task force shall be approved by the mayor. The Mayor and Mmembers of the commission may make recommendations for appointments to the task force. The members of the task force shall be reflective of the community.~~
- (b) ~~The composition of the task force must include at least one representative from each of the following organizations or areas:~~
 - (1) ~~Leadership 2020;~~
 - (2) ~~The unified government YMCA board of directors;~~
 - (3) ~~The city YWCA board of directors;~~
 - (4) ~~Business;~~
 - (5) ~~Education; and~~
 - (6) ~~Boys and Girls Club of America.~~
- (c) ~~Terms for appointments to the task force shall be two years. Members of the task force may be appointed for three terms.~~
- (d) ~~Vacancies on the task force shall be filled in the same manner as initial appointments set out in this section.~~

(Code 1988, § 2-1122; Ord. No. 01-05, § 2, 1-26-2005; Ord. No. O-26-05, § 2, 3-24-2005)

Section 3. That Section 2-483 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-483. Appointment, composition, and qualifications.

- (a) The task force shall accept, screen and rank the applications and nominate up to a maximum of 25 members per year to the mayor's youth teen advisory council based on the applicant's qualifications, the quality of the application, including letters of recommendation and a personal statement, and an in-person interview. The county administrator shall accept such nominations and shall appoint the nominees to the council subject to the approval of the mayor.
- (b) In making its nominations, to ensure a broad spectrum of students reflective of the community, the task force must endeavor to include students of diverse backgrounds and abilities, based on the task force's knowledge of the students and the students' willingness to serve. Additional consideration will be given to ensure geographic diversity from all commission districts and area high schools to allow the council to include students that represent most, if not all, geographic areas of Wyandotte County. The students must be

between the ages 15 and 19, and there should be a minimum of two representatives from each public and private high school in the county. All members shall be either juniors or seniors in high school. The appointments shall reflect a balance between male and female nominees.

- (c) Members of the mayor's youth council must be either a high school student attending a school inside the Wyandotte County Public School system or be a high school student living within the geographic boundaries of Wyandotte County. In addition, members of the mayor's youth council must have and maintain a minimum 2.5 GPA and agree that an application for membership on the mayor's youth council constitutes consent to provide school transcript data. Members may remain on the Mayor's Youth Council throughout their junior and senior year of high school; however, all members must reapply and go through the selection process each year.

(Code 1988, § 2-1123; Ord. No. 01-05, § 3, 1-26-2005; Ord. No. O-26-05, § 1, 3-24-2005; Ord. No. O-26-05, § 3, 3-24-2005)

Section 4. That Section 2-484 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-484. Terms.

Terms shall begin on September 1. Mayor's youth ~~teen advisory~~ councilmembers who are juniors in high school may serve for two years, at the option of the member and the task force. Terms shall expire at the end of the member's senior year in high school. A "year" for Mayor's Youth Council is from September 1 of the current year until the first Board of Commission meeting occurring in May of the following year.

(Code 1988, § 2-1124; Ord. No. 01-05, § 4, 1-26-2005; Ord. No. O-26-05, § 4, 3-24-2005)

Section 5. That Section 2-485 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-485. Responsibilities.

- (a) The mayor and the county administrator may assign projects for research, discussion and/or community-based impact ~~discussion~~ and reporting to the mayor's youth ~~teen advisory~~ council and prioritize them as necessary. The ~~teen advisory~~ mayor's youth council also may generate its own discussion projects.
- (b) The mayor and the board of commissioners will use the mayor's youth ~~teen advisory~~ council as a formal "voice of youth" on various items concerning youth in the county.
- (c) During the first year of a member's service on the council, the member will participate in a program of education in municipal governance and discussion of current youth issues. The

members of the council who are in their second year of service on the council, if they choose to, may participate in a program of community service.

(Code 1988, § 2-115; Ord. No. 01-05, § 5, 1-26-2005; Ord. No. O-26-05, § 5, 3-24-2005)

Section 6. That Section 2-486 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-486. Officers and Responsibilities.

- (a) The members of the mayor's youth ~~teen advisory~~ council must elect a chairperson, a vice-chairperson, and a secretary each year. The secretary shall keep a record of all meetings of the ~~teen advisory~~ council.
- (b) Chairperson. The responsibilities of the chairperson are to open the meetings, preside over the meetings, and keep the meetings on time and on agenda. As chairperson, it is their responsibility to be the face of the mayor's youth council by representing the organization out in the community and abroad. As the leader of the mayor's youth council, the chairperson should be ready to attend as many issue group events as possible.
- (c) Vice-chairperson. The responsibilities of the vice-chairperson are to assume all chairperson duties in the event of the absence of the chairperson and assist the chairperson in any needed capacity and to represent the mayor's youth council in the community and abroad. The vice-chairperson is also to lead the council project and serve as the coordinator for group functions.
- (d) Secretary. The responsibility of the secretary is to keep all records for the mayor's youth council, including attendance points. Additional responsibilities include ensuring the meetings start on time, assisting the chairperson in keeping order at meetings, greeting members and guests, and maintaining the supplies and equipment, and other records needed for the mayor's youth council.

(Code 1988, § 2-1126; Ord. No. 01-05, § 6, 1-26-2005; Ord. No. O-26-05, § 6, 3-24-2005)

Section 7. That Section 2-487 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-487. Meetings.

The mayor's youth ~~teen advisory~~ council will meet quarterly. The chairperson or the vice-chairperson may call special meetings at any other time by giving written notice to the members a week in advance of the meeting. A simple majority of the filled positions on the council constitutes a quorum. Action by the mayor's youth ~~teen advisory~~ council requires a vote of a majority of those attending the meeting at which the vote is taken.

(Code 1988, § 2-1127; Ord. No. 01-05, § 7, 1-26-2005; Ord. No. O-26-05, § 7, 3-24-2005)

Section 8. That Section 2-488 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-488. Forfeiture of membership.

Failure to attend two consecutive meetings or fulfill mayor's youth council responsibilities without proper excuse will result in automatic forfeiture of council membership.

(Code 1988, § 2-1128; Ord. No. 01-05, § 8, 1-26-2005; Ord. No. O-26-05, § 8, 3-24-2005)

Section 9. That Section 2-489 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-489. Annual report.

The mayor's youth ~~teen advisory~~ council shall present an annual report to the unified government board of commissioners on the ~~teen advisory~~ council's activities and progress no later than May 1 of the first Board of Commission meeting occurring in May of each year. The mayor's youth ~~teen advisory~~ council shall submit additional reports as requested by either the mayor or the board of commissioners.

(Code 1988, § 2-1129; Ord. No. 01-05, § 9, 1-26-2005; Ord. No. O-26-05, § 9, 3-24-2005)

Section 10. That Section 2-490 of Chapter 2 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and is hereby amended and shall read as follows:

Sec. 2-490. Curriculum, meetings, and administration.

The mayor working in concert with the county administrator or a designated assistant county administrator shall be responsible for the curriculum, meetings, financial support, and the overall administration of the ~~teen~~ mayor's youth ~~advisory~~ council.

(Code 1988, § 2-1130; Ord. No. 01-05, § 10, 1-26-2005; Ord. No. O-26-05, § 10, 3-24-2005)

Secs. 2-491—2-510. Reserved.

Section 11. This ordinance shall take effect and be in full force after its passage, approval, and publication in the official Unified Government newspaper.

PASSED BY THE GOVERNING BODY OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CIYT, KANSAS

THIS _____ DAY OF _____, 2022.

