



City of Clearwater Council Meeting Notice

Tuesday January 23, 2018 at 6:30pm

129 E Ross Clearwater, KS 67026

www.clearwaterks.org

Please call the Clerk's office at 620-584-2311 or the Kansas Relay Service 800-876-3777 at least 48 hours in advance if you require special accommodations to participate in this meeting. We make every effort to meet reasonable requests.

AGENDA

[Please note that the meeting agenda is subject to change during the meeting.]

1. Call meeting to order and welcome

2. Invocation and flag salute

3. Roll Call

Burt Ussery, Mayor

Laura Papish, Councilmember President

Yvonne Coon, Councilmember

Shirley Palmer-Witt, Councilmember

Tex Titterington II, Councilmember

Chris Griffin, Councilmember

4. Action: Approve January 9, 2018 meeting agenda

5. Public Forum

Pursuant to Ordinance No. 917 and Section 2.08.010 adopted by the governing body and approved by the Mayor on November 24, 2009, members of the public are allowed to address the Mayor and City Council for a period of time limited to not more than five minutes.

6. Action: Approve Consent Agenda

a. [Minutes 01/09/18 Council Meeting](#)

b. [Boundary Resolution 2-2018](#)

7. Staff Reports

8. Action: Right of Way Ordinance 1039

9. Action: Fee Resolution 3-2018

10. Action: Chisholm Ridge Incentive Resolution 4-2018

11. Action: Park Glen Estates Incentives Resolution 5-2018

12. Action: Indian Lakes Incentives Resolution 6-2018

13. Discussion: Sewer Pond Presentation

14. Executive Session: Pertaining to Real Estate

15. Action: Claims and Warrants

16. Council Reports

17. Adjournment

NOTICE: SUBJECT TO REVISIONS

It is possible that sometime between 6:00 and 6:30 pm immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Governing Body may be present in the council chambers or lobby of City Hall. No one is excluded from these areas during those times.

Re: Agenda Summary 01/09/17

- Item 6:** **a.** Approval of Minutes for the December 12, 2017 Meeting
b. Adopt Boundary Resolution 2-2018. The boundary resolution includes changes made to the corporate limits for the City of Clearwater. The changes made were suggested by Sedgwick County and confirmed as the proper boundaries of Clearwater.
- Item 8:** Counsel has revised the Right of Way ordinance to clarify temporary signs in the right of way per council request. Staff is presenting an ordinance for adoption.
- Item 9:** The Fee Resolution summarizes fees that have been set by various codes or resolutions or other manners of approval by the Governing Body that will be reviewed on an annual basis. Some rates have suggested changes and are listed in the agenda report.
- Item 10:** Staff and counsel has prepared a resolution for the Chisholm Ridge incentives based on the suggested changes.
- Item 11:** Staff and counsel has prepared a resolution for the Park Glen Estates incentives based on the suggested changes.
- Item 12:** Staff and counsel has prepared a resolution for the Indian Lakes incentives based on the suggested changes.
- Item 13:** Staff will prepare a presentation on the changes, imposed by KDHE, made to the sewer ponds, what the changes were to do, what to expect in the future.

City of Clearwater, Kansas
Sedgwick County
City Council Meeting - **MINUTES**
January 9, 2018
Clearwater City Hall – Council Chambers
129 E. Ross Avenue Clearwater, KS 67026

1. Call to Order

Mayor Burt Ussery called the meeting to order at 6:30 p.m.

2. Invocation and Flag Salute

Mayor Ussery gave the invocation which was followed by the pledge of allegiance and flag salute.

3. Roll Call

The City Clerk called the roll to confirm the presence of a quorum. The following members were present:

Mayor Burt Ussery, Councilmembers; Paul Clark, Laura Papish, Chris Griffin, and Tex Titterington were present

The following staff members were present:

Ron Marsh, City Administrator; Courtney Meyer, City Clerk; Bill Hisle, Chief; Scott Cooper, Director of Emergency Services; Ernie Misak, Public Works Director; Kristi Rey, Senior Community Center Director; Beki Zook, Recreation Director.

Others present: Yvonne Coon, Shirley Palmer-Witt, Shaun Weaver, Kurtis Lauterbach, Marvin and Mary Schauf, Karl May, David Coon, Allie Palmer, Ron Witt.

4. Approval of the Agenda

Mayor Ussery called for a motion to approve the agenda as modified.

Motion: Clark moved, **Griffin** seconded to accept the January 9, 2018 agenda as modified. Voted and passed unanimously.

5. Public Forum

None

6. Approve Consent Agenda

Minutes December 12, 2017 Council Meeting Minutes
Salary Resolution 1-2018
Mayer Sewer Cleaning Contract Renewal

Mayor Ussery called for a motion to approve the consent agenda.

Motion: Papish, moved, **Clark** seconded to approve the consent agenda as presented. Voted and passed unanimously.

7. New Council Sworn In

Mayor Ussery presented Councilmember Paul Clark with an appreciation plaque for his years of service on city council. Ussery also presented City Administrator Ron Marsh, former City Councilmember, with a plaque for his service as well.

Clerk Meyer sworn in new city councilmembers Yvonne Coon and Shirley Palmer-Witt. Meyer also swore in returning councilmember Chris Griffin.

8. Elect Council President

Mayor Usery stated each election year a new council president needs to be nominated and elected by the Governing Body. The Council President is responsible for stepping into the Mayor's place when he/she is unable to. Titterington nominated Laura Papish

Motion: *Coon* moved, *Titterington* seconded to elect Laura Papish as Council President. Voted and passed unanimously.

9. Staff Reports

Administration

- Snow & ice treatment for new downtown sidewalk: Ernie found alternative that shouldn't damage concrete (especially decorative section); initially purchased 10 bags plus sand; distributed sand and took letter to each business letting them know to use the sand in the event of snow/ice and that PW would treat with the alternative product.
- The Clearwater Foundation has some funds in the memory of Austin Wood that they would like use towards the City Park. I will be working with Beki and the Foundation to figure out the best use of these funds and bring it to Council.
- My first meeting with Clearwater Foundation board will be Wednesday at noon.
- Looking for people to serve on Recreation Commission, PAB, Library Board and Historical Society Board. FB post has produced three potential volunteers.
- For future reference: will be planning a workshop to discuss long term planning as it relates to the Strategic plan.
- Lions Club would like to put a sign advertising their pancake and sausage feed on the city lot at Tracy and Ross.
- Ron stated he will be out of the office Friday through Tuesday to attend my Dad's memorial service.

PD – Bill Hisle

- Garrett Hoover was off from training for 2 weeks due to the holiday. During that time riding along with other officers. He also did good on his law test.

Emergency Service – Scott Cooper

- February 22, 2017, I took over my position and was fortunate to have Twenty-Five (25) firefighters and Six (6) cadets. There were 11 medically trained personnel including, 3 Paramedics, 2 AEMTs, and 6 EMT's.
- As 2017 progressed, we gained eight (8) new members and lost nine (9) firefighters and Two (2) cadets. Currently, there are Twenty-Four (24) firefighter and (four) 4 cadets. There are 11 medically trained personnel on the roster including 3 paramedics, 2 AEMT, and 6 EMT's. There are 2 personnel that have completed the EMT class and are waiting on results of the written exam. There are another 2 personnel who are attending Hutch Community College this spring for EMT.
- The recruitment and retention of our members is very important. I along with members of CES will be developing a R/R strategy to deploy this spring to try and recruit new members. New membership will bring in new blood and hopefully sustain the organization into the future.
- I was asked to provide a brief update on the responses from 2017. Although we have had changes in my department, we have been able to maintain very well.
- Clearwater Emergency Services responded to 58 fire calls. The call breakdown shows:
 - Structure Fires: 9; Grass/Brush Fires: 15; Other service calls: 34. This category includes MVA's, Electrical issues, water line breaks, smoke investigations ect.
- Clearwater Emergency Services also responded to 274 medical calls. The call breakdown shows:
 - Trauma related: 57; Medical related: 165; Cardiac Arrests: 4; Deceased on scene: 5; Refusals: 43; Clearwater transported 133 patients, Sedgwick County transported 56 patients, Mulvane EMS transported 2 patients and Clearwater PD transported 1.

Recreation – Beki Zook

- Basketball is up and running again since the holiday.
- KRPA conference is in 2 weeks
- Baseball signups will be starting soon.

Public Works – Ernie Misak

- Installing new meters at Chisholm Ridge

- Pulled 2 waste water samples since last meeting and the 1st one failed. Waiting for results from 2nd one.
- Christmas lights have been taken down.
- Entire crew is all back from vacations and holidays. Back up to full staff.

Titterington asked what are the ramifications for failing the waste water tests.

Mayor Ussery asked for staff to come back to next meeting to give an update on the changes that were made to the sewer ponds, what the changes were to do, what will happen if the testing continues to fail.

Senior Community Center – Kristi Rey

- Department on Aging will be out to review attendance numbers to see if Clearwater can move up to next funding level
- Biscuits and Gravy will not be called Breakfast at the Center to try and draw a bigger crowd.
- Working with Tina Welch, Library Director, for a Murder Mystery to be held at the Center.

10. Vacant Lot Electrical Layout Change Request

Karl May spoke to the council and stated he has a problem with where the electrical is on the open lot located at Ross and Tracy. May claims by moving the electrical panel to behind the mail boxes will be safer place and more esthetically pleasing. May stated that the location of the electrical panel could arc and cause his medical equipment to fail and harm patients.

Council discussed and agreed that staff needs to talk with Sedgwick County to see if they are aware of the medical equipment in the next building and if that would change the ruling on the location of the electrical panel.

Council also stated that moving the panel is not in the budget for 2018 however if it deemed a safety hazard then they feel they will need to have it moved in this budget year. If it is not a hazard council will further discuss the pros and cons of moving the panel to another location on the property.

11. Approve Police Department Remodel

During the 2018 budget cycle, Chief Hisle presented plans for a remodel of the Police Department to improve the layout and security of their space. Included in the presentation were plans to move the property & evidence room from its current location to a more secure and logical location. The Governing Body approved \$25,000 in the police budget for the remodeling work.

Included is the layout of the remodel. Chief Hisle received two quotes for the work, one from BBB Construction for \$24,820.00 and one from SCA Construction for \$27,034.00. The SCA quote includes \$6375.00 for a complete rewire of the PD to put them on their own fuse box. Chief Hisle states the PD will keep its current wiring setup and subtracting the electrical work from the SCA bid lowers it to \$20,659.00. Chief recommends the approving the bid from SCA.

If approved, the cost of the low bid not to exceed \$25,000.

Council wanted to confirm that Triple B did not quote for the rewire on the remodel. Chief Hisle did confirm that Triple B's bid for \$24,820 and SCA Construction bid for \$20,659 were apples to apples bid.

Motion: *Titterington* moved, *Griffin* seconded to approve the police department remodel and award the bid to SCA Construction with the electrical work subtracted from the quote. Voted and passed unanimously.

12. Land Annexation Ordinance

In September 2017 the city received a Consent for and Petition to Annex into the corporate limits of the City of Clearwater from the property owners at 8027 Butterfly Court. The property is part of the Prairie Meadows Estates Sub-division and as such is required to petition for annexation to receive city water service. At the December 12, 2017 meeting the Governing Body did adopt Resolution 8-2017 finding it advisable to annex the referenced property. That resolution was subsequently sent to the Sedgwick County Board of County Commissioners pursuant to state statute. At their January 3, 2018 meeting the Sedgwick County BOCC did adopt a resolution allowing the city to annex the property pursuant to state statute.

