

**CITY COMMISSION MEETING
Winfield, Kansas**

DATE: Monday, April 19, 2021
TIME: 5:30 p.m.
PLACE: City Commission – Community Council Room – First Floor – City Building

AGENDA

CALL TO ORDER.....Mayor Gregory N. Thompson

ROLL CALL.....City Clerk, Brenda Peters

MINUTES OF PRECEDING MEETING.....Monday, April 05, 2021

BUSINESS FROM THE FLOOR

-Citizens to be heard

NEW BUSINESS

Ordinances & Resolutions

Bill No. 2138 - An Ordinance – Granting to Cox Communications Kansas, LLC (Cox), its successors and assigns, a Wireless Infrastructure Agreement (Franchise Agreement) and prescribing the terms of said grant and relating thereto.

Bill No. 2139 - A Resolution – Determining the existence of certain nuisances at 906 E 15th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2140 - A Resolution – Determining the existence of certain nuisances at 1112 E 5th in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2141 - A Resolution – Determining the existence of certain nuisances at 821 E 13th in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2142 - A Resolution – Determining the existence of certain nuisances at 332 N Massachusetts in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2143 - A Resolution – Determining the existence of certain nuisances at 820 E 7th in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2144 - A Resolution – Determining the existence of certain nuisances at 1018 E 6th in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

Bill No. 2145 - A Resolution – Authorizing an Outdoor Community Event and Temporary Entertainment District Application (Island Park Productions)

Bill No. 2146 - A Resolution – Authorizing an Outdoor Community Event and Temporary Entertainment District Application (Young Professionals of Cowley County)

OTHER BUSINESS

ADJOURNMENT

-Next Commission work session 4:00 p.m. Thursday, April 29, 2021.
-Next regular meeting 5:30 p.m. Monday, May 03, 2021.

CITY COMMISSION MEETING MINUTES
Winfield, Kansas
April 5, 2021

The Board of City Commissioners met in regular session, Monday, April 05, 2021 at 5:30 p.m. in the City Commission-Community Council Meeting Room, City Hall; Mayor Gregory N. Thompson presiding. Commissioners Phillip R. Jarvis and Ronald E. Hutto were also present. Also in attendance were Taggart Wall, City Manager; Brenda Peters, City Clerk; and William E. Muret, City Attorney. Other staff members present were Patrick Steward, Director of Community Development; Gus Collins, Director of Utilities; Robbie DeLong, Police Chief; and Josh Wallace, Environmental Inspector.

Mayor Thompson noted all Commissioners present.

Commissioner Jarvis moved that the minutes of the March 15, 2021 meeting be approved. Commissioner Hutto seconded the motion. With all Commissioners voting aye, motion carried.

Commissioner Hutto moved that the minutes of the Special Called Meeting of March 22, 2021 be approved as presented. Commissioner Jarvis seconded the motion. With all Commissioners voting aye, motion carried.

OATH OF OFFICE

- City Clerk Peters gave the Oath of Office to Patrolman Kamen Hinzman.

PROCLAMATION

-Proclaiming the Month of April as Fair Housing Month. Mayor Thompson proclaimed the month of April 2021 as Fair Housing Month.

PUBLIC HEARING

-Nuisance abatement Resolution passed on 3.15.21-1002 & 1006 E 11th Ave. Mayor Thompson opened a public hearing of a nuisance violation at 1002 & 1006 E 11th Ave. John Stoabs, 1006 E 11th Ave asks the Commission for 30 more days to clean up. City Manager Wall asked Mr. Stoabs and Josh Wallace to meet within 7 days for a plan and then give 30 more days after that for the cleanup. The Mayor closed the public hearing.

NEW BUSINESS

Bill No. 2134 – An Ordinance – Approving a project to be undertaken by the Kansas Power Pool (“KPP”), a municipal energy agency for the benefit of the City of Winfield, Kansas and authorizing the execution and delivery of such documents as shall be necessary in connection therewith. City Manager Wall explains that this Ordinance would allow the KPP to purchase, acquire, and help with the installation of the AMI Project. Upon motion by Commissioner Jarvis, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2134 was adopted and numbered Ordinance No. 4154.