Tyrone Garner
Mayor/CEO

ATTEST:

Unified Government Clerk

Approved as to form:

Misty Brown, Chief Counsel



County Administrator's Office
Cheryl Harrison-Lee, Interim County
Administrator

701 North Seventh Street, Ste. 945
Kansas City, Kansas 66101
(913) 573-5030 • FAX (913) 573-5540

NOTICE OF PENDING APPOINTMENT

DATE: November 3, 2022

BOARD: Wyandotte County Library Board

INCUMBENT, if applicable: Jaqueline Brown

REQUEST FOR APPOINTMENT

NAME OF NEW APPOINTMENT: Joe Caiharr

TERM OF OFFICE: 11/3/2022-12/15/2025

NOMINATED BY: Tyrone Garner



County Administrator's Office
Cheryl Harrison-Lee, Interim County
Administrator

701 North Seventh Street, Ste. 945
Kansas City, Kansas 66101
(913) 573-5030 • FAX (913) 573-5540

NOTICE OF PENDING APPOINTMENT

DATE: November 3, 2022

BOARD: UG Park Board

INCUMBENT, if applicable: Vilmer Alvarado

REQUEST FOR APPOINTMENT

NAME OF NEW APPOINTMENT: Laura Flores

TERM OF OFFICE: 11/3/2022-12/15/2025

NOMINATED BY: Andrew Davis



County Administrator's Office
Cheryl Harrison-Lee, Interim County
Administrator

701 North Seventh Street, Ste. 945
Kansas City, Kansas 66101
(913) 573-5030 • FAX (913) 573-5540

NOTICE OF PENDING APPOINTMENT

DATE: November 3, 2022

BOARD: Wyandotte County Library Board

INCUMBENT, if applicable: Pat Pettey

REQUEST FOR APPOINTMENT

NAME OF NEW APPOINTMENT: Gregory Todd

TERM OF OFFICE: 11/3/2022-12/11/2023

NOMINATED BY: Melissa Bynum



Unified Government Clerk's Office

Monica L. Sparks

Acting Unified Government Clerk

701 North 7th Street, Suite 323
Kansas City, Kansas 66101-3070

Phone: 913-573-5260
Fax: 913-573-5299
<http://www.wycokck.org>

Memorandum

To: Cheryl Harrison-Lee
Interim County Administrator

From: Monica L Sparks
Acting UG Clerk

Date: October 13, 2022

Re: Weekly Business Material

Attached is a listing of weekly business items presented to the Unified Government of Wyandotte County/Kansas City, Kansas, for informational purposes.

In addition to the listing of the items, we have indicated the action taken by the Unified Government Clerk.

Attachments

BM

Weekly Business Material for October 7 – October 13, 2022

1. REPORT:

Financial report for the Self-Supporting Municipal District/Downtown Improvement District(SSMID) for the month of August 2022.

2. PUBLIC NOTICE:

- Alandon Tow Service, 6224 Kansas Avenue, KCK 66111, held a public auto auction on October 4, 2022, at Alandon Tow Service.

Action: Received and filed.

3. COMMUNICATION/WARRANT CANCELLATIONS:

Pam Kahao, Accounting Manager, regarding warrant cancellations:

Warrant #	Reissue?	Date Issued	AMOUNT	FUND/ACD	Vendor Name/Number	Reason for Void
910144	Yes	8/26/2022	\$148.66	162/19000025269	Thomas, Carolyn	Lost Warrant
909991	No	8/26/2022	\$135.15	162/19000025269	Johnson, Lea	Issued in error
909939	No	8/26/2022	\$126.14	162/19000025269	Gates, Patricia	Issued in error
910049	No	8/26/2022	\$126.14	162/19000025269	Mays, Louise	Issued in error
910057	No	8/26/2022	\$144.20	162/19000025269	Milton, Carrie L.	Issued in error
910058	No	8/26/2022	\$35.62	162/19000025251	Milton, Carrie L.	Issued in error
910015	No	8/26/2022	\$126.14	162/19000025269	Lainez, Debra Kay	Issued in error
910077	No	8/26/2022	\$126.14	162/19000025269	Peterson, Matthew K.	Issued in error
910131	No	8/26/2022	\$126.14	162/19000025269	Taffe, Steven Jerome	Issued in error
910136	No	8/26/2022	\$126.14	162/19000025269	Taylor, Susan	Issued in error
909864	No	8/26/2022	\$126.14	162/19000025269	Cave, Carolyn April	Issued in error
910035	No	8/26/2022	\$126.14	162/19000025269	Mccluney, Lester C.	Issued in error
909871	No	8/26/2022	\$126.14	162/19000025269	Carpenter Sr, Dwane E.	Issued in error
910156	No	8/26/2022	\$144.20	162/19000025269	Voeks, Coleen E.	Issued in error
910157	No	8/26/2022	\$1.25	162/19000025251	Voeks, Coleen E.	Issued in error

910031	No	8/26/2022	\$126.14	162/19000025269	Madison, Chonita	Issued in error
909967	No	8/26/2022	\$254.53	162/19000025269	Hooks, Frenchye	Wrong amount
910792	No	9/9/2022	\$126.14	162/19000025269	Brown, Nozella Lee	Issued in error

Action: Received and filed.

4. PERSONNEL ACTION COMMUNICATION DATED: OCTOBER 4, 2022

Section I – Appointments

Name	Department/Division	Eff. Date	Job Title
Karen M. Shipman	Treasury	10/13/2022	Fiscal Supt Asst
Deylon M. Burton	Treasury	10/13/2022	Fiscal Supt Asst

Section II – Transfers

Name	Department/Division	Eff. Date	Former Job Title	New Job Title
Thomas L Williams Jr	Sheriff	9/22/22	Deputy	Deputy

Section III – Separations

Name	Department/Division	Eff. Date	Job Title
Katrina Carrollo	Comm Corr/Pre-Trial	10/12/22	ISO
Robert A Meyers	Sheriff	10/11/22	Security Officer, Armed

5. TRAVEL REQUESTS:

William Wallace, KCKPD, travel to Boston, MA, June 4 – 22, 2023, to attend the SMIP conference, 7Y22JAG.

Action: Approved by Administrator's Office and received and filed.

6. CERTIFICATE OF LIABILITY INSURANCE:

- Go CraZ LLC
- VETForce, Inc.
- 2HOT2HANDLE BBQ KC LLC

Action: Referred to License.

7. BUSINESS BONDS:

- Electrical Bonds:
 - Mark One Electric Co., Inc.
 - Lynch Electrical, Inc.
 - Owens Electric LLC
- Mechanical/HVAC Bonds:
 - P&L Mechanical, LLC

Action: Referred to License.

8. CANCELLATION NOTICE OF INSURANCE/BOND:

- Kurt Hungerford DBA KLH Electric

Action: Referred to License.

9. APPLICATION FOR DRINKING ESTABLISHMENT/PUBLIC VENUE:

Jalisco Restaurant, Jose J. Hernandez, 5000 State Ave, Kansas City, KS.

Action: Referred to License.



Staff Request for Commission Action

Tracking No. 212091

Full Commission Meeting Date:

Committee: Full Commission

Date of Standing Committee Action:
(If none, please explain):

Publication Required: No

<u>Date:</u> 10/28/2022	<u>Contact Name:</u> Alan Howze	<u>Contact Phone:</u> x8951	<u>Contact Email:</u> ahowze@wycokck.org	<u>Department/Division:</u> Administrator's Office
<u>Item Description:</u> An update on the stand-up of a Severe Winter Weather Warming shelter for the 2022-2023 winter season, submitted by Alan Howze, Assistant County Administrator.				
<i>For information only</i>				
<u>Action Requested:</u>				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> WYCO Extreme Weather Project 21-22				

WYCO Extreme Weather Project

Location: Jack Reardon Center (5th and State Ave)
Dates: December 31, 2021- March 11, 2022

The project opened on nights the temperature was expected to be **25 degrees and below**. Guests could call a hotline number by 8am each day for notification of shelter opening. Homeless service providers and emergency service providers were also notified. Guests arrived between 6-9pm and left at 7am.

The project operated **38 nights** serving a total of **275 unique individuals averaging 35 guests** per night. Extra space was made for those brought in by emergency personnel. When the shelter reached capacity, guests were diverted to other temporary options including hotels. The project had a total of **1,606 bed nights** between shelter and hotel.

The project was staffed with mental health professionals, local homeless service providers, healthcare workers, persons with lived experience, bilingual persons, and community members. Staff were compensated fairly to recruit professionals in the homeless services field who were able to do crisis management and provide wrap-around supports.



Extreme Covid-19 precautions were taken to minimize the risk of transmission. The Covid-19 Omicron variant surged within the broader community while the project operated. All guests were screened for symptoms and tests onsite. A total of **10 guests tested positive** and were able to quarantine in a separate location. Medical providers were onsite frequently providing a full-range of services.

Each guest was given a tent, inflatable bed mat, and a blanket. By utilizing tents this project gave guests a sense of privacy and safety. Providing a private space for guests allowed for a more dignified, safe, and humane overnight experience. This also decreased behavioral health interactions between guests. Each guest was given locked storage bins to protect their belongings. Not only did this give the guest a sense of security for their belongings, but it also provided safety within the shelter by removing any weapons or substances.

There were **13 EMS service calls, 3 non-emergency service calls, and 16 calls for KCKPD/CIT officers**. Of the emergency calls 8 were able to be de-escalated by staff prior to officer arrival, **only 8 unique guests** were involved in the calls and 4 guests were transported with officers.