Sedgwick County BOCC has approved the release for annexation. A separate Ordinance needs to be adopted officially annexing the property into the city.

Motion: *Griffin* moved, *Titterington* seconded to adopt ordinance 1038. Coon, yay; Papish, yay;

Palmer-Witt, yay; Griffin, yay; Titterington, yay.

13. 2017 Court Write Offs

Annually, the Court Clerk prepares a list of outstanding accounts for write. These accounts are considered uncollectible.

A total of 14 accounts with an accumulated balance of approximately \$4688 have been submitted for write off.

The accounts remain in collections via the state set-off program and if any monies were returned to the city they would be deposited into the general fund under court fines.

The names and cases to be considered for write-off:

Philip Krieger, Case No. 00-207, Chad Leichardt, Case No. 02-149, Steven Flemming, Case No. 03-48, Preston Hickert, Case No. 94-241, Shawn Mason, Case No. 01-96, Amie Ohmie, Case No. 97-203, Rosario Perales, Case No. 95-102, Ryan Pickett, Case No. 03-26, Benny Slobko, Case No. 03-74, Christopher Tafoya, Case No. 02-146, John Kinkaid, Case No. 97-16, Van Kelley, Case No. 01-117, Lynetta Wilkinson, Case No. 99-63.

Motion: *Papish* moved, *Titterington* seconded to approve the court write-offs. Voted and passed unanimously

14. Chisholm Ridge Incentives

Marsh explained that in 2016 City Council Approved Resolution 4-2016 establishing development incentives Chisholm Ridge. The incentives were renewed in total for 2017 and are to be reviewed annually by the governing body to either continue the programs, modify, or discontinue.

By the end of 2017, 17 of 18 City owned lots have been sold under the incentive program. The City owned lots are sold for the established price of \$10,000 and the City pays off the specials against the lot resulting in an abatement of all currently levied special assessments. The rest of the incentives with proposed changes are below:

Current Incentives	Proposed Changes
1. 50% Reduction in building permit	1. 50% reduction in building permits
2. Water and Sewer abatement	2. 50% Water and sewer abatement
3. Builder Incentive payout	3. Builder Incentive payout
4. \$1500 to homebuyer at closing	

The proposed changes would be in effect for 2018 for the one remaining city owned lot in Chisholm Ridge.

Reasons for changes:

50% abatement of City sewer and water connection fee to help mitigate the increase in water usage rates necessary to get the water fund to self-sufficiency. In 2017, approximately \$13,200 was abated that could have gone to water revenues. In 2018 approximately \$600 could be revenue.

The \$1500 homebuyer incentive is strictly a cost to the City with no opportunity to recoup. Feedback from builders and buyers indicate it doesn't appear to have much effect on the homebuying decision. In 2017, the homebuyer approximately \$3000 worth of incentive was paid; in 2018 it will be approximately \$13,500.

For Chisholm Ridge, there is 1 lot remaining to sell in the current addition. The Chisholm Ridge lots are sold for \$10,000 which pay for the buyer and builder incentives after specials are paid off. This results in no effect on the 2018 budget.

Marsh asked if there was any discussion or questions.

Titterington asked that staff continue with all the incentives as there are new members on the council and they may or may not be aware of all that the city has offered.

15. Indian Lakes Incentives

Marsh continued to say in 2016 City Council approved a developer’s agreement granting incentives for Indian Lakes. The incentives were renewed in 2017 and are to be reviewed annually by the governing body to either continue the program, modify, or discontinue.

At the end of 2017, 3 of 8 lots have qualified for the current incentive program.

Current Incentives	Proposed Changes
<ul style="list-style-type: none"> 5. 50% reduction in building permits 6. Water and sewer abatement 7. 50% reduction in city portion of property taxes for 5 years 	<ul style="list-style-type: none"> 1. 50% reduction of building permit fee 2. 50% abatement of City sewer and water connection fee 3. 50% rebate in city portion of general property taxes for 5 years on an established sliding scale ending 12/31/2020.

The proposed incentives would apply to the five remaining lots originally identified for the incentive program.

Reasons for changes:

50% abatement of City sewer and water connection fee to help mitigate the increase in water usage rates necessary to get the water fund to self-sufficiency. Under current incentives, approximately \$7200 was abated that could have gone to water revenues. Under proposed incentives, potentially \$6,000 would be revenue.

Continuing the property tax rebate helps promote development. By using a sliding scale (see below) the City can limit long term budget payouts while encouraging the developer to take advantage of incentives for new developments.

Sliding scale for property tax rebate:

- 50% for 5 years if construction completed in 2018
- 50% for 4 years if construction completed in 2019
- 50% for 3 years if construction completed in 2020

Indian Lakes has no initial cost to the city however each property will cost approximately \$750 each year for up to 5 years.

16. Park Glen Estates Incentives

In 2016 City Council approved resolution 5-2016 granting incentives for Park Glen Estates. The incentives were renewed in 2017, amended 10/10/17, and are to be reviewed annually by the governing body to either continue the program, modify, or discontinue.

At the end of 2017, 5 of 11 lots have qualified for the current incentive program.

Current Incentives	Proposed Incentives
<ul style="list-style-type: none"> 4. 50% reduction in building permits 5. Water and sewer abatement 6. 2% of the real estate appraisal or the sale price (whichever is lower) at the time of closing 7. \$1500 to homebuyer at closing 8. 50% reduction in city portion of property taxes for 5 years 	<ul style="list-style-type: none"> 1. 50% reduction of building permit fee 2. 50% abatement of City sewer and water connection fee 3. 50% rebate in city portion of general property taxes for 5 years 4. Cash payment to builder at time of closing @ 2% of the real estate appraised value or sale price, whichever is lower up to a maximum of \$8000

The proposed incentives for 2018 would only apply to the 6 remaining lots originally identified for the incentive program.

Reasons for changes:

50% abatement of City sewer and water connection fee to help mitigate the increase in water usage rates necessary to get the water fund to self-sufficiency. Under current incentives, approximately \$6000 was abated that could have gone to water revenues. Under proposed incentives, potentially \$3600 would be revenue.

The \$1500 homebuyer incentive is strictly a cost to the City with no opportunity to recoup and feedback from builders and buyers indicate it doesn't appear to have much effect on the homebuying decision. In 2017, the homebuyer incentive cost the City approximately \$4500; in 2018 it will cost the City approximately \$3000.

Capping the cash payment allows the City to manage a realistic budget while still encouraging development.

Council has budgeted \$50,000 for the Park Glen Incentives for 2018. The total cost for one home in Park Glen Estates is approximately \$7,500 initially and \$1,100 every year for 5 years.

Council agreed with the proposed changes for all incentive programs. Council did advise staff to come back to next meeting with a cost and revenue spreadsheet, so they can see how much the incentives will be costing the city year over year. Council also advised staff to send the incentive information to legal for their review to bring back to the next council meeting.

The Mayor asked staff to look into other incentives for the rest of the city, such as a revitalization program. He stated the incentives in these 3 additions have been successful and the city should look at other opportunities to enhance the city.

17. Right-of-Way/ Sidewalk Ordinance

Marsh stated with the completion of the Streetscape project along the downtown block of Ross Ave., staff has been advised to develop a right-of-way ordinance to regulate the occupancy and use of city right-of-way, including sidewalks.

K.S.A. 17-1902 empowers cities to enact reasonable public health, safety and welfare requirements and regulations for the occupancy and use of the public right-of-way that is competitively neutral and not unreasonably discriminatory.

Adopting a sidewalk ordinance would be consistent with the Strategic Plan Goal 4 Quality of life: Promote the quality of life in Clearwater to ensure stable and sustainable growth and Goal 5 Infrastructure: Provide, maintain and improve infrastructure.

Counsel has added language to the ordinance addressing the Governing Body's concerns regarding residential properties. Such as, temporary signs; no one has to have a permit for a temporary sign. Any property zoned A-L, R-L, R-1, R-1A, R-2, R-3, or PUD are exempt from permitting.

This ordinance will be for "new structures" on sidewalks.

Council asked how a temporary sign is defined. Staff stated there was no definition.

Council asked to have the ordinance amended to incorporate a definition of a temporary sign.

18. Financials

ACCT	BUDGETED	ACTUAL	% OF BUDGET	NOTES
GEN – REVENUES	1,941,784.00	2,213,675.92	114%	
GEN – ADMIN	464,055.90	611,370.75	131.75%	Special assessments/ incentive payouts/ lot purchase/ severance/ backstop/ fishing dock

GEN – SR CENTER	43,465.69	29,511.64	67.90	
GEN – PD	636,110.63	540,183.74	84.92%	
GEN – COURT	83,700.12	87,151.90	104.12%	Court Costs (In/Out)
GEN – PW	19,190.00	15,334.29	79.91%	
GEN – SANITATION	144,202.33	174,209.86	120.81%	Waste Connections Bills (In/Out)
GEN – EMS	156,638.80	150,120.84	95.84%	
GEN – FIRE	129,929.00	150,763.38	118.78%	Engine 1 Repair
GEN – PARK	183,734.45	160,288.97	87.24%	
GEN – POOL	124,477.00	67,790.52	54.47%	
GEN – MUSEUM	7,500	7,773.44	103.65%	Building Insurance
GEN – STREET LIGHTS	25,900	24,396.71	94.20%	
GEN – PERSONNEL DEVELOPMENT	13,100.00	11,011.89	84.73%	
GEN – LIB BUILDING	8,900.00	7,540.87	84.73%	
TOTAL GENERAL EXPENDITURES	2,037,873.92	2,037,488.80	99.98%	
ACCT	BUDGETED	ACTUAL	% OF BUDGET	NOTES
Special Hwy Rev	94,770.00	97,868.04	103.27%	
Special Hwy Exp	95,100.03	90,997.90	95.69%	
Cap Imp Rev	27,137.00	37,942.12	139.82%	
Cap Imp Exp	227,000.00	182,918.07	80.58%	
Water Rev	400,349.39	351,898.09	87.90%	
Water Exp	424,949.39	402,832.04	94.80%	

Sewer Rev	527,600.00	527,488.11	99.98%	
Sewer Exp	495,643.84	398,848.91	80.47%	

Council wanted to thank all of staff for managing the budget so well. They said it's not easy to come within .02% of a \$2,000,000 budget.

19. Claims and Warrants

Meyer stated that the claims and warrants were \$156,379.57.

Motion: *Papish* moved, *Titterington* seconded to pay the claims and warrants as presented. Voted and passed unanimously.

20. Council Reports

Coon stated there are very tall unsafe piles out at the brush dump that need attention. Marsh stated he was addressing the situation

Papish had nothing to report

Palmer-Witt had nothing to report

Titterington had nothing to report

Griffin had nothing to report

Ussery asked staff to look into a neighborhood revitalization program.

21. Adjournment

With no further discussion Ussery called for a motion to adjourn.

MOTION: *Papish* moved, *Titterington* seconded to adjourn the meeting. Voted and passed unanimously. The meeting adjourned at 8:41 p.m.

CERTIFICATE

State of Kansas }
 County of Sedgwick }
 City of Clearwater }

I, Courtney Meyer, City Clerk of the City of Clearwater, Sedgwick County, Kansas, hereby certify that the foregoing is a true and correct copy of the approved minutes of the January 9, 2017 City Council meeting.