Bill No. 2135 – A Resolution – Authorizing and providing for improvements included in the multi-year capital improvement plan for the City of Winfield, Kansas; and providing for the payment of the

costs thereof. City Manager Wall explains that this Resolution approves the AMI Project at the City level. Upon motion by Commissioner Hutto, seconded by Commissioner Jarvis, all Commissioners voting aye, Bill No. 2135 was adopted and numbered Resolution No. 3021.

Bill No. 2136 – A Resolution – Adopting a Naming Policy for the purpose of establishing procedures and guidelines for the naming and renaming of public parks and recreational areas owned and operated by the City of Winfield. Director of Community Development Steward explains this will formalize the Naming Policy for public parks and recreational areas. Upon motion by Commissioner Jarvis, seconded by Commissioner Hutto, all Commissioners voting aye, Bill No. 2136 was adopted and numbered Resolution No. 3121.

Bill No. 2137 – A Resolution – Authorizing and directing the Manager of Strother Field Airport Industrial Park, to execute Airport Improvement Plan grant documents and other instruments thereto on behalf of the City of Arkansas City, Kansas and the City of Winfield, Kansas as the participants in an interlocal agreement for the management and operation of the Strother Field Airport/Industrial Park, by the power vested in it by article 12, section 5, of the Constitution of the State of Kansas. City Manager Wall explains that this authorizes the Manager of Strother Field Airport Industrial Park, to execute Airport Improvement Plan grant documents. Upon motion by Commissioner Hutto, seconded by Commissioner Jarvis, all Commissioners voting aye, Bill No. 2137 was adopted and numbered Resolution No. 3221.

OTHER BUSINESS

-Consider tree trimming bids. Director of Utilities Collins explains that City staff solicited request for proposals on the Right of Way Clearance Tree Trimming and special project for the year 2021. Commissioner Jarvis moved to accept the bid from Davis Tree Company for Right of Way Clearance Tree Trimming and special project contracts at a cost of \$76.12/hourly for the Right of Way trimming and a cost of \$138,670.00 for the special project. Motion was seconded by Commissioner Hutto. With all Commissioners voting aye, motion carried.

ADJOURNMENT

Upon motion by Commissioner Hutto, seconded by Commissioner Jarvis, all Commissioners voting aye, the meeting adjourned at 5:45 p.m.

Signed and sealed this 15th day of April 2021.

Signed and approved this 19th day of April 2021.

Brenda Peters, City Clerk

Gregory N. Thompson, Mayor

BILL NO. 2138

ORDINANCE NO. 4155

AN ORDINANCE

GRANTING to Cox Communications Kansas, LLC (Cox), its successors and assigns, a Wireless Infrastructure Agreement (Franchise Agreement) and prescribing the terms of said grant and relating thereto.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS THAT:

This Franchise Agreement (“Agreement”) is entered into as of (“Effective Date”) by and between the City of Winfield, a municipal corporation (the “City”), and COX.

RECITALS

A COX’s wireless service provider customers are authorized by the Kansas Corporation Commission (hereinafter “KCC”) to provide telecommunications service in the state of Kansas. Such telecommunications service facilities are in public rights-of-way (hereinafter “ROW”), among other locations, in the State of Kansas.

B. COX seeks to enter onto the City of Winfield’s (the “City”) property and facilities in the ROW of the City, to install, maintain and operate telecommunications service Facilities (the “Network”), so that COX’s its customers (the “Customers”) may provide data and telecommunications services to the enterprises, residents and visitors of the City and others (the “Services”).

C Some features of the Network include, without limitation, antenna nodes, poles, equipment cabinets, underground and above ground fiber optic cable, fiber hand holes and enclosures, fiber repeaters and related equipment, and will include other equipment as technology evolves, in a configuration and at locations to be filed and identified through the City permit process (“Facility” or “Facilities”).