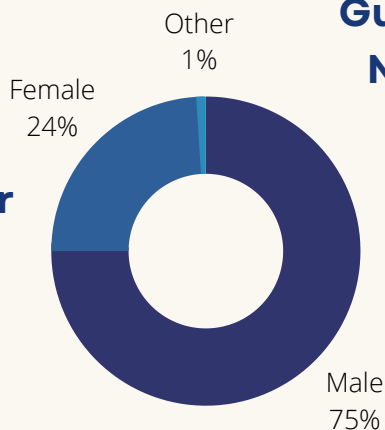
Community Partners:

- Cross-Lines Community Outreach
- Kansas City Dream Center
- Care Beyond the Boulevard
- Wyandot Behavioral Health Network
- Kim Wilson Housing
- Our Spot KC
- Mt Carmel Redevelopment Corp
- Metro Lutheran Ministries
- United Way of Greater Kansas City
- Catholic Charities of NEKS
- Greater KC Coalition to End Homelessness
- Avenue of Life
- Vibrant Health
- Community Health Council of WYCO
- Bridge of Hope Community Church
- Community Policing- KCKPD
- Unified Government of WYCO
- Additional Community Members and Groups

Guests Served: 275

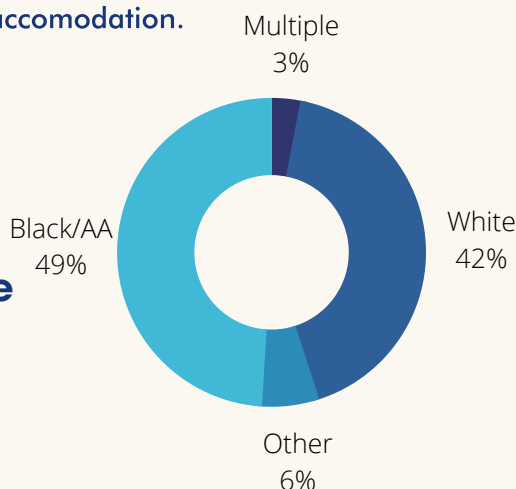
Nights Open: 38

Gender



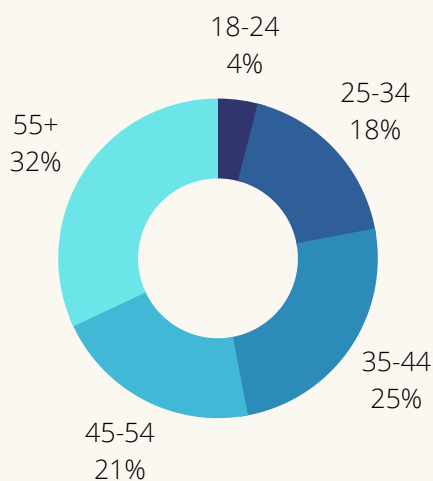
Guests were welcomed regardless of gender identity or sexual orientation. A number of beds were isolated and reserved for adequate privacy and accomodation.

Race



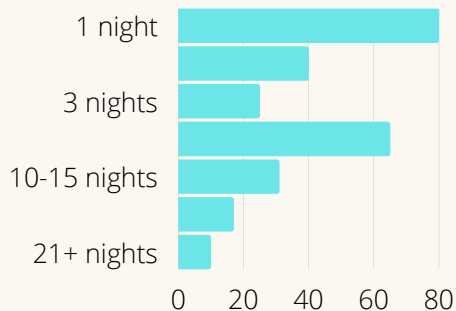
Homelessness disproportionately affects BIPOC. While only 21.7% of the population in Wyandotte County, black persons of color comprised 49% of guests. Additionally, 10% of guests identified Hispanic ethnicity.

Age



With 32% of guests 55 and older, the population is becoming more vulnerable. The project saw several seniors that were evicted and entering homelessness for the very first time. Being an unhoused senior is incredibly difficult and can lead to higher chances of injury, illness, isolation, and premature death.

Frequency



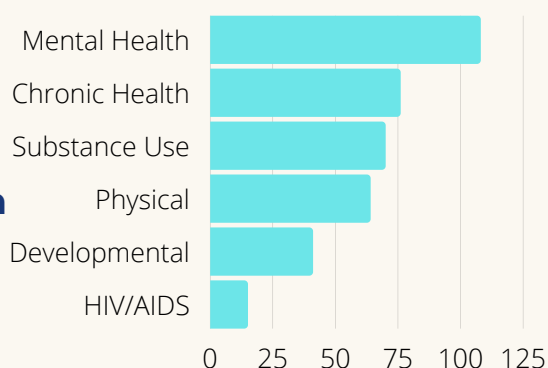
Approx. 45% of guests presented only one or two times. Many guests were able to resolve their temporary homelessness quickly, with the help of trained staff. Only 4% of guests utilized the shelter more than half the nights the shelter was open.

This extreme weather project is not just a winter band aid but a vehicle to get people into housing.

- 63 people on the community By-Name List stayed at the shelter
- 28 Coordinated Entry Assessments for housing programs were completed at or because of the shelter
- 25 People referred to housing programs or assisted in connecting with current housing program referral

170 guests identified a disabling condition (63%), the majority with multiple disabling conditions

Disabling Condition



15 guests identified an HIV/AIDS diagnosis. Of those with a physical disability, accessibility was necessary. At least two were wheel-chair bound and several others unable to climb stairs.

35 % of guests were chronically homeless, meaning a person has a disabling condition and at least 12 months of homelessness in the last 3 years over 4 episodes.



Staff Request for Commission Action

Tracking No. 211743

Full Commission Meeting Date:

Committee: Public Works & Safety

Date of Standing Committee Action: 6/27/2022
(If none, please explain):

Publication Required: No

<u>Date:</u> 11/01/2022	<u>Contact Name:</u> Jon Khalil	<u>Contact Phone:</u> x5085	<u>Contact Email:</u> mjkhilil@wycokck.org	<u>Department/Division:</u> Legal
<u>Item Description:</u> A Resolution and Ordinance Amending Code Provisions related to Open Burning. This is a draft ordinance amending the code provisions 3-3 Definitions and 3-17(h)(1)(a) related to Open Burning, to reflect the potential changes to the Unified Government of Wyandotte County/Kansas City Code of Ordinance. On September 26, 2022, the Public Works and Safety Standing Committee , chaired by Commissioner Bynum, voted unanimously to approve and forward it to the full commission.				
<u>Action Requested:</u>				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u> 22 10 28 Open Burning Amendments for 11 3 22, 22 10 13 Open Burn Admendments KDHE Edits, 22 10 27 Open Burn Memo				



Open Burning Amendments

Purpose of Local Open Burn Regulations

- ◇ Protection of Public Health
- ◇ Compliance with State and Federal Air Quality regulations
- ◇ Protection of KC metro air quality standards
- ◇ Protection of Public Safety through Fire Dept awareness of open burns

Considerations when making Burn Ordinance changes

- ❖ What affects could it have on the health of the public?
- ❖ What effects could it have on public safety?
- ❖ Avoid conflicts with Federal and State laws and regulators

KDHE Concerns about Prior Draft

- ❖ The proposed amendments create an exemption for "nonresidential waste" which is defined to include construction, business, demolition, and other wastes. These are illegal to burn. The UG cannot create this exemption or grant permits allow such burning. Per K.A.R. 28-19-647(c)(5)
- ❖ The proposed amendments remove the prima facie standard that the person who controls or owns property is responsible for the open burn. This will conflict with KDHE regulation and create a dueling standard for enforcement actions, which may then subject Citizens of Wyandotte County to KDHE enforcement actions where the UG could have otherwise handled them
- ❖ Regulations use the term "extraordinary residential waste," that is not defined and causes concern because it may be intended to include more waste than is legal to burn.

Amendments to accomplish updates

The underlined text is proposed amendments to the current ordinance

Amendment to Section 3-3 Definitions

Add the 2 definitions

- ❖ Amend Section 3-3 to include the following definition:
 - ❖ “Extraordinary Organic Yard Waste”- means organic yard waste that cannot be burned within the hours of 7:00am and 6:00pm over three consecutive days while being contained to a 10 ft x 10 ft area as determined by the chief of the fire prevention division of their designee
- ❖ Amend the 3-3 Definition of Director to:
 - ❖ The manager of the Environmental Health Division of Wyandotte County/Kansas City, Kansas Public Health Department or their designees

Amendment to Section 3-3 Definitions (Cont.)