Given under my hand and official seal of the City of Clearwater, Kansas, this 23rd day of January 2018

 Courtney Meyer, City Clerk

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Boundary Resolution
INITIATED BY: City Administrator
PREPARED BY: City Clerk

Background: Yearly, the city is required to adopt a resolution that establishes the corporate boundaries of the city. The resolution is adopted to ensure that municipal codes, regulations and laws have established areas of enforcement.

Analysis: The 2017 boundary resolution incorporates the changes suggested by Sedgwick County and verified by staff of the property boundaries. Linn Packard with Sedgwick County had pointed out a few lot numbers that weren't correctly stated in the previous year boundary resolution that are now corrected.

Financial: There is not financial impact for the item.

Legal Considerations: Review and comment as necessary

Recommendations/Actions: Approve Resolution 02-2018.

THE CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 2-2018

A RESOLUTION DECLARING THE BOUNDARIES OF THE
CITY OF CLEARWATER, KANSAS.

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

Section 1. Boundary Declared

The entire boundary of the City of Clearwater, Kansas is declared to be as
described in Exhibit "A" attached hereto and made a part hereof.

Adopted by the City Council this 23rd day of January, 2018.

Approved by the Mayor this 23rd day of January, 2018.

MAYOR, BURT USSERY

SEAL

ATTEST:

CITY CLERK, COURTNEY MEYER

Exhibit "A"

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS INCLUDES contiguous tracts with a boundary described as at the southeast corner of the southwest quarter of Section 24, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas; thence north 40 feet along the east line of the southwest quarter for the point of beginning; Thence north to the northeast corner of the southwest quarter of Section 24; Thence north to the northeast corner of the northwest quarter of Section 24; Thence west, along the north line of the northwest quarter of said Section 24, to the Missouri and Pacific Railroad right of way; Thence southwesterly, along the south line of the Missouri and Pacific Railroad right of way, to a point that is 728.4 feet northeast of the intersection of the west line of said Section 24 and the south line of the Missouri and Pacific Railroad right of way; Thence southeasterly to a point 300 feet southeasterly and perpendicular to the Missouri and Pacific Railroad right of way; Thence southwesterly, parallel to the south line of the Missouri and Pacific Railroad right of way, to a point 30 feet east of the west line of Section 24; Thence north, parallel with the west line of the northwest quarter of said Section 24, to the south line of the Missouri and Pacific right of way; Thence southwesterly, along the railroad right of way, to the east line of the northeast quarter of Section 23, Township 29 South, Range 2 West; Thence southwesterly, along the railroad right of way 1727.22 feet, to the southwest corner of Lot 37, Southern Kansas Telephone Second Addition, an addition to the City of Clearwater, Kansas, said lot corner being on the north line of the southeast quarter of Section 23, Township 29 South, Range 2 West; Thence southwesterly, along said right-of-way line, to a point which is 361 feet north of the centerline of Wood Avenue; Thence west, parallel to the centerline of Wood Avenue, to a point which is 218 feet east of the west line of the southeast quarter of Section 23; Thence north, parallel to the west line of said quarter, to a point which is 224 feet south of the north line of said southeast quarter; Thence east, parallel to the north line of said southeast quarter, 145 feet; Thence north 224 feet to a point on the north line of the southeast quarter of Section 23, which is 363 feet east of the northwest corner of said southeast quarter; Thence continuing north parallel to the west line of the northeast quarter of Section 23, 1,214 feet; Thence west, parallel to the south line of said quarter, 363 feet, to a point on the west line of said northeast quarter; Thence north to the northeast corner of the northwest quarter of said Section 23; Thence west to the northwest corner of the east half of said northwest quarter; Thence south to the southwest corner of the east half of said northwest quarter; Thence east on the south line of said quarter to a point which is 33 feet west of the southeast corner of said northwest quarter; Thence south, parallel to the east line of the southwest quarter of Section 23, to a point which is 361 feet north of the centerline of Wood Avenue; Thence west to a point on the centerline of Grant Avenue extended which is 361 feet north of the centerline of Wood Avenue; Thence north 97.5

feet; Thence west to the west line of the northeast quarter, southwest quarter of Section 23; Thence south 485.78 feet to the northwest corner of the southeast quarter of said southwest quarter; Thence continuing south to the southwest corner of southeast quarter of said southwest quarter; Thence continuing south to the southwest corner of the northeast quarter, northwest quarter, Section 26, Township 29 South, Range 2 West; Thence continuing south 30 feet; Thence east, parallel to the south line of the northeast quarter, northwest quarter, to a point which is 65 feet south of the southeast corner of Lot 79, on Tracy Avenue in the Tracy and Byers Addition to the City of Clearwater, Kansas; Thence south, parallel to the centerline of Tracy Avenue extended, to a point which is 475.1 feet south of the south line of the northeast quarter, northwest quarter of Section 26; Thence east 50 feet to the centerline of Tracy Avenue extended; Thence southeasterly, along the southerly line of the Terrace Park Addition to the City of Clearwater, Kansas, 743.70 feet, 385 feet, 212.34 feet, 112.98 feet to a point on the south line of the northeast quarter of Section 26; Thence south, perpendicular to the north line of the southeast quarter of Section 26, 255.62 feet; Thence east, parallel to the north line of the southeast quarter of Section 26, 255.62 feet; Thence north, perpendicular to the north line of the southeast quarter of Section 26, 255.62 feet to the southeast corner of the southwest quarter, northeast quarter of Section 26; Thence east along the south line of said northeast quarter to the southwest corner of the northwest quarter of Section 25, Township 29 South, Range 2 West. Thence east along the south line of said northwest quarter to the southeast corner of said northwest quarter. Thence north along the east line of said northwest quarter to a point which 1810.39 feet south of the northeast corner of the northwest quarter of Section 25, Township 29 South, Range 2 West; Thence east 2274.43 feet, parallel with and 839.00 feet north of the south line of the northeast quarter of Section 25; Thence north 100 feet; Thence west, parallel to and 939.00 feet north of said south line of said northeast quarter, 539.92 feet to a point; Thence north 29° 41' 02" east, 124.02 feet to a point on a curve to the left; Thence along said curve 580.07 feet, said curve having a central angle of 83° 05' 22", a radius of 400.00 feet and a cord distance of 530.56 feet, bearing north 11° 51' 39" west; Thence north 53° 24' 20" west, 292.22 feet to a point on a curve to the right; Thence along said curve 908.71 feet, said curve having a central angle of 52° 03' 04", a radius of 1000.00 feet, and a long cord distance of 877.76 feet, bearing north 27° 22' 23" west; Thence north 01° 20' 26" west, 74.86 feet to a point on the south right of way line of 103rd Street South, said point being 40.00 feet south of the north line of the northeast quarter of Section 25; Thence north 40.00 feet to the north line of said northeast quarter of Section 25, which is also the south line of the southeast quarter of Section 24; Thence north 40.00 feet; Thence parallel to and 40.00 feet north of the south line of said southeast quarter on a Kansas Grid Bearing of south 88° 39' 34" west a distance of 1077.3 feet to a point on the west line of said southeast quarter, which is also the east line of the southwest

quarter of Section 24, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, this being the Point of Beginning.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES tracts in the northeast quarter of Section 23, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, with a boundary described as at the northeast corner of the northeast quarter of Section 23, Township 29 South, Range 2 West for the point of beginning; Thence west on the north line of said northeast quarter to the northwest corner of the east half of said northeast quarter; Thence south on the west line of the east half of said northeast quarter to the north right of way line of Diagonal Road; Thence northeasterly along the north right of way line of Diagonal Road to the east line of said northeast quarter; Thence north along the east line of said northeast quarter to the northeast corner of the northeast quarter of Section 23, Township 29 South, Range 2 West, this being the Point of Beginning, EXCLUDING road right of way.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES tracts (containing the sewer lagoon) in the southeast quarter of Section 26, Township 29 South, Range 2 West and northeast quarter of Section 35, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, with a boundary described as at the southeast corner of the southeast quarter of Section 26, Township 29 South, Range 2 West for the point of beginning; Thence north on the east line of said southeast quarter, 1316.75 feet; Thence west perpendicular to the east line of said southeast quarter, 1459.74 feet; Thence south, parallel to the east line of said southeast quarter and the east line of the northeast quarter of Section 35, Township 29 South, Range 2 West, 2000.60 feet; Thence northeasterly 1530.45 feet to a point on the east line of said northeast quarter which is 275 feet south of the northeast corner of said northeast quarter; Thence north on the east line of said northeast quarter, 275 feet to the northeast corner of said northeast quarter, which is also the southeast corner of the southeast quarter of Section 26, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, this being the Point of Beginning.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES a tract (containing the brush dump) in the northwest quarter of Section 26, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, with a boundary described as at the southwest corner of the northwest quarter of Section 26, Township 29 South, Range 2 West for the point of beginning; Thence north on the west line of said northwest quarter, 713.64 feet; Thence east perpendicular to the west line of said northwest quarter, 440.29 feet to the west line of the Missouri and Pacific Railroad right of way; Thence southwesterly along the west line of the Missouri and Pacific Railroad right of way to the south line of said northwest quarter; Thence west on the south line of said northwest quarter to the

southwest corner of the northwest quarter of Section 26, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, this being the Point of Beginning, EXCLUDING road right of way.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES tracts in the southwest quarter of Section 12, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, with a boundary described as at the southwest corner of the southwest quarter of Section 12, Township 29 South, Range 2 West for the point of beginning; Thence east on the south line of said southwest quarter, 1260 feet; Thence north, parallel the west line of said southwest quarter, 691 feet; Thence east 633.12 feet to a point 630.90 feet west and 691 feet north of the southeast corner of said southwest quarter; Thence north, parallel to the east line of said southwest quarter, 691 feet; Thence west, parallel to the south line of said southwest quarter, 635.34 feet; Thence north, parallel to the west line of said southwest quarter, 742 feet; Thence west 420 feet to a point 2124 feet north and 840 feet east of the southwest corner of said southwest quarter; Thence north, parallel to the west line of said southwest quarter, 529.29 feet; Thence west, parallel to the south line of said southwest quarter, 419.97 feet; Thence south, parallel to the west line of said southwest quarter, 2125.02 feet; Thence west, parallel to the south line of said southwest quarter, 420 feet to the west line of said southwest quarter; Thence south on the west line of said southwest quarter 531 feet to the southwest corner of the southwest quarter of Section 12, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, this being the Point of Beginning, EXCLUDING road right of way.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES a tract in the southeast quarter of Section 12, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, with a boundary described as at a point 30 feet north and 367 feet east of the southwest corner of the southeast quarter of Section 12, Township 29 South, Range 2 West, for the point of beginning; Thence east, parallel to the south line of said southeast quarter, 183.50 feet; Thence north, parallel to the west line of said southeast quarter, 245 feet; Thence west, parallel to the south line of said southeast quarter, 183.50 feet; Thence south, parallel to the west line of said southeast quarter, 245 feet to a point 30 feet north and 367 feet east of the southwest corner of the southeast quarter of Section 12, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas, this being the Point of Beginning, EXCLUDING road right of way.

THE BOUNDARY OF THE CITY OF CLEARWATER, KANSAS ALSO INCLUDES the following platted lots in the northeast quarter of Section 11, Township 29 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas:

Lots 2 and 3, Block 1 of the North Wood Estates Addition to Sedgwick County, Kansas;
and

Lots 1, 7, 10, 15, 16, 18, and 21, Block 2 of the Prairie Meadow Estates Addition to
Sedgwick County, Kansas.

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Right-of-Way/Sidewalk Ordinance

INITIATED BY: Mayor

PREPARED BY: City Administrator

Background: With the completion of the Streetscape project along the downtown block of Ross Ave., staff has been advised to develop a right-of-way ordinance to regulate the occupancy and use of city right-of-way, including sidewalks.