D. Certain systems of COX’s customers which are specific parts or types of the Facilities, a Small Cell Facility as defined in K.S.A. 66-2019, may be located on streetlights, stand-alone poles, and other structures located on or within the Public ROW or City owned property as permitted under this Agreement and will be connected to underground and above ground fiber optic cable, fiber hand holes and enclosures, fiber repeaters, and related equipment.

E COX desires to obtain from City as permitted by law, and City is willing to grant COX as required by law, the right to access the Public ROW to locate, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Facilities in a manner consistent with this Agreement.

In consideration of the Recitals set forth above, the terms and conditions of this Agreement and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

SECTION 1 INSTALLATION OF THE NETWORK

11 Permitted Installation. COX may at COX's sole cost and expense and during the term of this Agreement, locate, construct, place, attach, install, operate, use, control, repair, replace, upgrade, enhance and maintain the Facilities subject to the terms and conditions of this Agreement. COX shall undertake and perform any work authorized by this Agreement in a skillful and workmanlike manner.

11.1 Installation Specifications. The installation of the Facilities shall be made in accordance with plans and specifications as may be approved by the City and after obtaining all necessary permits for all work in the ROW and/or on City property. Such approval review shall be made no later than forty-five (45) days from application date, and under exceptional circumstances the time may be extended an additional forty-five (45) days upon agreement of the Parties. The Parties understand and agree that Facilities outside of the Public ROW may require additional easements for underground fiber to connect to Network within Public ROW. Such additional easements shall be located so as not to interfere with the City's use of its property. For each installation of Facilities, COX shall provide to the City plans, specifications, a construction work breakdown, and anticipated construction timeframes for the installation of Facilities no later than ninety (90) days prior to the planned start of the installation. COX shall, at the written request of the City, attend a planning session regarding an installation proposed by COX. The location, depth of the fiber underground, and any other requirements shall be approved in writing by the City prior to construction of the Facilities at that specific location, approval of which shall not be unreasonably withheld, conditioned or delayed. Approval of plans and specifications and the issuance of any permits by the city shall not release COX from the responsibility for, or the correction of, any errors, omissions or other mistakes that may be contained in the plans, specifications and/or permits. COX shall be responsible for notifying the city and all other relevant parties immediately upon discovery of such omissions and/or errors and with obtaining any amendments for corrected City-approved permits as may be necessary. COX shall be responsible for all costs associated with the permitting process, including, but not limited to, repairs and replacement of City ROW. Such permits and approval requirements detailed in this section shall not be unreasonably withheld, conditioned or delayed by the City and any conditions or requirements shall be in accordance with federal, state, and local laws.

112 Temporary Construction. The installation of the Facilities shall be performed in accordance with traffic control plans for temporary construction work that are approved by the City, which approval shall not unreasonably be withheld, conditioned or delayed.

113 Construction Schedule. If requested by the City, at least ten (10) days prior to the installation of the Facilities, COX shall deliver to the City a schedule for the proposed work related to the construction of the Facilities, as well as a list of the names of all agents and contractors of COX's authorized by COX to access the City ROW and City owned property on COX's behalf.

114 Coordination of Work. COX shall be responsible for coordination of work to avoid any interference with existing utilities, substructures, facilities and/or operations within the City's ROW. COX shall be the City's point of contact and all communications shall be through COX. COX shall be solely responsible for communicating with Kansas One-Call.

115 Inspection by City. The City shall have commercially reasonable access to inspect any work conducted by COX during the installation, maintenance and/or repairs of the Facilities.

116 Other Utility Providers. When necessary, COX shall coordinate with other utility providers for other needed utility services. COX and the City will reasonably cooperate with the other utility providers regarding the location of any meter, pole, and other apparatuses required for each Site.

117 Existing Utility Poles. COX may attach its Facilities to an existing utility pole pursuant to a properly executed agreement with the pole owner, provided, however, that any necessary replacement of the pole in order to accommodate the attachment shall be subject to the proper exercise of the City's police powers, and in no instance shall COX erect a new pole within an existing aerial pole line absent the City's prior authorization.