Add 2 phrases to include Non/Extraordinary waste

- ◇ Amend the 3-3 Definition of Approvable air curtain open pit destructor to:
 - ◇ Approvable Air Curtain Open Pit Destructor means a device specifically approved by the director as being consistent with engineering and design requirements established by the director and used to accomplish the controlled high temperature, minimum-emission burning of land clearing debris (trees, brush and vegetation only) or extraordinary organic yard waste. Such device shall consist of a large blower or fan designed to deliver at least 800 standard cubic feet per minute of air for each foot of length of the pit in which the burning is accomplished and a nozzle-equipped plenum chamber designed to deliver air at a minimum air velocity of 150 per second in a flat sheet or curtain of air blowing diagonally downward across the pit. The pit used to accomplish the burning with the air curtain destructor must be the exact length of the manifold plenum chamber, 12 feet or deeper (consistent with local solid conditions) and have all four sides vertical. New pits conforming to these requirements shall be excavated as necessary to replace pits in which the high temperature operation has resulted in crumbling or erosion of the burning pit such that the pit no longer had the required four smooth vertical walls and/or no longer consistent with the dimension requirements provided herein. The director may also require any additional design and/or operating conditions for the air curtain open pit destructor as are necessary to accomplish minimum-emission, smoke-free burning of the land clearing debris or extraordinary organic yard waste.

Amendment to Section 3-17(g) Open Burning Prohibition Exceptions

- ◇ Amend Section 3-17(g)(3) *Open Burning Prohibition Exceptions* to read:
 - ◇ Open burning of vegetation such as grass, woody species, crop residue and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management. Provided that prior written approval is obtained from the Director and the Chief of the Fire Prevention Division.
 - ◇ This amendment would bring our language in alignment with the current state regulations on open burning.

Amendment to Section 3-17(h)(1)(a) Air Curtain Destructor Requirement

- ◇ Allows AQ Director to determine ACD necessity
- ◇ Amend Section 3-17(h)(1)(a) to read:
 - ◇ (1) Open burning permits may be granted for the following types of waste:
 - ◇ *a. Nonresidential waste, and extraordinary organic yard waste.* Fire set for the disposal of nonresidential waste or extraordinary yard waste may be permitted only when it can be shown by a person that such open burning is absolutely necessary and in the public interest. The Director may determine whether the burning of extraordinary organic yard waste such as trees that are felled by severe storm damage is considered necessary and in the public interest. On a case-by-case basis the Director, or their designee, may determine what, if any, precautions are needed to ensure air quality standards are maintained. The burning of land clearing debris, including trees, brush, and vegetation only, as well as trees and limbs felled by severe weather, shall normally be considered as being necessary and in the public interest.
 - ◇ (i) if an air curtain pit destructor is required by the director, it shall be of suitable design and capacity to be used to accomplish the burning and such device shall also be installed maintained and operated at maximum efficiency at all time.

Current Ordinance
Procedure for Air
Curtain Incinerator

Open Burn
Permit issued
by UG

Incinerator
Permit from
UGPHD

Title V
Permit issued
by KDHE

Amended Burn with
Incinerator
Procedure

Open Burn
Permit issued
by the UG

Title V
Permit by
KDHE

Amendment to Section 3-17(h)(1)(b)(2) to include agricultural properties

- ◇ Amend Section 3-17(h)(1)(b)(2) to read:
 - ◇ Organic yard waste includes leaves, brush, dead wood, tree cuttings, and weeds. Organic yard waste also includes trees felled by storm damage on properties zone either residential or agricultural. Burning of wire insulation, tires, and other rubber products, automobile parts, paper cardboard, treated, painted, or finished wood, plastics, garbage, trash, petroleum products, asphalt materials, building materials, demolition debris, paints, agricultural chemicals, household chemicals, or any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants is prohibited.

Amendment to Align permitting process to mirror KDHE wording

- ❖ Amend Section 3-17(2)(a) to include the language below:
- ❖ a. Any person intending to engage in open burning of nonresidential wastes or extraordinary organic yard waste under this section shall file a request to do so with the director and the chief of the fire prevention division the application shall state the following:
 - ❖ 1. The name, address, and telephone number of the person submitting the application.
 - ❖ 2. The date(s) and times of the burning operations
 - ❖ 3. The type, quantity, and composition of the waste to be burned.
 - ❖ 4. The exact location where open burning will be used to dispose of such waste.
 - ❖ 5. Map indicating nearest hydrants, structures, roads, water sources, power lines, property lines and burn location within 1500 feet of the burn location.

Amendment to Align permitting process to mirror KDHE wording

- ◇ 6) Management plan for igniting, controlling, and extinguishing the open burn.
- ◇ 7) For extraordinary organic yard waste, in addition to the information required by this subsection:
 - ◇ i. The type of business or activity involved
 - ◇ ii. A description of the proposed equipment and operating practices, and the expected composition and amount of air contaminants to be released to the atmosphere.
 - ◇ iii. Reasons why no method other than burning can be used for disposal of such waste.
 - ◇ iv. Evidence that the proposed open burning has been approved by any fire department or the director of the Health Department that may have jurisdiction.
- ◇ 8) Under no circumstances shall open burning occur within 50 feet of any building, combustible material, road or within 50 feet of the property line.
 - ◇ i. all open burning must be constantly attended until extinguished
 - ◇ ii. All persons conducting open burning shall have available the means for controlling or extinguishing the fire, such as water supply and/or heavy equipment.
 - ◇ iii. It shall be unlawful for any person to conduct open burning other than in accordance with the requirements set out in this section or in violation of any conditions or operating restrictions imposed by the director or the chief of the fire prevention division.

Amendment Adding extraordinary organic waste to application

❖ Amend section 3-17(h)(2)(c)(5) to read:

❖ For extraordinary organic yard waste, in addition to the information required by this subsection

Proposed Amendment #7

Allows County Administrator to declare additional burn period(s) for severe storm damage

◇ Amend Section 3-17(h)(2)(i) to read:

- ◇ The county administrator is hereby granted the discretion, after consultation with the director and chief of the fire prevention division, to extend the April or the October 16 to November 15 burn periods as deemed necessary due to inclement weather or other conditions which prohibit or prevent burning during these established periods or when severe weather causes a substantial number of felled trees and limbs during periods outside of the April or October 16 to November 15 burn periods.
- ◇ (1) Additionally, if at any time during the year a severe weather even occurs as determined by the Director, the owners of properties zones for agricultural uses may apply for burn permits for trees and limbs felled by the severe weather. The burn permit shall be approved only if the Director approved only if the Director determines that air quality conditions and wind conditions are acceptable, and that the application meets all other requirements and conditions as set forth in this Section.
- ◇ (2) The duration of each burn permit would be determined on a case-by-case basis by the Director or their staff.

Amendment to Appeal to County Administrator

◇ Amend section 3-17(j) to read:

- ◇ After denial of a burn permit under this section an applicant may appeal their decision to the County Administrator or their designee within thirty days.
- ◇ This change is needed from a direct appeal to the Wyandotte County District Court because the District Court does not have jurisdiction conferred on it over burn permit denials by state statute or from the Kansas Constitution

Backup Slides

Approach for Ordinance Updates

❖ Areas of broad agreement

- ❖ Authority for the UG, via the Administrator, to create an open burn period in times of perceived emergencies (tornados, ice storms, high wind damage)
- ❖ Definition of Extraordinary Organic Yard waste
- ❖ Corrected Position Titles within Department of Air Quality
- ❖ Clarity on definition of Air Curtain Incinerator/Destructor
- ❖ Clarity on when an Air Curtain Incinerator is required to be used
- ❖ Clarity on how agricultural zoned properties are treated under this ordinance

Areas for additional discussion

❖ KDHE Discussion Areas:

- ❖ Emissions of additional PM_{2.5} or NO_x from extended burning could result in an exceedance of the National Ambient Air Quality Standard (NAAQS) for the respective standard. The UGPDH DAQ is responsible for attaining and maintaining national ambient air quality standards established to protect public health and welfare.
- ❖ Open burning results in emissions of particulate matter (PM_{2.5}) and oxides of nitrogen (NO_x) which are known to cause health concerns in people with respiratory issues.
- ❖ Exposure to fine particles can cause short-term health effects such as **eye, nose, throat and lung irritation, coughing, sneezing, runny nose and shortness of breath**. Exposure to fine particles can also affect lung function and worsen medical conditions such as asthma and heart disease.
- ❖ District Court- clarity needs to be discussion regarding the process by which the District Court will handle denial appeals

Current Spring and Fall Burning Season

- ❖ During the month of April and from October 16 through November 15 fires set for the disposal of organic yard waste generated on property may be permitted between the hours of 7:00am and 6:00pm
 - ❖ Organic yard waste includes leaves, brush, dead wood, tree cuttings and weeds that can fit within a 10 by 10 ft pile and can be burned completely in three days between the hours of 7:00am and 6:00pm.
 - ❖ During these periods only one permit (for a maximum of three days) per property per burn month will be issued unless the chief of the fire prevention division determines that it is in the interest of public health or safety to issue more than one permit or to extend it beyond three days

Authority to Create Additional Open Burn Periods

- ❖ At times, the County Administrator may determine that open burning is necessary in between the spring and fall periods especially when a large increase in downed trees, limbs, branches, and other difficult to dispose of yard waste
 - ❖ During these time periods the County Administrator may require permits be obtained to conduct burning and that open burning comply with all current county ordinances
 - ❖ **These additional burn periods should follow the defined process for the current Spring and Fall open burn periods.**
- ❖ Under Wyandotte County Municipal Code Section 3-17(h) there are three main types of waste for which permits may be sought: Nonresidential Waste, Extraordinary Organic Yard Waste, and Organic Yard Waste

Kansas Department of Health and Environment Policy

- ❖ KDHE allows for open burnings, but encourages and may require emission controls in sensitive areas or near population centers
- ❖ KDHE prefers to allow open burning only in a manner that guarantees the least number of people will be adversely affected by the burn

Nonresidential Waste and Extraordinary Organic Yard Waste

❖ Under Wyandotte County Ordinance 3-17(h)(a) Fires set for the disposal of **nonresidential waste**, or **extraordinary organic yard waste** may be permitted when it can be shown such open burning is:

- (1) absolutely necessary;
- (2) in the public interest; and
- (3) no other method can be used.