Analysis: K.S.A. 17-1902 empowers cities to enact reasonable public health, safety and welfare requirements and regulations for the occupancy and use of the public right-of-way that is competitively neutral and not unreasonably discriminatory.

Adopting a sidewalk ordinance would be consistent with the Strategic Plan Goal 4 Quality of life: Promote the quality of life in Clearwater to ensure stable and sustainable growth and Goal 5 Infrastructure: Provide, maintain and improve infrastructure.

Counsel has added language to the ordinance defining “temporary signs”.

Financial: There is no current financial impact. The Governing Body may elect to implement a permit fee once the ordinance is adopted.

Legal Considerations: Review and comment as necessary.

Recommendations/Actions: It is recommended the Council discuss and adopt the proposed ordinance.

(Summary Published in the Times-Sentinel
on the ____ day of _____, 2018.)

THE CITY OF CLEARWATER, KANSAS

ORDINANCE NO. ____

AN ORDINANCE ESTABLISHING REGULATIONS
GOVERNING THE MAINTENANCE AND
INSTALLATION OF PROPERTY AND FACILITIES
WITHIN THE PUBLIC RIGHT-OF-WAY LOCATED
WITHIN THE CITY OF CLEARWATER, SEDGWICK
COUNTY, KANSAS.

WHEREAS, K.S.A. 17-1902 empowers cities to enact reasonable public health, safety and welfare requirements and regulations for the occupancy and use of the public right-of-way; and

WHEREAS, K.S.A. 17-1902 authorizes cities to exercise their home rule powers in the administration and regulation related to the management of the public right-of-way, provided that any such exercise is competitively neutral and not unreasonable or discriminatory; and

WHEREAS, the City of Clearwater has determined it to be in the best interest of the overall public health, safety and welfare of the City to establish on a competitively neutral, nondiscriminatory basis, the following rules and regulations concerning management of the public right-of-way.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS.

RIGHT-OF-WAY MAINTENANCE

Section 1-1 Policy

It is the policy of the City of Clearwater, in discharge of the duties as trustee of the public right-of-way and for the overall public health, safety and welfare of the City, to establish on a competitively neutral, nondiscriminatory basis, rules and regulations concerning management of the public right-of-way.

The authority of an occupant to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety, and

welfare requirements and regulations of the City. Every occupant shall comply with all laws, rules, and regulations governing the use of public right-of-way.

Nothing in this ordinance shall 1) prevent the City from requiring utility occupants to obtain contract franchise ordinances in accordance with the requirements of K.S.A. 17-1902 and all other applicable laws, rules and regulations; 2) require the City to permit any facility or non-facility within the public right-of-way; 3) create any additional rights or privileges to use the public right-of-way for constitutionally-protected speech and expressive activities; or 4) abridge any constitutionally-protected speech and expressive activities that have already been recognized by state and federal courts.

Section 1-2 Registration

A. Unless otherwise exempt by the terms of this Article, each occupant (1) engaged in the business of providing, transmitting, supplying or furnishing utility service originating or terminating within the City or (2) owning or controlling personal property or facilities within the public right-of-way shall file an annual registration statement on a form provided by the City. Prior to commencing any work, no occupant may construct, install, repair, remove, relocate, or perform any other work on personal property or facilities, City-owned property or facilities or any part thereof in any City right-of-way without first being registered with the City of Clearwater.

B. Nothing in this policy applies to the placement of signage authorized under K.S.A 25-2711.

Section 1-3 Exemption of Non-Facilities From Registration

The registration requirement shall not apply to the planting and maintenance of landscaping and trees, the construction and repair of sidewalks, or the installation and maintenance of street signs, news-racks, planters, benches, trees, temporary signs, or public pay phones in the public right-of-way located within the City of Clearwater, Kansas by home owners and other owners of real property adjacent to or underlying said right of way.

Section 1-4 Annual Registration Statement

A. For purposes of complying with the annual registration requirement set forth above, every occupant shall provide the following information related to their use of the public right-of-way:

1. Identity and legal status of registrant, including related affiliates that are or may conduct activities listed in subsection 1-2-A.

2. Name, address, telephone number, e-mail address and fax number of the contact person responsible for the accuracy of the registration statement. This person shall also serve as the registrant's agent and further be responsible for the distribution of any information pursuant to this ordinance to the appropriate person in the registrant's organization.

3. List of contact persons, including the name, address, telephone number, e-mail address and fax number for the following areas: right-of-way maintenance, right-of-way construction, administration, and legal.

4. Name, address, telephone number, e-mail address and fax number of the local representative of registrant or operations center who shall be available at all times to act on behalf of registrant in the event of an emergency.

5. Non-proprietary description of registrant's existing or proposed facilities within the City of Clearwater.

6. Description of any utility service registrant intends to offer or provide or is currently offering or providing to any person or entity in the City of Clearwater.

7. Information sufficient to determine whether the registrant is subject to franchising under State law.

8. Information sufficient to determine whether the registrant has applied for and received any certificate of authority required by the Kansas Corporation Commission to provide utility services in the City of Clearwater.

9. Information sufficient to determine that the registrant has applied for and received any construction permit, operating license or other approvals required by the Federal Communications Commission to provide telecommunications services in the City of Clearwater.

10. Such other information as may be required by the City of Clearwater reasonably related to the use of the public right-of-way. Any material changes or modifications to the registration statement that affect the registrant's activities in the public right-of-way shall be submitted to the City within 30-days of such change or modification.

Section 1-5 Permit Required for Facilities

Any person or entity desiring to install or conduct work on any facilities in, along, across, under, or over public rights-of-way must first apply for and obtain a permit from the City of Clearwater, in addition to any other permit or authorization to occupy public rights-of-way. If facilities work must be done on an emergency basis, the person or entity conducting the work must notify the City of Clearwater at the first available opportunity and apply for any permits or authorizations from

the City as soon as practical. Any such emergency utility work must comply with all applicable laws, ordinances, rules, and regulations. All utility work is subject to removal or abatement by the City of Clearwater, Kansas if it does not comply with all applicable laws, ordinances, rules, and regulations.

A. All applications for permits shall be submitted to the City Administrator on a form provided by the City with such information as required to allow the City to evaluate the application for consistency with the requirements of this ordinance.

B. The City Administrator shall review and cause the permit to be issued within ten (10) business days upon a showing that the applicant has met all the requirements of this ordinance. The City Administrator shall review the applications and base his/her decision in a competitively neutral and nondiscriminatory manner upon, but not limited to, the following:

1. Submission of a complete application.
2. Designated project commencement and termination dates.
3. Sufficient scheduling and coordination information.
4. Location and route of all facilities in the right-of-way.
5. Description of work to be done in right-of-way.
6. Proper restoration or protection of the right-of-way.
7. Compliance with all applicable codes, rules and regulations.
8. Coordination plan with existing facilities for their removal or relation of affected facilities.
9. Applicant has properly registered pursuant to Section 1-2 of this ordinance.
10. Proof of liability insurance.
11. Other information as required to protect public health, safety and welfare.

C. The City Administrator may deny a permit request for any of the following reasons:

1. The applicant has failed to pay the permit fee for prior projects.

2. The applicant has failed to return the right-of-way to an acceptable condition under previous permits.
3. The work requested in the permit application will cause undue disruption to existing facilities or endanger the City's current or future use of the public right-of-way.
4. The applicant has failed to provide all necessary permit application information.
5. The applicant is in violation of the provisions of this ordinance.
6. The applicant has rejected a reasonable, competitively neutral and nondiscriminatory justification offered by the City for requiring an alternate method or alternate route that will result in neither unreasonable additional installation expense nor a diminution of service quality.
7. The specific portion of the public right-of-way for which the applicant seeks use and occupancy is environmentally sensitive as defined by state and federal law or lies within a previously designated historic district as defined by local, state, or federal law.
8. The work requested in the permit application will not benefit an installation within the public right-of-way that benefits the public.
9. Any other reason for which granting of the permit would be detrimental to the public health, safety and welfare.

D. The City shall provide the applicant with reasonable notice and opportunity to be heard and shall note that said denial is necessary or conducive to protect and promote the public health, safety and/or welfare and is imposed on a competitively neutral and nondiscriminatory basis.

Section 1-6 Permit Required for Non-Facilities

Any home owner or other owner of real property adjacent to or underlying the right of way must obtain a permit from the City of Clearwater before planting landscaping and trees, constructing or repairing sidewalks, installing street signs, news-racks, planters, benches, trees, or public pay phones in the public right-of-way located within the City of Clearwater, Kansas. Temporary Signs shall be placed and secured to avoid damage to property and harm to persons and shall not be displayed for more than forty-eight (48) hours without issuance of a permit by the City. Temporary Signs shall not be larger than four (4) square feet without issuance of a permit by the City. All Temporary Signs shall be removed from the public right-of-way adjacent to a property for not less than thirty (30) days at the end of the 48 hour period or maximum display period provided by permit before

another Temporary Sign can be located in said public right-of-way. All applications for permits shall be submitted to the City Administrator on a form provided by the City.

A. The City Administrator shall review each application for and cause a permit for non-facilities to be issued within ten (10) business days upon a showing that the proposed installation of or repair/improvements to such non-facilities will not interfere with the use of the right-of-way by utilities or for transportation purposes or endanger the public health, public safety or public welfare.

B. The City Administrator may cause any incomplete applications to be resubmitted.

C. Occupants of property zoned A-L, R-L, R-1, R-1A, R-2, R-3 and PUD are exempt from the permitting provisions of this ordinance for non-facilities.

Section 1-7 Construction Standards

A. The construction, operation, maintenance, and repair of facilities and non-facilities in the right-of-way shall be in accordance with applicable health, safety and construction codes as well as those standards promulgated by the City Administrator. As part of the permit application review and approval process, the City Administrator may impose requirements on the design and construction of facilities and non-facilities installed in the right-of-way to ensure that facilities and non-facilities correspond to and compliment the design and appearance of surrounding properties and are constructed using durable materials that aesthetically match nearby structures.

B. All facilities and non-facilities shall be installed and located with due regard for minimizing interference with the rights and convenience of property owners, including the City.

C. No applicant shall place facilities or non-facilities where they will damage or interfere with the use or operation of previously installed facilities and personal property or obstruct or hinder other utilities serving the residents and businesses in the City.

D. If available, utility applicants shall make a good faith attempt to co-locate their facilities with as many other utilities as possible so as to maximize the efficient allocation of space in the right-of-way. In instances where the City has placed conduit or ducting in the right-of-way, utility applicants shall install their facilities within the City conduit or ducting system, unless such applicants can show a technological or other reasonable incompatibility preventing such placement.

E. Any and all public right-of-way and government-owned or operated facilities and non-facilities that are damaged or disturbed during facilities work or non-facilities work shall be promptly repaired or replaced to their functional equivalence prior to being damaged or disturbed. The permit holder and any contractor, agent, affiliate, employee, or subcontractor used for facilities work or non-facilities work are jointly and severally liable for compliance with this requirement. Similarly, the permit holder and any contractor, agent, affiliate, employee, or subcontractor used for facilities work or non-facilities work are responsible for complying with the requirements of all laws, regulations and applicable franchise agreements concerning such work, including all obligations thereunder which may require the repair or replacement of any facilities or non-facilities which are damaged or disturbed by said parties.