12 Compliance with Laws. This Agreement is subject to the terms and conditions of all applicable federal, state and local Laws and the Parties shall comply with any such Laws in the exercise of their rights and performance of their obligations under this Agreement. "Laws" or "Law" as used in this Agreement means any and all statutes, constitutions, ordinances, resolutions, regulations, judicial decisions, rules, permits, approvals or other applicable requirements of the City or other governmental entity or agency having joint or several jurisdiction over the Parties' activities under this Agreement or having jurisdiction that is applicable to any aspect of this Agreement that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Agreement.

121 Permits. COX shall obtain any necessary encroachment permits from the City for the installation of the Network and for any other work within the City's ROW or other real property of the City, as required by the Code or State Law at K.S.A. 17-1902(N), as amended.

1.3.3 Compliance with Permits. All work within the City's ROW or other real property of the City shall be performed in strict compliance with all applicable Permits and all applicable regulatory requirements.

1.3.4 Fee Increases. If prior to the second anniversary of the date hereof, the City increases the permitting fees described in the Sections above, and if with respect to all similarly situated franchisee license agreements executed by the City in such 2-year period the franchisee or licensee is subject to a similar fee provision, then COX will pay to the City the increased fees as if the increased fee schedule had been in effect as of the date hereof upon being billed therefore by the City.

1.4 Placement of COX Facilities. COX shall coordinate the placement of its Facilities in the Public ROW in a manner that minimizes adverse impact on public improvements, as reasonably determined by the City Engineer.

1.5 New Streetlight Poles and Existing Streetlight Poles. It is understood that in connection with Small Cell Facilities, COX may build new stand-alone poles approximating the size of the standard street light or utility poles, including ancillary equipment for connection of antennae located on new stand-alone poles to utilities and fiber optic cable, other such facilities required for the installation of the Facilities which would comply with all encroachment and building permits, applicable City, state and federal specifications, and Laws ("New Poles"), provided however, that such new pole will not be erected on a City existing sidewalk or cause damage to a City sidewalk.

1.5.1 City Use of New Cox Poles. Cox shall allow the City to place its infrastructure in the Cox's trenches or bores or on the pole as requested by the City, except that the City shall incur the incremental costs of placing the conduit or infrastructure as requested. The City shall be responsible for maintaining City facilities in the trenches and bores and on the City pole(s). The reservation of space on Cox-owned poles by City shall be subject to terms of a separate agreement. Cox agrees to negotiate in good faith with City on the terms of any separate agreement.

1.5.2 City-Owned Lights. Except for the installation of the lights and ancillary equipment on or in the New Poles and/or as set forth in section 1.5.3 below, COX shall not be responsible for maintenance, repair, or replacement of City-owned lights, light bulbs and equipment or equipment owned by third parties authorized by the City on the New Poles.

1.5.3 Damage to New Poles. If a new Pole falls or is damaged such that there is an imminent threat of harm to persons or property, then the City may cause the New Pole to be

removed to the side of the street or a location that City believes reasonably eliminates the right of such imminent threat or harm to persons or property. COX shall, after written notice from the City that any New Pole has been damaged or removed, cause the New Pole to be repaired or replaced within thirty (30) days after the City's written notice. In the case of emergency or service effecting upon written notice COX will repair or replace within two (2) days. The cost to repair and/or replace any New Pole, including the replacement City streetlight, bulb and ancillary equipment shall be paid by COX; provided, however, that if the new Pole is damaged or destroyed by the City or a third party user that the City has given the right to use the New Pole, then the City and/or its third party user shall pay the cost to repair and/or replace the New Pole. T.

1.6 Franchise and Permit Fees. COX is solely responsible for the payment of all lawful franchise and permit fees in connection with COX's performance under this Agreement.

(a) **1.6.1 Right of Way Use Fee.** In consideration of this agreement, COX agrees to remit to the City a right-of-way use fee of \$270 per site per year. COX shall pay its reoccurring annual use fees on January 1st each year. Notwithstanding anything to the contrary, all fees charged to Cox Communication Kansas, L.L.C. or any affiliate thereof, are subject to state and federal law.