The burning of land clearing debris, including trees, brush and vegetation is normally considered as being necessary and in the public interest, provided that an applicable air curtain open pit destructor of suitable design and capacity is used to accomplish the burning.

An additional permit is required to be obtained from the Director prior to the use of an air curtain destroyer.

Nonresidential Waste and Extraordinary Organic Yard Waste



- ❖ Under the current code open burning of nonresidential waste and extraordinary organic yard waste is an option of last resort.
- ❖ And to mitigate against the environment effects of such, burning an air curtain open pit destructor is required for nonresidential waste and may be required for the burning of extraordinary organic yard waste at the discretion of the health director and chief of the fire prevention division.
 - ❖ Whether or not an air curtain destructor is required for extraordinary organic yard waste depends on several factors including the amount of material and nature of material to be burned, and the location of the property.

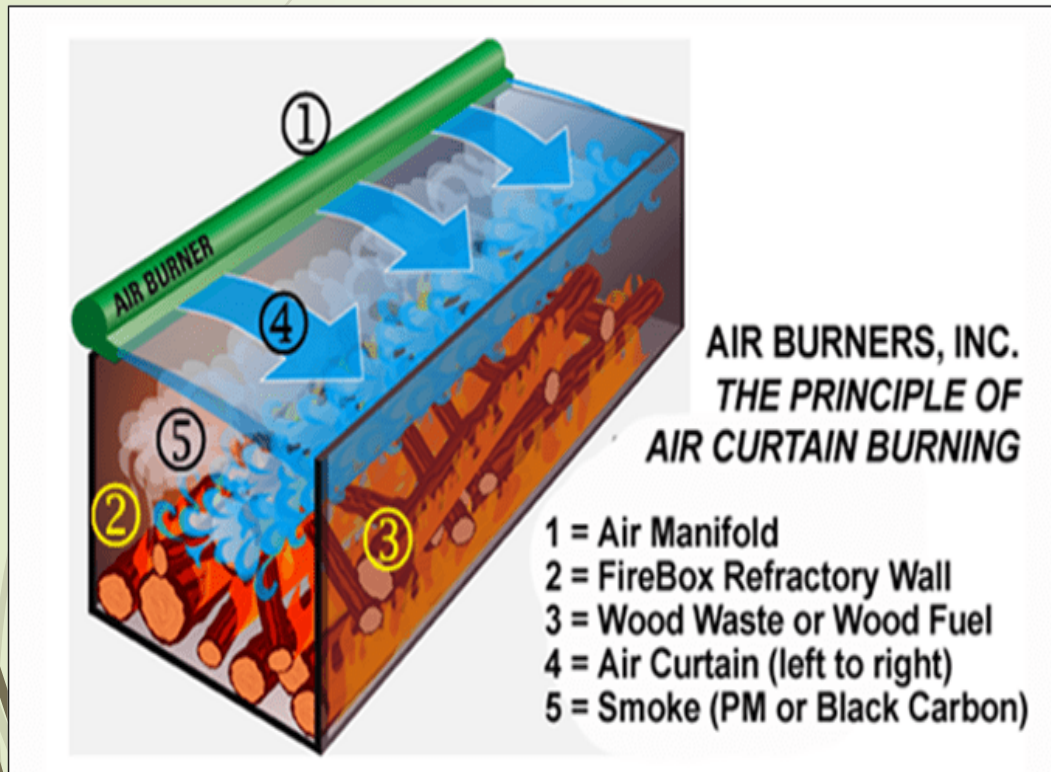
Federal Permitting Requirements for Air Curtain Incinerators

- ❖ EPA and KDHE follow Clean Air Act (CAA) guidelines which requires a Title V permit for all air curtain incinerators (ACI).
- ❖ CAA Section 129/111 regulations require an ACI to have a federally enforceable Title V permit; operation of an air curtain incinerator without the appropriate Title V permit could result in a fine of up to \$5,000 per occurrence of operation.

Changes Proposed by Commissioner Kane.

- ❖ ~~Section 3-17(f) It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted such open burning.~~
- ❖ ~~Section 3-17 (h)(1)(ii) An additional permit shall be obtained from the director prior to the use of an air curtain open pit destructor. A fee in the amount established by the county administrator or their designee shall be paid for such permit.~~
- ❖ ~~Section 3-17 (h)(2)(c)(ii) iv. Evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.~~
- ❖ ~~Section 3-17(j) After denial of a burn permit under this section an applicant may appeal their decision to a panel consisting of the Director, the chief of the fire prevention division, and the County Administrator or their designee by filing a written notice of appeal with the Unified Government's Clerk's Office within thirty (30) days of such decision. The panel shall conduct a hearing on the appeal within thirty (30) days of receipt of such appeal the Wyandotte County District Court within thirty (30) days.~~

What is an Air Curtain Incinerator?



- ❖ Air Curtain Burners, also called Air Curtain Incinerators, are designed principally as a pollution control device for open burning.
- ❖ The primary objective of an air curtain machine is to reduce the particulate matter (PM), or smoke, which results from burning clean wood waste.
- ❖ Using a technology called "air curtain", the smoke particles are trapped and reburned, reducing them to an acceptable limit per U.S. EPA guidelines.

Kansas DAQ Goal for Air Curtain Incinerator use

- ❖ Balance the need to ensure the proper use and operation of air curtain incinerators with the goal of minimizing negative environmental impacts.

Definitions added to the ordinance

- ◇ Director means the Manager of the Environmental Health division of the Wyandotte County/ Kansas City, Kansas Public Health Department or their designees.
- ◇ Extraordinary Organic Yard Waste means organic yard waste that cannot be burned within the hours of 7:00am and 6:00pm over three consecutive days while being contained to a 10ft x 10ft area as determined by the chief of the fire prevention division or their designee.

(Published _____)

ORDINANCE NO. _____

RESOLUTION NO. _____

AN ORDINANCE and RESOLUTION regarding burn permits for various wastes, adding a definition of “extraordinary yard waste”, amending the definition of “Director” and clarifying and adding to the administrative exceptions to the fall and spring burn seasons; amending **Sections 3-3, and 3-17** of Chapter 3 of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.

**BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED
GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:**

Section 1. Section 3-3 of the 2008 Code of Ordinances, City of Kansas City, Kansas is amended to read as follows:

Sec. 3-3 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air pollution means 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.

Alter means to make or effect any physical change in, or change in the method of operation of, any machine, equipment, device, or other article, or combination thereof which constitutes a source of pollutant emissions subject to the provisions of this chapter, and which increases the amount of such emissions.

Approvable air curtain open pit destructor means a device specifically approved by the director as being consistent with engineering and design requirements established by the director and used to accomplish the controlled high-temperature, minimum-emission burning of land clearing debris (trees, brush and vegetation only) or other or extraordinary organic yard waste. Such device shall consist of a large blower or fan designed to deliver at least 800 standard cubic feet per minute of air for each foot of length of the pit in which the burning is accomplished and a nozzle-equipped plenum chamber designed to deliver air at a minimum air velocity of 150 feet per second in a flat sheet or curtain of air blowing diagonally downward across the pit. The pit used to accomplish the burning with the air curtain destructor must be the exact length of the manifold plenum chamber, eight feet or less across in the direction of airflow perpendicular to the manifold plenum chamber, 12 feet or deeper (consistent with local soil conditions) and have all four sides vertical. New pits conforming to these requirements shall be excavated as

necessary to replace pits in which the high temperature operation has resulted in crumbling or erosion of the burning pit such that the pit no longer has the required four smooth vertical walls and/or is no longer consistent with the dimension requirements provided herein. The director may also require any additional design and/or operating conditions for the air curtain open pit destructor as are necessary to accomplish minimum-emission, smoke-free burning of the land clearing debris or other extraordinary organic yard waste.