F. Any contractor, agent, affiliate, employee, or subcontractor used for facilities work or non-facilities work in the right-of-way must be properly licensed under the laws of the State of Kansas and all applicable local ordinances. Each contractor, agent, affiliate, employee, or subcontractor shall be accountable to the obligations herein to the same extent as the applicant. The applicant shall be ultimately responsible to ensure the contractor, agent, affiliate, employee, or subcontractor fully complies with this ordinance and likewise shall be responsible for all acts or omissions of the contractor, agent, affiliate, employee, or subcontractor. Furthermore, upon written notice by the City, the applicant shall be responsible for promptly correcting acts or omissions by any contractor, agent, affiliate, employee, or subcontractor.

G. Within 30-days of completion of any facilities work in the right-of-way, each utility applicant shall provide City with a complete set of “as-built” drawings. Preliminary plans shall satisfy this requirement so long as those preliminary plans accurately reflect the facilities work done.

Section 1-8 Fees

Every applicant for facilities and non-facilities work in the right-of-way, at the time of filing of the permit application shall pay to the City all applicable permit fees, except that any State or local government, governmental agency, public library, public or private school, or water district organized under K.S.A. 19-3501 *et seq.*, shall be exempt from such permit fees.

Likewise, such permit fees shall be waived for any facilities work in the right-of-way to extend utility service to a State, local or other governmental agency, public or private school facility. Permit fees shall be based upon the reasonable, actual, and verifiable costs of managing the right-of-way and shall be imposed in a nondiscriminatory and competitively neutral manner.

Fees for permits for facilities and permits for non-facilities shall be established by a resolution of the Governing Body of the City of Clearwater. In addition to these

fees, a fee to offset the City's cost incurred as a result of facilities work involving street cuts or street excavations shall be assessed upon issuance of a facilities permit and calculated as follows:

For Facilities Work Involving Street Cuts or Street Excavations:

Cost Per Square Yard for Street Overlays and Sealcoats x Depreciation Rate x Area of Influence = Street Cut or Excavation Fee

" *Cost Per Square Yard*" shall be determined by the City Administrator on an annual basis as of January 1, using average costs for materials required to overlay, sealcoat, or build a City street.

" *Depreciation Rates*" shall be determined by the City Administrator.

"*Area of Influence*" shall be the area of the street cut plus 3 feet on each side of the cut.

Bonds: Every occupant performing facilities work in the right-of-way shall be required as a condition of their permit to post a performance bond, in a form acceptable to the City, from a surety licensed to conduct surety business in the State of Kansas, ensuring appropriate and timely performance in the construction and maintenance of personal property and facilities located in the right-of-way. The amount and term of the performance/maintenance bond shall be determined by the City Administrator based upon the size and scope of the work sought to be performed under the permit.

Section 1-9 Failure to Restore Right-of-Way

If any facilities or non-facilities occupant fails to restore the right-of-way, including any object therein, in the manner and to the condition required by this ordinance, or any applicable City ordinance, rule or regulation, or fails to satisfactorily and timely complete all restoration required by the City, the City may affect those repairs and charge the occupant the cost of those repairs. Similarly, if any facilities or non-facilities occupant fails to restore and/or maintain the right-of-way in the manner and to the condition required by this ordinance, or any applicable City ordinance, rule or regulation, or fails to satisfactorily and timely complete all restoration and/or maintenance required by the City, the City may affect such restoration and/or maintenance and charge the occupant the cost thereof. If the City incurs damages as a result of a violation of this Section, then the City shall have a cause of action against the occupant for violation of this Section, and may recover its damages, including reasonable attorney fees, if the occupant is found liable by a court of competent jurisdiction.

Section 1-10 Removal and Relocation of Facilities and Non-Facilities

A. The City will attempt, in good faith, with as much notice as possible, prior to the need for the removal or relocation, provide affected occupants of publicly funded Municipal projects requiring relocation of facilities in the right-of-way. In any event, upon issuance of written notice by the City, any occupant with facilities or non-facilities in the right-of-way shall, at its own expense, temporarily, or permanently remove or relocate, change or alter the position of any facilities or non-facilities within the right-of-way whenever the City has determined that such removal, relocation, change or alteration is reasonably necessary for:

1. Construction, repair, maintenance or installation of any City or other publicly funded project or improvement in or upon the public ways;
2. Construction, repair, maintenance or installation of any facilities or non-facilities by the City or any utility operating under a City or state franchise or state-issued video service authorization; and/or
3. Current and/or future operations of the City in and upon the right-of-way.

B. Whenever possible, the relocation, change or alteration of any utility facilities shall be underground unless waived by the City. The City may waive this underground requirement for technical reasons or if underground placement would cause severe economic hardship to the occupant.

C. Relocation of facilities and non-facilities must be completed within the time period established in any written notice issued to the occupant by the City of Clearwater, Kansas. This time period may be extended by the City for good cause as demonstrated by the occupant.

D. Any relocation of facilities and non-facilities at the City's request must comply with all laws, regulations, City franchises and ordinances except that the occupant shall not be required to pay any permit fees.

E. The City shall provide occupant written notice of the failure to properly remove or relocate facilities or non-facilities. In the event an occupant fails to remove, relocate or otherwise rearrange any facilities or non-facilities, the City may, at its option and in addition to the imposition of any penalties or any other remedies available, undertake or cause to be undertaken, such necessary removal or relocation. Any damages suffered by the City or its contractors as a result of such occupant's failure to timely remove or relocate its facilities or non-facilities shall be reimbursed by the occupant. Future permit applications may not be granted to the same or related occupant until such time as any facilities or non-facilities required to be removed or relocated have been removed or relocated and any costs incurred by the City therefore paid by such occupant. The City shall have no liability for any damage caused by such removal or

relocation and the occupant shall be liable to the City for all reasonable costs incurred by the City in such removal or relocation.

Section 1-11 Abandonment/Removal of Facilities

A. An occupant who has determined to discontinue its activities in the public right-of-way located within the City must either:

1. Provide satisfactory information to the City that the occupant's obligations for its personal property and facilities in the public right-of-way have been lawfully assumed by another occupant; or

2. Submit to the City a proposal and instruments for dedication of its personal property and facilities to the City. If an occupant proceeds under this clause, the City may at its option;

a. Accept the dedication for all or a portion of the personal property and facilities; or

b. Require the occupant, at its own expense, to remove the personal property and facilities in the public right-of-way at ground or aboveground level; or

c. Require the occupant to post a bond or provide payment sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the personal property and facilities; or

d. Initiate statutory eminent domain proceedings.

B. Any occupant who has abandoned facilities in any City right-of-way shall remove it immediately unless such removal would cause unnecessary disruption and destruction to existing personal property or facilities or the right-of-way. For purposes of this Chapter, "abandoned facilities" shall mean any facilities that have not been used for the purpose for which they were constructed over a continuous period of 12 months. The City will notify occupants in writing of their intentions to proceed with this Section. The occupant shall remove said personal property and facilities or otherwise remedy the situation to the satisfaction of the City. In addition to any other remedy available in law or equity, where facilities are abandoned, the City may either, take possession of the personal property and facilities, abate the personal property and facilities or require the occupant or the successor in interest to the occupant to remove the personal property and facilities at their expense.

Section 1-12 Permit Required For Maintenance of Facilities and Non-Facilities in Right of Way; Permit Deemed Issued for All Existing Facilities and Non-Facilities Located in Right of Way at Time of Passage; Permit is a

License Revocable at City's Discretion and Creates No Vested Property Rights

Each facility and each non-facility may only be installed and remain within the right-of-way pursuant to the terms of and in compliance with a permit issued to the occupant that owns and/or controls such facility or non-facility. It is hereby declared unlawful for any occupant or other person that owns or controls a facility or non-facility to install, maintain or otherwise allow the same to be located in the right-of-way without a permit. Permits are hereby issued to the owner(s) of each facility and each non-facility that is located in the right-of-way as of the date this ordinance takes effect, although nothing in this ordinance shall be construed to authorize the continued maintenance of a facility or non-facility that endangers the public health, public safety or public welfare or create any rights to the continued presence of a facility or non-facility in the right-of-way. Each permit issued under this Ordinance is merely a revocable license to use the right-of-way that is subordinate to the City's rights to use and maintain the right-of-way and regulate the right-of-way. The City's rights in this regard include the right to prohibit the presence of any item in the right-of-way when said prohibition is necessary or conducive to protect the public health, public safety and/or public welfare. Occupants may elect to maintain their facilities and/or non-facilities in the right-of-way subject to the understanding that each permit is revocable at the City's option pursuant to this Ordinance and upon revocation no compensation shall be due or payable for any damages sustained by occupant, including damage sustained by occupant's facilities and/or non-facilities. It is expressly understood that while the City will take steps to minimize the damages sustained to property located within the right of way, occupant permit holders assume all risk of loss or casualty to property they own or control within the right-of-way that may be sustained as a result of the City's use, maintenance or regulation of the right-of-way. Occupants of property zoned A-L, R-L, R-1, R-1A, R-2, R-3 and PUD are exempt from the permitting provisions of this ordinance for non-facilities.

Section 1-13 Revocation of Permit

Any permit for a facility or non-facility may be revoked for any of the following reasons after the City has provided the occupant permit holder with reasonable notice and opportunity to be heard before the City Administrator:

- Violation of the terms of the permit issued for the facility or non-facility
- The facility or non-facility's interference with use of the right-of-way for traditional right-of-way purposes, including transportation and the movement of goods and people
- Failure to maintain the facility or non-facility in a safe and structurally sound condition that is well maintained.
- The facility or non-facility's interference with municipal utilities or the infrastructure of private utility providers whose infrastructure pre-dates the facility or non-facility

- Any other circumstances where revocation of the permit is necessary or conducive to protect and promote the public health, safety and/or welfare and is imposed on a competitively neutral and nondiscriminatory basis

Upon revocation of a permit, the occupant permit holder shall take all necessary steps to remove all property that it owns or controls from the right of way pursuant to Section 1-11 above. It is expressly understood that while the City will take steps to minimize the damages sustained to property located within the right of way, occupant permit holders assume all risk of loss or casualty to property they own or control within the right-of-way that may be sustained as a result of the City's use, maintenance or regulation of the right-of-way.

Notwithstanding all other responsibilities for the removal of facilities and non-facilities which have been abandoned or for which no permit is in effect, the City may remove all unpermitted and/or abandoned facilities and non-facilities from the right-of-way. Occupants install and maintain their facilities and non-facilities in the right-of-way subject to the understanding that no compensation shall be due or payable for any damages sustained by occupant, including damage sustained by occupant's unpermitted and/or abandoned facilities and non-facilities, upon such removal by the City. It is expressly understood that occupants assume all risk of loss or casualty to unpermitted and/or abandoned facilities and non-facilities they own or control within the right-of-way that may be sustained as a result of the City's removal of such unpermitted and/or abandoned facilities and non-facilities. Occupants shall be liable to the City for all reasonable costs incurred by the City for the City's removal of unpermitted and/or abandoned facilities and non-facilities from the right-of-way.

Section 1-14 Liability

Every occupant of public rights-of-way shall assume all liability for any work which it performs in the right-of-way.

Occupants shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate, or subcontractor of the occupant, or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining personal property and facilities in the public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors, or subcontractors. If an occupant and the City are found jointly liable by a court of competent jurisdiction, liability shall

be apportioned comparatively in accordance with the laws of the State of Kansas without, however, waiving any governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law. This Section is solely for the benefit of the City and occupant and does not create or grant any rights, contractual or otherwise, to any other person or entity.