1.6.2 Small Cell Facility Permit Fee. A one-time permit and license fee of \$1,000.00 for each DAS Facility installed within the Public Right of Way of the City shall be paid to the City by COX. COX shall pay the Small Cell Facility Permit Fee the 15th day following the month after each DAS Facility is installed within the public ROW.

1.7 Access to the Facilities.

1.7.1 COX Access to Facilities for Repair. COX will be given reasonable access to each of the Facilities in the City ROW or City owned property for the purposes of routine installation, repair, maintenance or removal of Facilities. If any such maintenance activities have the potential to result in an interruption of any City services at the Facility, COX shall provide the City with a minimum of three (3) days prior written notice of such maintenance activities. Such maintenance activities shall, to the extent feasible, be done with minimal impairment, interruption, or interference to City services.

1.7.2 City Observation. COX shall allow a representative of the City to observe any repair, maintenance or removal work performed at the Facilities.

SECTION 2

TERM AND TERMINATION

2.1 Term. This Franchise Agreement shall be effective for an initial term of ten (10) years from the effective date of this ordinance. Thereafter, this franchise will automatically

renew for additional one (1) year terms, unless either party notifies the other party of its intent to terminate the franchise at least ninety (90) days prior to the termination of the then current term; provided, however, if COX does not request termination and is operating hereunder and is not in default of its obligations hereunder, then this franchise shall not be terminated and shall continue from year-to-year as provided herein. The additional (term(s)) shall be deemed a continuation of this franchise ordinance and not as a new franchise ordinance or amendment.

2.1.1 90 Day Remedy Period. If the Agreement is breached by COX, then the provisions of Section 8 (Default) shall govern the parties hereto.

2.2 Termination of Use. Notwithstanding Section 2.1 above, COX may terminate its use of any or all of the Network by providing the City with ninety (90) days prior written notice. In the event of any such termination, COX payment obligations to the City shall terminate simultaneously with the termination of use; provided COX removes its equipment and restores the Facilities, as set forth in Section 3, below, prior to the termination date.

SECTION 3 REMOVAL AND RELOCATION

3.1 Removal due to Public Project. Upon receipt of a written demand from the City pursuant to this Section 3, COX, at its sole cost and expense, shall remove and relocate any part of the Network, constructed, installed, used and/or maintained by COX under this Agreement, whenever the City reasonably determines that the removal and/or relocation of any part of the Network is needed for any of the following purposes: (a) due to any work proposed to be done by or on behalf of the City or any other governmental agency, including, but not limited to, any change of grade, alignment or width of any street, sidewalk or other public facility, installation of curbs, gutters or landscaping and installation, construction, maintenance or operation of any underground or aboveground facilities used as sewers, water mains, drains, storm drains, pipes, gas mains, poles, power lines, telephone lines, cable television lines and tracks; (b) because any part of the Network is interfering with or adversely affecting the proper operation of City-owned light poles, traffic signals, or other City facilities or operations; or (c) to protect or preserve the public health and safety. The City shall cooperate with COX in relocating any portion of the Network removed pursuant to this Section 3.1 in a manner that allows COX to continue providing service to its customers, including, but not limited to, expediting approval of any necessary permits required for the relocation of that portion of the Network relocated under this Section 3.1. No permitting or other fees may be charged by the City for a removal occurring under this Section.

3.2 Removal Due to Termination. No later than 160 days after termination of this Agreement pursuant to the provisions of this Agreement, COX shall, at its sole cost and expense, remove the Network or the terminated portion thereof and, if such removal disturbs the

locations or adjacent property COX will restore to its original conditions, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic improvements made by COX to the Facility or adjacent property, or as otherwise required by the City. For New Poles, COX shall install a new streetlight or facility as directed by City's Public Works Director, or his or her designee. Alternatively, COX shall abandon the Network, or any part thereof, in place and convey it to the City if either the City or COX elects to do so.