Contaminant means dust, fumes, smoke or other particulate, vapor, gas, odorous substance or any combination thereof, but not including uncombined water vapor or steam condensate.

Control device means any equipment, device or other article designed and/or installed for the purpose of reducing or preventing the discharge of contaminant emissions to the air.

Direct heating equipment means any device where fuel is burned in direct contact with, and for purpose of heating, air that comes in direct contact with the material being processed.

Director means the Manager of the Environmental Health division of the Wyandotte County/ Kansas City, Kansas Public Health Department or their designees.

Emission source means any machine, equipment, device or other article or operation that directly or indirectly releases contaminants into the outdoor atmosphere.

Existing means equipment, machines, devices, articles, contrivances or installations which are in being at a stated time, except that any such existing equipment, machine, device, article, contrivance or installation which is altered shall be reclassified as "new," as defined in this section. Any existing equipment, machines, devices, articles or installations that are moved to a new physical location shall also be classified as "new," as defined in this section.

Extraordinary Organic Yard Waste means organic yard waste that cannot be burned within the hours of 7:00am and 6:00pm over three consecutive days while being contained to a 10ft x 10ft areas as determined by the chief of the fire prevention division or their designee.

Incinerator means any device or structure used for the destruction or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations.

Indirect heating equipment means any device where fuel is burned to produce usable heat by transfer through a heat conducting materials barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion.

Malfunction means any sudden and unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Multiple-chamber incinerator means any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three or more

refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. The refractories shall have a pyrometric cone equivalent of 31, tested according to the method described in the American Society for Testing Materials, Method C-24, or any superseding method.

New means equipment, machines, devices, articles, contrivances or installations built or installed or altered or moved to a new physical location outside the original premises on or after a stated time.

Nonresidential waste means solid, liquid, or gaseous material or a combination thereof resulting from the construction or the prosecution of any business, industry, trade or agricultural operation, from the conduct of a salvage operation, refuse collection and/or refuse disposal operation, or from any demolition operation. The term "nonresidential waste" includes, but is not limited to, plastics, wood, cartons, rubber, grease, oils, asphaltic materials, chemicals, land clearing debris, weeds, trees, grass, brush, logs, limbs, other vegetation, tires, and cinders. The term "nonresidential waste" includes all refuse and waste excepting exclusively household waste generated and disposed of at the residential site were generated during the normal habitation of exclusively residential premises containing five or fewer dwelling units. Waste generated from residential premises containing more than five dwelling units shall be classified as nonresidential waste. Waste generated from residential premises and disposed of at a location other than at the site where generated shall also be classified as nonresidential waste.

Official observer means a designated representative of the director who has been certified by the director as qualified on the basis of actual testing to determine the degree of opacity of visible plumes by direct visual observation. The director shall develop and make public necessary requirements for official observers based upon actual testing of the ability of the official observer to accurately determine the opacity of visible plumes. Official observers shall be required to be retested at least once every six months in order to maintain their certification.

Opacity means the degree to which an observer's view of transmitted light is obscured by passing through a contaminant emission, with zero percent opacity being equivalent to perfect transparency and 100 percent opacity being perfectly opaque.

Open burning means the burning of any materials wherein contaminants resulting from such combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be considered enclosed when, during the combustion process, only such apertures, ducts, stacks, flues or chimneys as are required to supply combustion air to permit the escape of exhaust gases are open. Burning in a barrel, drum or similar container shall be considered open burning.

Particulate matter means any material, except uncombined water, which exists in a finely divided form as a liquid or solid at standard conditions.

Potential contaminant emission factor means an average value of the amount of contaminants that have been found to be associated with a specific type of processing or burning operation as

compared to a given quantity of material processed or some other meaningful parameter. Such factors shall be those that have been recognized by the director on the basis of information published by the Federal Environmental Protection Agency or otherwise recognized by official air pollution control agencies.

Potential contaminant emission rate means the total weight of a contaminant that is or, in the absence of control equipment, would be emitted from an air contaminant source when that source is operating at its maximum capacity. The potential contaminant emission rate shall be determined by:

- (1) Sampling in a flue or duct prior to the inlet of any control device serving the flue or duct;
- (2) Estimating such emissions by performing a "material balance" calculation that indicates the difference between processing input weight and output weight of materials;
- (3) Using potential contaminant emission factors as recognized by the department; or
- (4) Using any other estimating technique mutually agreeable to the department and the person responsible for operation of the source.

Premises means any parcel of land under one ownership including any structures or equipment thereon.

Process weight means the total weight of all materials introduced into a source operation, including solid fuels but excluding liquids and gases used solely as fuels, and excluding air introduced for purposes of combustion.

Processing means any operation related to the handling, storage, treatment and/or conversion of input materials to produce a salable or usable end product.

Refuse means any combustible solid or liquid waste material resulting from industrial, residential, commercial and/or agricultural operations or processes.

Residential waste or refuse means household waste generated and disposed of at the residential site during the normal habitation of residential premises containing five or fewer dwelling units and including wastes generated from the land surrounding such units.

Salvage operation means any business, trade, industry or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material such as metals or chemicals.

Smoke means small gas-borne particles resulting from combustion, consisting of carbon, ash, and other material.

Source operation means the last operation preceding the emission of an air contaminant which:

- (1) Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion fuel; and

- (2) Is not an air pollution abatement operation.

Standard conditions means a gas temperature of 25 degrees centigrade and a gas pressure of 760 millimeters of mercury absolute.

Vehicle means any self-propelled, nonstationary device moving over public or private property on wheels, tracks, rollers, rails or air, whether or not licensed as a motor vehicle. Motorized construction equipment and railroad engines are specifically included within this definition.

SECTION 2. Section 3-17 of the 2008 Code of Ordinances, City of Kansas City, Kansas is amended to read as follows:

Section 3-17 Open Burning Prohibition

- (a) Except as provided herein, no person shall dispose of residential waste or refuse by open burning or cause, or permit open burning of residential waste or refuse
- (b) No person shall conduct, cause or permit the conducting of a salvage operation by open burning.
- (c) No person shall cause or permit the disposal of nonresidential wastes or refuse by open burning.
- (d) Except as provided herein, no person shall otherwise cause, allow or permit open burning upon any property.
- (e) No person shall cause or allow to be initiated or maintained any open burning which creates a private or public nuisance or hazard to public safety.
- (f) It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted such open burning.
- (g) Exceptions to open burning prohibition are as follows:
 - 1. Fires used for the preparation of food such as barbecuing.
 - 2. Recreational or ceremonial bonfires and other recreational fires exclusive of those included in subsection (g)(1) of this section, provided prior written approval is obtained from the director and from the fire prevention division.
 - 3. Open burning of vegetation such as grass, woody species, crop residue and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management. Provided that prior written approval is obtained from the Director and from the Chief of the Fire Prevention Division.
 - 4. The use of safety flares for disposal of flammable gases for which there is no other practical means of disposal.
 - 5. Fires set for demonstration purposes related to the training of governmental or industrial personnel in firefighting procedures, provided prior written approval is obtained from the director and from the chief of the fire prevention division.
- (h) *Opening Burning Shall be permitted as follows:*

- (1) Open burning permits may be granted for the following types of waste:

a. Extraordinary organic yard waste. Fire set for the disposal of extraordinary yard waste may be permitted only when it can be shown by a person that such

open burning is absolutely necessary and in the public interest. The Director may determine whether the burning of or extraordinary organic yard waste such as trees that are felled by severe storm damage is considered necessary and in the public interest. On a case-by-case basis the Director, or their designee, may determine what, if any, precautions are needed to ensure air quality standards are maintained. The burning of land clearing debris, including trees, brush, and vegetation only, as well as trees and limbs felled by severe weather, shall normally be considered as being necessary and in the public interest.

(i) if an air curtain pit destructor is required by the Director, it shall be of suitable design and capacity to be used to accomplish the burning and such device shall also be installed maintained and operated at maximum efficiency at all time. (Change to include “at the discretion of the director language”)

(ii) An additional permit shall be obtained from the director prior to the use of an air curtain open pit destructor. A fee in the amount established by the county administrator or their designee shall be paid for such permit.

b) Organic Yard Waste

1. Fires set for the disposal of organic yard waste generated on property for which the permit is sought may be permitted during the month of April and from October 16 through November 15 between the hours of 7:00 a.m. and 6:00 p.m. or as extended pursuant to subsection 2(i) below.