An occupant or the City shall promptly advise the other in writing of any known claim or demand against the occupant or the City related to or arising out of the occupant's activities in the public right-of-way.

Section 1-15 Penalty

Failure to comply with the provisions of this Ordinance by any person or entity shall be deemed a public offense, punishable by up to \$500.00 per violation, per day. Each day a violation of this Ordinance occurs shall constitute a separate public offense. Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the City, for any failure to comply with the provisions of this Ordinance.

Section 1-16 Definitions

APPLICANT: Any person or entity seeking a permit from the City to conduct, or in the case of an emergency recognize, work in the right-of-way. For purposes of this Article, an applicant must be properly registered before submitting a permit application.

CITY: City of Clearwater.

ENTITY: A corporation, partnership, limited liability company, association, firm and any governmental agency, authority, board, agency or department.

FACILITIES: Including, but not limited to, any pipes, conduits, wires, cables, amplifiers, transformers, fiber optic lines, antennas, poles, ducts, conductors, lines, mains, vaults, appliances, attachments, equipment, structures, manholes, and other like equipment, fixtures and appurtenances used in connection with transmitting, supplying or furnishing utility services, cable television, communications, signaling, electricity, water, natural gas, steam or other services or similar functions, as well as other objects installed or proposed to be installed in the public right-of-way. Facilities shall not include landscaping, sidewalks, street signs, news-racks, planters, benches, trees, temporary signs, or public pay phones.

LIABILITY INSURANCE: An amount not less than the minimums as set by the City, to protect the City and in their capacity as such the governing body, officers, employees, and authorized agents thereof to the full extent indemnified hereunder from and against all claims by any person whatsoever for loss or

damage from personal injury, death or property damage occasioned in any manner by the use of the right-of-way. This provision may be satisfied by supplying the City a letter of self-insurance and appropriate documentation verifying the applicant's ability to provide no less than the minimum coverage required.

NON-FACILITIES: Landscaping, sidewalks, street signs, news-racks, planters, benches, trees, and public pay phones installed or proposed to be installed in the public right-of-way.

OCCUPANT: Any person or entity that occupies, uses, or seeks to occupy or use, the right-of-way through personal property consisting of facilities and/or non-facilities in the right-of-way. If the owner of any facilities leases, subleases, assigns or licenses the control or responsibility to any of those personal property and facilities to another person or entity, then the lessee, sublessee, assignee or licensee shall be deemed an occupant for that portion of such facilities.

PERSON: An individual or natural person.

RIGHT-OF-WAY/PUBLIC RIGHT-OF-WAY: Only the area of real property in which the City, County or the State of Kansas has a dedicated or acquired right-of-way interest in the real property. It shall include the area on, below, and above the present and future streets, alleys, avenues, roads, highways, parkways, boulevards, and sidewalks dedicated or acquired as right-of-way. The term does not include the airwaves above a right-of-way with regard to wireless telecommunications or other nonwire telecommunications or broadcast service, easements obtained by non-city utilities or private easements in platted subdivisions or tracts.

TEMPORARY SIGN: Any sign intended to be displayed for a limited period of time which is supported by any means other than by a person and is typically constructed from nondurable materials, including but not limited to paper, cardboard, cloth, plastic, wire frame or wallboard. Temporary Signs shall be placed and secured to avoid damage to property and harm to persons and shall not be displayed for more than forty-eight (48) hours without issuance of a permit by the City. Temporary Signs shall not be larger than four (4) square feet without issuance of a permit by the City. All Temporary Signs shall be removed from the public right-of-way adjacent to a property for not less than thirty (30) days at the end of the 48 hour period or maximum display period provided by permit before another Temporary Sign can be located in said public right-of-way.

UTILITY SERVICE: The providing, transmitting, supplying or furnishing cable television, communications, signaling, electricity, water, natural gas, steam or other similar service.

SECTION 1-17 Repeal

All ordinances or parts of ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

SECTION 1-18 Effective Date

This Ordinance shall take effect and be in force from and after publication in the official city newspaper.

Passed by the City Council this _____ day of _____, 2018.

Approved by the Mayor this _____ day of _____, 2018.

MAYOR, BURT USSERY

SEAL

ATTEST:

CITY CLERK, COURTNEY MEYER

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Fee Resolution
INITIATED BY: City Clerk
PREPARED BY: City Clerk

Background: The city by resolution, ordinance or other means has established fees for a variety of municipal services. These fees are spread throughout our Municipal Code. With the recodification of our Municipal Code it is necessary to adopt a fee resolution, as the fees listed in the Municipal Code reference a fee schedule. The fee schedule will be reviewed on an annual basis.

Analysis: The fees established in the resolution are reflective of current fees that the city charges and some suggested changes.

Suggested changes:

Daily Swim – change to \$3.50 from \$3.25

Punch Card – change to \$38.00 from \$35.00

Water Rates – as discussed in December of 2017

Bulk Water - change to \$13.00/ 1000 gal from \$12.00/ 1000 gal

Sewer Rates – raise 1% as per city code

Return Check fee – change to \$25.00 from \$10.00

Financial: Daily swim rates have not been adjusted since 2008. Lifeguard salaries have increased over the years to help retention however fees have remained the same year over year. By increasing the daily rate by a quarter, we can estimate to increase the revenue by approximately \$1,200. With the increase in daily admission it is recommended to increase the punch card price as well.

Bulk water is suggested to raise to follow suite with regular water rates and the return check fee is suggested to raise as \$10.00 does not cover the cost of added work that is required to collect the funds. The night swim is requested to increase because to costs more to run the pool than the pool makes in revenue.

Legal Considerations: Review and comment if necessary

Recommendations/Actions: Adopt Fee Resolution 3-2018

RESOLUTION NO. 03-2018

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF CLEARWATER, KANSAS, THAT THE 2018 ANNUAL FEE SCHEDULE IS LISTED AS FOLLOWS:

Pool Passes

Daily	\$3.50
Daily 2 and under	Free
Punch Card (12 punches)	\$38.00
Night Swim (7:00 - 8:30)	\$1.00
Single Membership	\$50.00
Family Membership (4 People)	\$150.00 \$35 for ea additional
Parties	\$150 - \$200

Brush Dump

Residential Daily	\$8.00
Residential Yearly	\$25.00
Commercial Daily	\$50.00
Commercial Mowing Yearly	\$100.00
Commercial Yearly	\$300.00

Water

New Customer Connection Fee	\$50.00
Location Transfer Fee	\$15.00
Reconnection Fee	\$25.00
Reconnection Fee after 4pm	\$50.00
Late Penalty	10% of total amt due
Meter Test Request	\$25.00
Water Request On/ Off by owner	\$10.00
Base Rate	1% increase per year
Base Monthly Rates (inside city limits)	
0-2,999	\$14.07
3,000-4,999	\$4.25 additional per 1000 gal
6,000-10,999	\$5.00 additional per 1000 gal
11,000 +	\$5.75 additional per 1000 gal
Base Monthly Rates outside city limits)	
0-2,999	\$17.35
3,000-4,999	\$4.25 additional per 1000 gal
6,000-10,999	\$5.00 additional per 1000 gal
11,000 +	\$5.75 additional per 1000 gal
New Water Connection 1" line	\$1,450.00
New Water Connectino 3/4" Line	\$1,375.00
Boring for new connection	\$1,000.00 minimum
Bulk Water	\$13.00 per 1000 gal
Bulk Water Use of Meter	\$25.00

Sewer

Base Rate		1% increase per year
Residential Base Rate		\$22.69
additional fee per avg 1000 gal used 1st Quarter		\$1.00
Restaurant and Café Base Rate		\$56.74
Business, Commercial, and Nonresidential Base Rate		\$22.69 Each additional
Laundry and Dry Cleaning Base Rate		\$85.17
Car Washes Base Rate		\$57.31
Educational Buildings Base Rate		\$2.29 per body
Care home, nursing home, assisted living Base Rate		\$81.41
Independent residential units Base Rate		\$22.69
Outside City Limits Base Rate		\$76.90
Pro Rate Charges		
	1 - 10 Days	Charged 10 Days
	11 - 20 Days	Charged 20 Days
	21 + Days	Charged entire Month
Connections City Limits		\$500.00
Connections Outside City Limits		\$1,000.00
Debt Service Fee		
	0 - 2,999	\$11.25 Month
	3,000 - 5,999	\$15.00 Month
	6,000 - 10,999	\$18.75 Month
	11,000 +	\$21.75 Month
Late Penalty		10% of total amt due

Open Public Records

Copies	\$0.20
Inspection Fee	\$25.00
<i>Prepayment of fee may be required if estimate is to exceed \$50.00</i>	

Solicitors

Application	\$25.00
Permit	\$100.00

Dog Tags

Nuetered/ Spayed	\$4.00
Not Nuetered or Spayed	\$8.00
Service Dogs	N/C

Trash

65 Gallon Cart	\$13.00 Month
95 Gallon Cart	\$14.00 Month

2 95 Gallon carts	\$19.00 Month
Recycling	\$5.00 Month
Late Penalty	10% of total amt due

Planning & Zoning Permits

Sign

New	\$25.00 plus \$6.00 per each 10 square feet or fraction there of
Altered	\$25.00 plus \$6.00 per each 10 square feet or fraction there of
Face or Copy Chage	\$25.00
Real Estate	\$15.00 plus \$4.00 per each 10 sqaure feet or fraction there of
Temporary	\$10.00 plus \$1.00 per each 10 sqaure feet or fraction there of
Variance	\$125.00

Facility Rentals

Community Center

Hourly	\$25.00
Daily (over 5 hours)	\$125.00
Deposit (refundable)	\$125.00

Fields

Base Fee	Up to \$15.00 per Hour/ Max \$200.00 per
Maintenance (Per Field)	Up to \$50.00 per Day
Lights (Per Field/Per Hour)	\$20.00
Bathrooms (Per Day)	Up to \$20.00
Trash (Per Day)	Up to \$40.00
Field Supervisor (Per Hour)	\$10.00
Deposit	Up to \$200.00

Alcoholic Beverage

Occupation Fee (Retail Stores)	\$250.00
License Fee (Drinking Establishments)	\$250.00
CMB	
Off Premise Consumption	\$75.00
On Premise Consumption	\$125.00
Temporary Permit	\$25.00 per day
Temporary Permit Background Checks	\$25.00 each
Change in Location	\$\$

Special Vehicle Permit

Permit	\$10.00
Lost or Stolen Permit Replacement	\$5.00

Excavation

Permit \$25.00
*For public property and public right-of-way only. Needed for permit - Performance Bond(\$2,000),
Certificate of Liability (min \$100,000 per loss), Aggregate Incident (\$300,000)*

Other

Return Check Fee \$25.00
Ambulance Fee \$2.00 month
Building & Trade Permits Follow MABCD Fee Schedule
Fireworks Sale & Discharge \$5,000.00

Passed and approved by the Governing Body this 23rd day of January, 2018.

Burt Ussery, Mayor

Attest:

Courtney Meyer, City Clerk

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Chisholm Ridge Incentives
INITIATED BY: City Council
PREPARED BY: City Administrator/City Clerk

Background: At the last council meeting the governing body asked staff and counsel to prepare a resolution with the suggested changes of the Chisholm Ridge incentives for 2018.

Analysis: Staff and counsel prepared Resolution 4-2018 for the one remaining lot the City owns. Lots are sold for the established price of \$10,000.