33 **Abandonment.** In the event that COX ceases operations or abandons the Network, or any part thereof, it shall provide the City with written notice of its intent to do so thirty (30) days in advance. In the event COX ceases to operate and abandons the Network, or any part thereof, for a period of ninety (90) days or more, COX shall, at its sole cost and expense and within the time period specified in Section 3.2, vacate and remove the Network or the abandoned part thereof. If such removal disturbs the Facility or adjacent property, COX shall also, at its sole cost and expense, restore the Facility or adjacent property to its original conditions, reasonable wear and tear excepted, and further excepting landscaping and related irrigation equipment, or other aesthetic improvements made by COX to the Facility or adjacent property. Alternatively, the City may allow COX, in the City's sole and absolute discretion, to abandon the Network, or any part thereof, in place and convey it to the City.

34 **No Relocation Compensation.** The parties understand and agree that neither the City nor COX are entitled to compensation for any relocation of its Network that may be required under Section 3.1 COX is not entitled to relocation assistance or any other compensation or benefits under the Uniform Relocation Assistance Act or any other applicable provision of law upon termination of this Agreement.

SECTION 4 MAINTENANCE AND REPAIR

4.1 **Electricity Use.** COX shall pay for the electricity and other utilities services it consumes in its operations at the rate charged by the servicing utility company.

4.2 **Maintenance and Repair.** COX shall, at COX's sole cost and expense, perform all maintenance and repairs reasonable needed to maintain the Network in good condition and neat and orderly appearance, and in compliance with all applicable Laws. In the event any part of the Network requires replacement because such part cannot be repaired, COX shall, at COX's sole cost and expense, replace the irreparable part of the Network. COX shall not cause rubbish, garbage or debris on or around its Network or the Facilities and shall not permit rubbish, garbage or debris to accumulate on or around in any enclosed areas around the Facilities. If the City gives

COX written notice of a failure by COX to maintain the Facilities, COX shall use its best efforts to remedy such failure within forty-eight (48) hours after receipt of such written notice.

4.3 **Appearance.** COX shall cooperate with the City on all issues of aesthetics and appearance. COX shall follow all generally applicable, non-discriminatory, legally binding City policies, state and local ordinances with respect to aesthetics. This includes, but is not limited to, historic site and/or locations of significant importance. All locations of Small Cell Facilities must be aesthetically approved by the City Engineering Department, in a manner consistent with other approvals within these Restrictions.

4.4 **Repair of ROW.** COX shall be responsible for any damage, ordinary wear and tear excepted, to street pavement, existing facilities and utilities, curbs, gutters, sidewalks, landscaping, and all other public or private facilities, to the extent caused by COX's construction, installation, maintenance, access, use, repair, replacement, relocation, or removal of the Network in the City's ROW. COX shall promptly repair such damage and return the City's ROW and any affected adjacent property to a safe and satisfactory condition to the City in accordance with the City's applicable street restoration standards or to the property owner if not the City. COX's obligations under this Section 4.4 shall survive for one (1) year past the completion of such reparation and restoration work and return of the affected part of the City's ROW by COX to the City.

SECTION 5 TAXES

5.1 **Taxes.** COX agrees that it will be solely responsible for the payment of any and all taxes, fees and assessments levied on its ownership, use and maintenance of the Network and this Agreement. Pursuant to Section 79-5a01 *et seq.* of the Kansas Revenue and Taxation Code, the City hereby advises, and COX recognizes and understands, that COX's use of the City's ROW, the New Poles, and/or other non-ROW city property and facilities may create a possessory interest subject to real property taxation and that COX may be subject to, and responsible for, the payment of real property taxes levied on such interest. COX will cooperate with the Cowley County Appraiser in providing any information necessary for the Appraiser to make a property tax determination. COX reserves the right to challenge any such assessment, and the City agrees to cooperate with COX in connection with any such challenge.

SECTION 6 INDEMNIFICATION

6.1 **Indemnity.** COX shall indemnify, defend, and hold harmless the City, its City commissioners, officers and employees, agents, and contractors, from and against liability, claims, demands, losses, damages, fines, charges, penalties administrative and judicial proceedings and orders, judgments, and the costs and expenses incurred in connection

therewith, including reasonable attorneys' fees and costs of defense to the extent resulting from activities undertaken by COX pursuant to this Agreement, except to the extent arising from or caused by the negligence or willful misconduct of the City, its commissioners, officers, employees, agents or contractors or any third party. The City shall promptly notify COX of any claim, action or proceeding covered by this Section 6.1.