2. Organic yard waste includes leaves, brush, dead wood, tree cuttings, and weeds. Organic yard waste also includes trees felled by storm damage on properties zoned either residential or agricultural. Burning of wire insulation, tires, and other rubber products, automobile parts, paper, cardboard, treated, painted, or finished wood, plastics, garbage, trash, petroleum products, asphalt materials, building materials, demolition debris, paints, agricultural chemicals, household chemicals, or any other material which normally emits dense smoke, noxious odors, or hazardous air contaminants is prohibited.

3. Only one permit (for a maximum of three days) per property per burn month will be issued, unless the chief of the fire prevention division determines that it is in the interest of public health or safety to issue more than one permit or to extend it beyond three days.

(2) Application and issuance of permits shall be as follows:

- a. Any person intending to engage in open burning of extraordinary organic yard waste under this section shall file a request to do so with the director and the chief of the fire prevention division. The application shall state the following:

1. The name, address, and telephone number of the person submitting the application.
2. The date(s) and times of the burning operations
3. The type, quantity, and composition of the waste to be burned.
4. The exact location where open burning will be used to dispose of such waste.
5. Map indicating nearest hydrants, structures, roads, water sources, power lines, property lines and burn location within 1500 feet of the burn location.
6. Management plan for igniting, controlling, and extinguishing the open burn.
7. For extraordinary organic yard waste, in addition to the information required by this subsection:
 - i. The type of business or activity involved.
 - ii. A description of the proposed equipment and operating practices, and the expected composition and amount of air contaminants to be released to the atmosphere.
 - iii. Reasons why no method other than burning can be used for disposal of such waste.
 - iv. Evidence that the proposed open burning has been approved by any fire department that may have jurisdiction.
8. Under no circumstances shall open burning occur within 50 feet of any building, combustible material, road or within 50 feet of the property line.
 - i. All open burning must be constantly attended until extinguished.
 - ii. All persons conducting open burning shall have available the means for controlling or extinguishing the fire, such as water supply and/or heavy equipment.
 - iii. It shall be unlawful for any person to conduct open burning other than in accordance with the requirements set out in this section or in violation of any conditions or operating restrictions imposed by the director or the chief of the fire prevention division.

b. Any person wishing to burn organic yard waste under this section during the month of April or during the period from October 16 through November 15, or as extended pursuant to paragraph i below, shall file an application at any fire station, or at the fire department website (kckfd.org) within 15 days and at least 24 hours before burning.

c. The application shall state the following:

1. The name, address, and telephone number of the person submitted the application.
2. The schedule of burning operations.
3. The type, quantity, and composition of waste to be burned.
4. The exact location where open burning will be used to dispose of such waste.
5. For extraordinary organic yard waste, in addition to the information required by this subsection:

- i. The type of business or activity involved.
- ii. A description of the proposed equipment and operating practices, and the expected composition and amount of air contaminants to be released to the atmosphere.
- iii. Reasons why no method other than burning can be used for disposal of such waste.
- iv. Evidence that the proposed open burning has been approved by any fire department or the director of the health department that may have jurisdiction.

(d) Upon approval of the application by the director and the chief of the fire prevention division in the case of, and by the chief of the fire prevention division, in the case of residential waste, the person may proceed with the operation without being in violation of this section; provided that the person conducting the burning fully complies with all conditions and operating restriction imposed as a part of such permit.

(e) The director or the chief of the fire prevention division may revoke such permit at any time for cause.

(f) The director or the chief of the fire prevention division may revoke any permit at any time or may ban all open burning if one or both of them determine burning would constitute a danger to public health or safety.

(g) Each such application shall be considered individually upon merits and the director, or the chief of the fire prevention division may decide that other factors require that such permit application be denied.

(h) The director or the chief of the fire prevention division or both may establish such conditions for burning or operational requirements in permitted the open burning authorized under subsection (h)(2)f. of this section as are necessary, in the judgment of the director or the chief of the fire prevention division, to

minimize the air pollution emitted by such burning or to protect the health and safety of the public.

(i) The county administrator is hereby granted the discretion, after consultation with the director and chief of the fire prevention division, to extend the April or the October 16 to November 15 burn periods as deemed necessary due to inclement weather or other conditions which prohibit or prevent burning during those established periods or when severe weather causes a substantial number of felled trees and limbs during periods outside of the April or October 16 to November 15 burn periods.

(1) Additionally, if at any time during the year a severe weather event occurs as determined by the Director of the Air Quality Division, the owners of properties zoned for agricultural uses may apply for burn permits for trees and limbs felled by the severe weather event. The burn permit shall be approved only if the Director of the Air Quality Division determines that air quality conditions and wind conditions are acceptable, and that the application meets all other requirements and conditions as set forth in this Section.

(2) The duration of each burn permit would be determined on a case by case basis by the Director of the Air Quality Division or there staff.

(3) Under no circumstances shall open burning occur within 15 feet of any building or within 15 feet of the property line.

(4) All open burning must be constantly attended until extinguished.

(5) All persons conducting open burning shall have available the means for controlling or extinguishing the fire, such as water supply or a fire extinguisher.

(6) It shall be unlawful for any person to conduct open burning other than in accordance with the requirements set out in this section or in violation of any conditions or operating restrictions imposed by the director or the chief of the fire prevention division.

i) The director, the director's designee, or the chief of the fire prevention division or his or her designee, shall have the ability to enforce any provision of this section.

j) After denial of a burn permit under this section an applicant may appeal their decision to a panel consisting of the Director, the chief of the fire prevention division, and the County Administrator or their designee by filing a written notice of appeal with the Unified Government's Clerk's Office within thirty (30) days of such decision. The panel shall conduct a hearing on the appeal within thirty (30) days of receipt of such appeal.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS THIS _____ DAY OF
_____, 2022**

Mayor/CEO

Attest:

Unified Government Clerk

Approved as to Form:

Chief Counsel

To: Alan Howze, Assistant County Administrator
From: Jon Khalil, UG Legal Counsel
RE: Summary of Open Burning Ordinance Amendments
Date: 10/27/2022

Overview

The changes to the open burn ordinance include definitional changes and general “clean-up” changes. They also include more substantial changes to how open burning is regulated and enforced. The standard for local governments in Kansas is that local burn ordinances can be *more* stringent than State statutes but cannot be *less* stringent than State statutes.

KDHE expressed concern about several changes that emerged from Standing Committee (see attached). Staff has proposed amendments that we believe satisfy KDHE and meet the standard of not being less stringent than State statute allows. The changes also allow for greater flexibility and discretion, especially in the event of a large storm event.

This memo outlines the changes to the Open Burn ordinance that meet the minimum standard threshold. It also contains recommended changes to the proposed ordinance in order to remain in compliance with State of Kansas statutes. The use of large burns to eliminate organic waste is rarely used. The last permit for an air curtain incinerator was issued by the UG in 2017.

[Chapter 3 - AIR POLLUTION | Code of Ordinances | Wyandotte County - Unified Government, KS | Municode Library](#)

Section 3-3 Definition Amendments

1. The first amendment to Section 3-3 is the inclusion of the phrase “extraordinary organic yard waste” in the definition of *Approvable Air Curtain Open Pit Destructor*. This additional adds clarity to the sections about what type of material burning may require an air curtain open pit destructor.
2. The second amendment to Section 3-3 is adding that the use of an approvable air curtain open pit destructor “is an open burn that requires an open burn permit.” This addition will provide clarity to citizens who is required to obtain an open burn permit. Particularly in a situation when an entity wishes to conduct a burn with an Air Curtain Open Pit Destruct and has already obtained a title V permit from the Kansas Department of Health and Environment.
3. The third amendment to Section 3-3 is amending the definition of *Director* to “The manager of the Environmental Health Division of Wyandotte County/Kansas City, Kansas Public Health Department or their designee.” This definition change would update the ordinance and better align it with the current structure of the Health Department.
4. The fourth amendment to Section 3-3 is the addition of a definition to the phrase “extraordinary organic yard waste.” The proposed definition of is “extraordinary organic yard waste means organic yard waste that cannot be burned within the hours or 7:00am and 6:00pm over three consecutive days while being contained to a 10 ft x 10 ft area as determined by the chief of the fire prevention division or their designee.” The phrase extraordinary organic yard waste is used several times throughout the ordinance but is not currently defined in the ordinance. By adding this definition the ordinance will be clearer and more transparent for the pubic.