Incentives Include	Guideline and Eligibility
<ol style="list-style-type: none"> 1. 50% reduction in building permits 2. 50% Water and sewer abatement 3. Abatement of remaining specials 4. Builder rebate 	<ol style="list-style-type: none"> 1. The applicant must provide within 15 days of this agreement financial commitment of purchase, which may consist of a pre-qualification letter, letter of credit, or similar documents. Failure to submit required documents in the 15-day timeframe could result in the applicant forfeiting the requested lot(s) 2. The property listed in EXHIBIT "A" to this document is eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2018. 3. The minimum livable square footage of a newly constructed home must be 1,000 square feet as determined and approved on the building permit application. It must include a front façade composed of at least 25% stone, brick or other masonry material. 4. Only single family residential structures are eligible for this program. 5. Construction must be completed within a 180-business day window. <ol style="list-style-type: none"> a. Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.

	6. A fully executed Certificate of Occupancy must be submitted to the City Clerk to be eligible to receive a builder incentive payout.
--	--

Financial: For Chisholm Ridge, there is 1 lot remaining to sell in the current addition. The Chisholm Ridge lots are sold for \$10,000 which pays builder incentives after specials are paid off. This results in no affect on the 2018 budget.

Legal Considerations: Review and comment

Recommendations/Actions: Review and discuss incentive program.



Memorandum of Understanding & Application

City Owned Chisholm Ridge Lot

Between the City of Clearwater and

Applicant

The Governing Body of the City of Clearwater, Kansas has approved the following Residential New Home Construction Incentive Program on the remaining City Owned Chisholm Ridge Lot for the 2018 calendar year:

PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction of City sewer connection fee,
- 50% reduction of City water connection fee,
- Transfer of the remaining City-owned lot for the price established in EXHIBIT "A" to this document,
- Builder rebate in the amount established in EXHIBIT "A" to this document, and
- Abatement of all currently levied special assessments against the transferred city-owned lot.

GUIDELINES AND ELIGIBILITY

The applicant understands and agrees to the following guidelines and eligibility:

- 1) The applicant must provide within 15 days of this agreement financial commitment of purchase, which may consist of a pre-qualification letter, letter of credit, or similar documents. Failure to submit required documents in the 15-day timeframe could result in the applicant forfeiting the requested lot(s)
- 2) The property listed in EXHIBIT "A" to this document is eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2018.
- 3) The minimum livable square footage of a newly constructed home must be 1,000 square feet as determined and approved on the building permit application. It must include a front façade composed of at least 25% stone, brick or other masonry material.



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- 4) Only single family residential structures are eligible for this program.
- 5) Construction must be completed within a 180-business day window.
 - a) Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.
- 6) For the purposes of this program only two lots may be purchased for one single family residence.
- 7) A fully executed Certificate of Occupancy must be submitted to the City Clerk to be eligible to receive a builder incentive payout.

As the applicant, I attest that I have read the City of Clearwater Memorandum of Understanding and Application for the remaining City Owned Lot in Chisholm Ridge and agree to its terms and conditions.

For building a single family residential home I am requesting:

Lot (s) #	Block #	Address (if available)

Signature of Applicant (s)

Printed Name

Date

Application Received By: _____

Date: _____

Time: _____

Required Documents	Date Received
Building Plans	
Plot Plan	
Financial Commitment	



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EXHIBIT A
RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM
CHISHOLM RIDGE
ELIGIBLE LOT AND TRANSFER SCHEDULE

Lot	Block	Addition	Street	Transfer Fee	Builder Rebate
36	1	Chisholm Ridge Add.	Red River Circle	\$10,000	\$2,421.31

CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 4-2018

A RESOLUTION ESTABLISHING THE CITY OF CLEARWATER, KANSAS 2018 RESIDENTIAL NEW HOME CONSTRUCTION INCENTIVE PROGRAM FOR THE REMAINING CURRENTLY DEVELOPABLE CITY-OWNED LOT IN CHISHOLM RIDGE

WHEREAS, the City of Clearwater, Kansas desires to establish a Residential New Home Construction Incentive Program for the remaining currently developable City-owned lot within the Chisholm Ridge development for 2018.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Clearwater, Kansas that the following 2018 Residential New Home Construction Incentive Program (herein referred to as the "Program") is hereby established:

Section 1. PURPOSE

The purpose of the City of Clearwater, Kansas Residential New Home Construction Incentive Program is to provide the community with long-term stabilization and improvement of its property tax base while increasing the community supply of residential housing. The Residential New Home Construction Incentive Program is designed to encourage the construction of new homes within the corporate limits of the City of Clearwater. The Program consists of (1) reduction of building permit fees for new residential construction; (2) a lot transfer fee schedule for City owned lots; (3) utility connection fee abatements and (4) builder rebates.

Section 2. PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction on the remaining currently developable City-owned lot within Chisholm Ridge will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction of City sewer connection fee,
- 50% reduction of City water connection fee,
- Transfer of the remaining City-owned lot for the price established in EXHIBIT "A" to this document,
- Builder rebate in the amount established in EXHIBIT "A" to this document, and
- Abatement of all currently levied special assessments against all transferred city-owned lots

In addition to the above-listed reductions and abatements, the City agrees to provide builder rebates for the City-owned lot as established in EXHIBIT "A" to this document

Section 3. ELIGIBILITY

Eligibility for this program is as follows:

- 1) The property listed in EXHIBIT "A" to this document is eligible to participate in this

Program so long as a New Home Building Permit is issued prior to December 31, 2018.

- 2) All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until such time as all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk.
- 3) The minimum livable square footage of a newly constructed home must be 1,000 square feet as determined and approved on the building permit application. It must include a front façade composed of at least 25 % stone, brick or other masonry material.
- 4) Only single family residential structures are eligible for this program.
- 5) Only one homebuyer payment to a person or couple will be granted in a single calendar year. Corporations are not eligible for the homebuyer payment.
- 6) Construction must be completed within the standard 180 day construction window. Extensions of this time frame may only be granted in writing at the discretion of the City Administrator. The applying homeowner may be required to pay all or part of a previously discounted or abated fee before resuming construction.

Section 4. AMENDMENT OR REPEAL

This Program may, at any time after adoption, be amended, supplemented, or repealed by a majority vote of the Governing Body of the City of Clearwater, Kansas.

Section 5. IMPLEMENTATION

The City Administrator, or his designee, shall be authorized to implement the foregoing program in compliance with all applicable federal, state and local laws, rules and regulations.

Section 6. EFFECTIVE DATE

This Program shall be in full force and effect upon the adoption of this Resolution by the Governing Body of the City of Clearwater, Kansas.

ADOPTED by the Governing Body and Approved by the Mayor of the City of Clearwater, Kansas on this 23rd day of January 2018.

Burt Ussery, Mayor

SEAL
ATTEST:

Courtney Meyer, City Clerk

EXHIBIT A of Resolution No. 4-2018

RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM

ELIGIBLE LOT AND TRANSFER SCHEDULE

Lot	Block	Addition	Street	Transfer Fee	Builder Rebate
36	1	Chisholm Ridge Add.	Red River Circle	\$10,000	\$2,421.31

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Park Glen Estates Incentives
INITIATED BY: City Council
PREPARED BY: City Administrator/City Clerk

Background: At the last council meeting the governing body asked staff and counsel to prepare a resolution with the suggested changes of the Park Glen Estates incentives for 2018.

Analysis: Staff and counsel prepared Resolution 5-2018 for the first 5 remaining lots available in Park Glen Estates.

Incentives Include	Eligibility
<ol style="list-style-type: none"> 1. 50% reduction in building permits 2. 50% Water and sewer abatement 3. Cash payment to Builder at the time of closing amounting to 2% of the sale price or real-estate appraisal, whichever is lower, not to exceed \$8,000 4. Cash incentive to homeowner equal to 50% of the city's portion of the property tax bill for a period of five years. 	<ol style="list-style-type: none"> 1. The properties listed in EXHIBIT "A" to this document are eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2018. 2. Program participation initiates at the receipt of the builder's permit. 3. Construction must be completed within a 180-business day window. 4. Extensions of this time frame may only be granted in writing at the discretion of the City Administrator. 5. A fully executed Certificate of Occupancy must be submitted to the City Clerk to be eligible to receive incentive payouts. 6. All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk. 7. Any delinquent years are not eligible for the 50% cash incentive. <ol style="list-style-type: none"> a. Tax rebate request must be submitted no later than 90 days after expiration of the requested tax year.

	<ul style="list-style-type: none"> b. Tax rebate payouts are non-transferable to the next homeowner and cannot be carried over to another property. <ul style="list-style-type: none"> i. Spec homes that are uninhabited are allowed to transfer ownership of a tax incentive to the first homebuyer. <p>8. Only single family residential structures are eligible for this program.</p> <p>9. This incentive program is limited to the first five (5) permits pulled in 2018 for the development of lots in Park Glen Estates.</p>
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Financial: For the 2018 budget the city has budgeted \$106,000 to cover incentives for 2018. If all five lots were built on and completed in 2018, the maximum the city would have to pay is \$40,000 for Park Glen Estates.

Legal Considerations: Has reviewed and made comments

Recommendations/Actions: Adopt resolution 5-2018

Park Glen Estates Incentives

Expire 12/31/2018

The Governing Body of the City of Clearwater, Kansas has approved the following Residential New Home Construction Incentive Program on currently developable lots within the Park Glen Estates development for the 2018 calendar year:

PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction within the Park Glen Estates development for the 2018 calendar year will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction in City sewer connection fee, and
- 50% reduction in City water connection fee.

In addition to the above-listed reductions, the City agrees to provide:

- A cash payment to the builder at the time of closing amounting to 2% of the real estate appraisal or property sale price, whichever is lower, not to exceed \$8,000.00.
- A cash incentive to the homeowner equal to 50% of the city's portion of the property tax bill for a period of five (5) years.

ELIGIBILITY

Eligibility for this program is as follows

- 1) The properties listed in EXHIBIT "A" to this document are eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2018.
 - a) Program participation initiates at the receipt of the builder's permit.
- 2) Construction must be completed within a 180-business day window.
 - a) Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.
- 3) A fully executed Certificate of Occupancy must be submitted to the City Clerk to be eligible to receive incentive payouts.
- 4) All ad valorem property taxes and special assessments, if any, on the property for

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which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk.

- a) Any delinquent years are not eligible for the 50% cash incentive.
 - b) Tax rebate request must be submitted no later than 90 days after expiration of the requested tax year.
 - c) Tax rebate payouts are non-transferable to the next homeowner and cannot be carried over to another property.
 - i) Spec homes that are uninhabited are allowed to transfer ownership of a tax incentive to the first homebuyer.
- 5) Only single family residential structures are eligible for this program.
- 6) This incentive program is limited to the first five (5) permits pulled in 2018 for the development of lots in Park Glen Estates.



EXHIBIT A
RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM
ELIGIBLE LOTS 2018
PARK GLEN ESTATES

Lot	Block	Addition
1	1	Park Glen Estates Add.
2	1	Park Glen Estates Add.
3	1	Park Glen Estates Add.
4	1	Park Glen Estates Add.
10	1	Park Glen Estates Add.
11	1	Park Glen Estates Add.



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APPLICATION FOR BUILDER CREDIT

CITY OF CLEARWATER

PARK GLEN ESTATES

Pursuant to Resolution 5-2018, the undersigned applicant hereby declares that all requirements of said program have been met and that the applicant is requesting the Builder Credit amounting to 2% of the real estate appraisal or property sale price, whichever is lower, not to exceed \$8,000.00.

The applicant acknowledges that the builder must submit an occupancy permit, documentation showing the sale price of the home and the real estate appraisal for the property to receive payment. Applicant further acknowledges that the Builder Credit will be provided by check from the City of Clearwater only after proper documentation has been reviewed.

Signature of Applicant

Printed Name

Date

Lot # Block #

Address

Sale Price	Appraisal	Payout

CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 5-2018

A RESOLUTION ESTABLISHING THE CITY OF CLEARWATER, KANSAS 2018 RESIDENTIAL NEW HOME CONSTRUCTION INCENTIVE PROGRAM FOR THE REMAINING CURRENTLY DEVELOPABLE LOTS IN PARK GLEN ESTATES

WHEREAS, the City of Clearwater, Kansas desires to establish a Residential New Home Construction Incentive Program for the remaining currently developable lots within the Park Glen Estates development for 2018.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Clearwater, Kansas that the following 2018 Residential New Home Construction Incentive Program (herein referred to as the "Program") is hereby established:

Section 1. PURPOSE

The purpose of the City of Clearwater, Kansas Residential New Home Construction Incentive Program is to provide the community with long-term stabilization and improvement of its property tax base while increasing the community supply of residential housing. The Residential New Home Construction Incentive Program is designed to encourage the construction of new homes within the corporate limits of the City of Clearwater. The Program consists of (1) reduction of building permit fees for new residential construction; (2) a cash incentive to the homeowner; (3) utility connection fee abatements and (4) builder rebates.

Section 2. PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction on the remaining currently developable City-owned lots within Park Glen Estates will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction of City sewer connection fee, and
- 50% reduction of City water connection fee.

In addition to the above-listed reductions, the City agrees to provide:

- A cash payment to the builder at the time of closing amounting to 2% of the real estate appraisal or property sale price, whichever is lower, not to exceed \$8,000.00.
- A cash incentive to the homeowner equal to 50% of the city's portion of the property tax bill for a period of five (5) years.

Section 3. ELIGIBILITY

Eligibility for this program is as follows:

- 1) The property listed in EXHIBIT "A" to this document is eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2018.

- a) Program participation initiates at the receipt of the builder's permit.
- 2) A fully executed Certificate of Occupancy must be submitted to the City Clerk to be eligible to receive incentive payouts.
- 3) All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until such time as all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk.
 - a) Any delinquent years are not eligible for the 50% cash incentive.
 - b) Tax rebate request must be submitted no later than 90 days after expiration of the requested tax year.
 - c) Tax rebate payouts are non-transferable to the next homeowner and cannot be carried over to another property.
 - i) Spec homes that are uninhabited are allowed to transfer ownership of a tax incentive to the first homebuyer.
- 4) Only single family residential structures are eligible for this program.
- 5) This incentive program is limited to the first five (5) permits pulled in 2018 for the development of lots in Park Glen Estates.
- 6) Construction must be completed within the standard 180 day construction window. Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.

Section 4. AMENDMENT OR REPEAL

This Program may, at any time after adoption, be amended, supplemented, or repealed by a majority vote of the Governing Body of the City of Clearwater, Kansas.

Section 5. IMPLEMENTATION

The City Administrator, or his designee, shall be authorized to implement the foregoing program in compliance with all applicable federal, state and local laws, rules and regulations.

Section 6. EFFECTIVE DATE

This Program shall be in full force and effect upon the adoption of this Resolution by the Governing Body of the City of Clearwater, Kansas.

ADOPTED by the Governing Body and Approved by the Mayor of the City of Clearwater,
Kansas on this 23rd day of January 2018.

Burt Ussery, Mayor

SEAL
ATTEST:

Courtney Meyer, City Clerk

EXHIBIT A of Resolution No. 5-2018

RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM

ELIGIBLE LOTS 2018

PARK GLEN ESTATES

Lot	Block	Addition
1	1	Park Glen Estates Add.
2	1	Park Glen Estates Add.
3	1	Park Glen Estates Add.
4	1	Park Glen Estates Add.
10	1	Park Glen Estates Add.
11	1	Park Glen Estates Add.

**City of Clearwater
City Council Meeting
January 23, 2018**

SUBJECT: Indian Lakes Incentives
INITIATED BY: City Council
PREPARED BY: City Administrator/City Clerk

Background: At the last council meeting the governing body asked staff and counsel to prepare a resolution with the suggested changes of the Indian Lakes incentives for 2018 to expire December 31, 2020.

Analysis: Staff and counsel prepared Resolution 6-2018 for the first 6 remaining lots in the established Indian Lakes Phase 3 developer’s agreement.

Incentives Include	Eligibility
<ol style="list-style-type: none"> 1. 50% reduction in building permits 2. 50% Water and sewer abatement 3. Cash incentive to the property owner equal to 50% of the City’s portion of the property tax bill for a period of five years on a graduating scale. 	<ol style="list-style-type: none"> 1. The properties listed in EXHIBIT “A” to this document are eligible to participate in this Program so long as a New Home construction is completed by December 31, 2020. <ol style="list-style-type: none"> a. Program participation initiates at the date of the Certificate of Occupancy is issued. 2. Homes must be complete within the calendar year to be eligible for a current year tax rebate on the graduating scale established in EXHIBIT “B” to this document. <ol style="list-style-type: none"> a. Extensions of this time frame may only be granted in writing at the discretion of the City Administrator. 3. All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until all taxes and special assessments due and owing are paid in full and proof thereof is provided

	<p>to the City of Clearwater City Clerk.</p> <ul style="list-style-type: none">a. Any delinquent years are not eligible for the 50% tax rebate.b. Tax credit request must be submitted no later than 90 days after expiration of requested tax year.c. Tax credit payouts are non-transferable to the next homeowner and cannot be carried over to another property.
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Financial: For the 2018 budget the city has budgeted \$106,000 to cover incentives for 2018. If all lots were completed in 2018, the city would not start paying the 50% in taxes until 2019

Legal Considerations: Has reviewed and made comments

Recommendations/Actions: Adopt resolution 6-2018

Indian Lakes Incentives

Expires 12/31/2020

The Governing Body of the City of Clearwater, Kansas has approved the following Residential New Home Construction Incentive Program for the Lots in the Indian Lakes development identified in EXHIBIT "A"

PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction in City sewer connection fee,
- 50% reduction in City water connection fee,
- Cash incentive to property owner equal to up to 50% of the city's portion of the property tax bill for a period of five (5) years on a graduating scale. EXHIBIT "B"

ELIGIBILITY

Eligibility for this program is as follows

- 1) The properties listed in EXHIBIT "A" to this document are eligible to participate in this Program so long as a New Home construction is completed by December 31, 2020.
 - a) Program participation initiates at the date of the Certificate of Occupancy is issued.
- 2) Homes must be complete within the calendar year to be eligible for a current year tax rebate on the graduating scale established in EXHIBIT "B" to this document.
 - a) Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.
- 3) All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk.
 - a) Any delinquent years are not eligible for the 50% tax rebate.
 - b) Tax credit request must be submitted no later than 90 days after expiration of requested tax year.
 - c) Tax credit payouts are non-transferable to the next homeowner and cannot be carried over to another property.



EXHIBIT A

RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM

ELIGIBLE LOTS 2018

INDIAN LAKES

Lot	Block	Addition
1	1	Indian Lakes
2	1	Indian Lakes
3	1	Indian Lakes
4	1	Indian Lakes
5	1	Indian Lakes
3	2	Indian Lakes



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EXHIBIT B
RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM
GRADUATING SCALE
INDIAN LAKES

Home Completed	Years Eligible for Tax Rebate
2018	5
2019	4
2020	3
2021	0

CITY OF CLEARWATER, KANSAS

RESOLUTION NO. 6-2018

A RESOLUTION ESTABLISHING THE CITY OF CLEARWATER, KANSAS RESIDENTIAL NEW HOME CONSTRUCTION INCENTIVE PROGRAM FOR THE REMAINING CURRENTLY DEVELOPABLE LOTS IN INDIAN LAKES

WHEREAS, the City of Clearwater, Kansas desires to establish a Residential New Home Construction Incentive Program for the remaining currently developable lots within the Indian Lakes development from 2018 through 2020.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the City of Clearwater, Kansas that the following Residential New Home Construction Incentive Program (herein referred to as the “Program”) is hereby established:

Section 1. PURPOSE

The purpose of the City of Clearwater, Kansas Residential New Home Construction Incentive Program is to provide the community with long-term stabilization and improvement of its property tax base while increasing the community supply of residential housing. The Residential New Home Construction Incentive Program is designed to encourage the construction of new homes within the corporate limits of the City of Clearwater. The Program consists of (1) reduction of building permit fees for new residential construction; (2) a cash incentive to the property owner and (3) utility connection fee abatements.

Section 2. PROGRAM

Under the Residential Construction Incentive Program, fees associated with new home construction on the lots within the Indian Lakes development identified in EXHIBIT “A” hereto will be reduced or abated as follows:

- 50% reduction of building permit fees,
- 50% reduction of the City sewer connection fee,
- 50% reduction of the City water connection fee,
- Cash incentive to the property owner equal to up to 50% of the City’s portion of the property tax bill for a period of five (5) years on a graduating scale established in EXHIBIT “B” to this document.

Section 3. ELIGIBILITY

Eligibility for this program is as follows:

- 1) The property listed in EXHIBIT “A” to this document is eligible to participate in this Program so long as a New Home Building Permit is issued prior to December 31, 2020.
 - a) Program participation initiates at the date of the Certificate of Occupancy is issued.

- 2) Homes must be complete within the calendar year to be eligible for a current year tax rebate on the graduating scale established in EXHIBIT "B" to this document.
 - a) Extensions of this time frame may only be granted in writing at the discretion of the City Administrator.

- 3) All ad valorem property taxes and special assessments, if any, on the property for which an application is submitted may not be delinquent. If any ad valorem property taxes or special assessments are delinquent, such property will not be eligible for the program until such time as all taxes and special assessments due and owing are paid in full and proof thereof is provided to the City of Clearwater City Clerk.
 - a) Any delinquent years are not eligible for the 50% tax rebate.
 - b) Tax credit request must be submitted no later than 90 days after expiration of the requested tax year.
 - c) Tax credit payouts are non-transferable to the next homeowner and cannot be carried over to another property.

Section 4. AMENDMENT OR REPEAL

This Program may, at any time after adoption, be amended, supplemented, or repealed by a majority vote of the Governing Body of the City of Clearwater, Kansas.

Section 5. IMPLEMENTATION

The City Administrator, or his designee, shall be authorized to implement the foregoing program in compliance with all applicable federal, state and local laws, rules and regulations.

Section 6. EFFECTIVE DATE

This Program shall be in full force and effect upon the adoption of this Resolution by the Governing Body of the City of Clearwater, Kansas.

ADOPTED by the Governing Body and Approved by the Mayor of the City of Clearwater, Kansas on this 23rd day of January 2018.

Burt Ussery, Mayor

SEAL
ATTEST:

Courtney Meyer, City Clerk

EXHIBIT A of Resolution No. 6-2018

RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM

ELIGIBLE LOTS 2018

INDIAN LAKES

Lot	Block	Addition
1	1	Indian Lakes
2	1	Indian Lakes
3	1	Indian Lakes
4	1	Indian Lakes
5	1	Indian Lakes
3	2	Indian Lakes

EXHIBIT B of Resolution No. 6-2018

RESIDENTIAL CONSTRUCTION INCENTIVE PROGRAM

GRADUATING SCALE

INDIAN LAKES

Home Completed	Years Eligible for Tax Rebate
2018	5
2019	4
2020	3
2021	0