Summary of Open Burning Ordinance Amendments

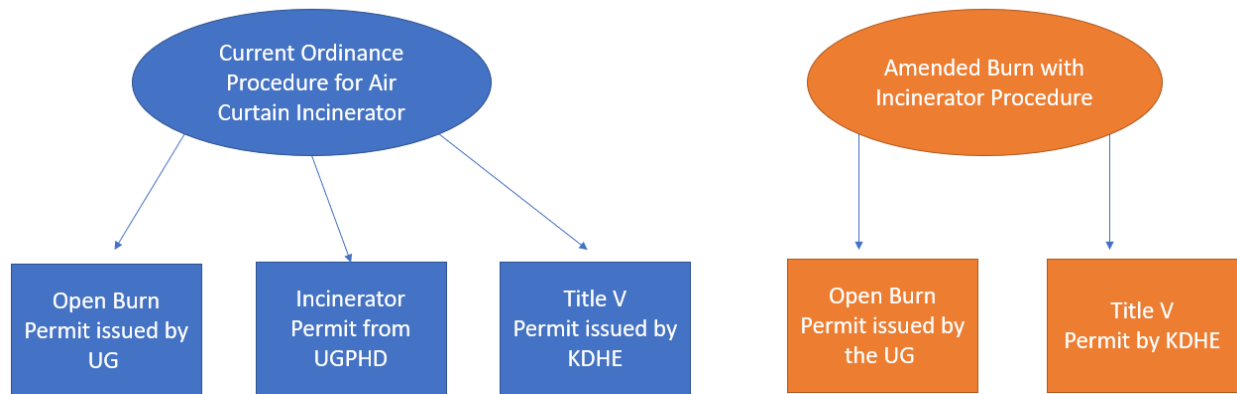
Section 3-17 Amendments

1. The first proposed amendment to Section 3-17 is an amendment to Section 3-17(g)(3) this amendment is to change the language from “fires set in connection with agricultural operations related to the growing or harvesting of crops, provided that prior written approval is obtained from the director and from the chief of the fire prevention division.” To “Open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management. Provided that prior written approval is obtained from the Director and the Chief of the Fire Prevention Division.” The change would update the ordinance language to better match the current language of the Kansas Department of Health and Environment regulations.
2. The second proposed amendment to Section 3-17 is an amendment to Section 3-17(h)(1)(a) this amendment would amend the current language to read “*Extraordinary Organic Yard Waste*. Fire set for the disposal of extraordinary organic yard waste may be permitted only when it can be shown by a person that such open burning is absolutely necessary and in the public interest. The Director may determine whether the burning of extraordinary organic yard waste such as trees that are felled by severe storm damage is considered necessary and in the public interest. On a case-by-case basis the Director, or their designee, may determine what, if any, precautions are needed to ensure air quality standards are maintained. The burning of land clearing debris, including trees, brush, and vegetation only, as well as trees and limbs felled by severe weather, shall normally be considered as being necessary and in the public interest.”

This amendment to the open burning ordinance makes it clear that trees and limbs felled by severe weather, are types of waste that may be permitted to be burned under the ordinance. This amendment also gives the manager of the Environmental Health and Division of the Health Department the discretion about what precautions if any are needed to be taken by the person conducting the burn to ensure air quality standards are maintained. This amendment is a deviation from the current ordinance which **requires** the Director to order the use of an air curtain destructor if they determine that extraordinary organic yard waste is going to be burned. Giving the Director the discretion on when an air curtain is required will provide better flexibility on what precautions may be appropriate given the individual circumstances around each proposed burn.

3. The third proposed amendment to Section 3-17 is the addition of Section 3-17(h)(1)(i) which moves language that is currently in Section 3-17(h)(a). This language requires that an air curtain pit destructor if required, needs to be of suitable design and capacity. This language is needed because it gives the Director to ensure that any air curtain that is being used is able to provide the proper mitigation to ensure air quality is maintained.
4. The fourth proposed amendment to Section 3-17 is the removal of the permit requirement and fee, if air curtain pit destructor is required. Use of an air curtain incinerator will still require obtaining an open burn permit and obtaining a title V permit for the air curtain from KDHE. **This change will simplify the process by removing the additional permit from the Unified Government specifically relating to the use of an air curtain that was previously required.**

Summary of Open Burning Ordinance Amendments



5. The fifth proposed amendment to Section 3-17 is amending section 3-17(h)(1)(b)(2) to include “Organic yard waste also includes trees felled by storm damage on properties zoned either residential or agricultural.” This amendment will ensure that properties zoned agricultural and residential will be treated in a similar manner, especially when trees felled by storm are what the applicant wishes to burn.
6. The sixth proposed amendment to Section 3-17 is amending section 3-17(h)(2)(a) to includes sections 1-8 and subsections. These sections state what information each application for an open burning regulation must include. These amendments if adopted will provide clarity to the public regarding what information is needed when applying for an open burn permit. This amendment also provides the public with valuable information about the precautions that they will need to take prior to being approved for an open burning permit. These requirements include, developing a management plan for igniting, controlling, extinguishing the open burn, the dates and times of the burning, the contact information of the applicant, the location of the burn, and that under no circumstances no open burning shall occur within 50 feet of any building, combustible material or road.
7. The seventh proposed amendment to Section 3-17 is amending section 3-17(h)(2)(c) to include the phrase “extraordinary organic yard waste” and to give the power to approved proposed open burning to either the fire department or the director of the health department. These changes would provide clarity to the public as to who is able to approve an open burning permit and what type of material may be burned under an open burning permit.
8. The eight proposed amendment to section 33-17 is amending section 3-17(i) to include language stating that “additionally if at any time during the year a severe weather event occurs as determined by the Director, the owners of properties zoned for agricultural uses may apply for burn permits for trees and limbs felled by the severe weather. The burn permit shall be approved only if the Director determines that air quality conditions and wind conditions are acceptable, and that the application meets all other requirements and conditions as set forth in this Section. The duration of each burn permit would be determined on a case-by-case basis.” This addition would provide the county with the ability to approve burn permits for the owners of properties zoned for agricultural uses, in the event of a severe weather event that causes trees and limbs to be felled. This amendment also

Summary of Open Burning Ordinance Amendments

ensures that the duration of each burn permit will be determined on an individual basis by the Director.

Prima Facie Evidence Standard

9. Another proposed amendment to section 3-17 is removing the language in section 3-17(f) which currently reads: "It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has cause or permitted such open burning." The Kansas Department of Health and Environment ("KDHE") has recommended against the UG striking this language from the ordinance. According to KDHE this will conflict with current KDHE regulation 29-19-646 which states "Responsibility for Open Burning. It shall be prima facie evidence that the person who owns or controls property on which open burning occurs has caused or permitted the open burning." According to KDHE removing the language of Section 3-17(f) will create a dueling standard for enforcement actions. Which may in turn subject Wyandotte County citizens to KDHE enforcement actions where the Unified Government could have otherwise handled them. **Staff recommends amending the proposed ordinance changes that came out of standing committee to retain the prima facie evidentiary standard in order to remain in compliance with the KDHE minimum standard.**

Appeal of denial of a Burn Permit to Wyandotte County District Court

For the District Court to have jurisdiction over any issue including the appeal of a denial of burn permit the court must be granted jurisdiction either through the Kansas Constitution or a statute conferring jurisdiction. Here, there is not a state statute that would confer jurisdiction to the District Court for the denial of a burn permit. The Kansas Judicial Review Act does not confer jurisdiction because it expressly does not apply to political or taxing subdivision of the state. *Dennings v. Johnson County*, 2009 WL 85590337 (Kan. Dist. Ct. 2009).

The only statute that may come close to granting jurisdiction is K.S.A. 60-2101(d) which reads "a judgment rendered or final order made by a political or taxing subdivision, or any agency thereof, exercising judicial or quasi-judicial functions may be reversed, vacated or modified by the district court on appeal." However, this statute only applies to political or taxing subdivisions who are exercising judicial or quasi-judicial functions.

The Kansas Supreme Court has interpreted quasi-judicial functions to generally mean: "a decision of legislative body is quasi-judicial if 1) a state or local law requires notice to the community before the action; 2) a state or local law requires a public hearing pursuant to the notice; 3) a state or local law requires the application criteria established by law to the specific facts of the case." *Reiter v. City of Beloit*, 947 P. 2d 425, 434 (Kan. 1997). Here, the denial of a burn permit would not constitute a quasi-judicial function and therefore the Wyandotte County District Court would not have jurisdiction under K.S.A. 60-2101(d)

The denial of a burn permit does not require notice to the community prior to action, it does not require a public hearing, and it does not require application required to a specific case. **Therefore it is staff's recommendation that this proposed amendment be amended for an appeal of the denial of a burn permit to be to the County Administrator or their designee.**