62 **Waiver of Claims.** COX waives all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any portion of the Network, or any loss or degradation of the services provided by the Network resulting from any event or occurrence except for any loss, damage, or injury to any portion of the Network, or any loss or degradation of the services provided by the Network resulting from the negligence or willful misconduct of the City.

63 **Limitation of City's Liability.** In no event shall the City be liable for indirect or consequential damages in connection with or arising from this Agreement, or the use of its Poles, and ROW or other City real property.

64 **Limitation of COX's Liability.** In no event shall COX be liable for indirect or consequential damages in connection with or arising from this Agreement, or its use of the Network, New Poles, and ROW or other City real property.

SECTION 7 INSURANCE

7.1 **Minimum Insurance Requirements.** COX shall obtain and maintain at its sole cost and expense for the duration of this Agreement insurance pursuant to the terms and conditions described in this Section.

(a) **Minimum Insurance.** COX shall at all times during the term of this Agreement, carry, maintain, and keep in full force and effect, insurance as follows:

(i) **General Liability:** A policy or policies of Comprehensive General Liability Insurance, with minimum limits of \$2,000,000 combined single-limit per-occurrence for bodily injury, personal injury, death, loss and property damage resulting from wrongful or negligent acts by COX. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(ii) **Automobile Liability:** A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of \$1,000,000 combine single-limit per accident for bodily injury and property damage covering any vehicle utilized by COX in performing the work covered by this Agreement.

(iii) **Workers' compensation and Employer's Liability:** Workers' compensation limits as required by the Labor Code, and Employer's Liability limits of \$1,000,000 per accident.

(b) **Other Insurance Provisions.** The policies shall contain, or be endorsed to contain, the following provisions:

(i) **General Liability and Automobile Liability Coverage.**

(1) The City, and its elected and appointed council members, board members, commissioners, officers and officials (the "Insureds") shall be named as additional insureds on all required insurance policies, except for Workers' Compensation and Employer's Liability policies.

(2) COX's insurance coverage shall be primary insurance as respects the Insureds with respect to the indemnification obligations assumed by USCC under this Agreement. Any insurance or self-insurance maintained by the Insureds shall be in excess of COX's insurance and shall not contribute with it.

(3) Any failure of COX to comply with reporting provisions of the policies shall not affect coverage provided to the Insureds.

(4) COX's insurance shall contain a severability of interest provision

(ii) **All Coverages.** Coverage shall not be canceled or limits reduced below the levels set forth herein except after thirty (30) days' prior written notice has been given to the City.

(c) **Acceptance of Insurers.** Insurance shall be placed with insurers with an A.M. Best rating of no less than A-: VII.

(d) **Verification of Coverage.** COX shall furnish the City with certificates of insurance required by this Section 7. The certificates for each insurance policy are to be signed by a person, either manually or electronically, authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City before work commences.

(e) **Secondary Parties.** In the event COX hires any subcontractors, independent contractors or agents ("Secondary Parties") to locate, place, attach, install, operate, use, control, replace, repair or maintain the Network, COX shall require the Secondary Parties to obtain and maintain insurance commensurate to the work such Secondary Parties perform.

SECTION 8 DEFAULT

8.1 Default.

8.1.1 **Defined.** A “Default” shall be deemed to have occurred under this Agreement if a party fails to cure such within ninety (90) days after written notice specifying such breach, provided that if the breach is of a nature that it cannot be cured within ninety (90) days, a default shall not have occurred so long as the breaching party has commenced to cure within said time period and thereafter diligently pursues such cure to completion.

8.1.2 **Remedies.** Upon the failure of a party to timely cure any breach after notice thereof from the other party and expiration of the above cure periods, then the non-defaulting party may, subject to the terms of Section 6.3 (Limitation of Liability), terminate this Agreement and pursue all remedies provided for in this Agreement and/or any remedies it may have under applicable law or principles of equity relating to such breach.

8.2 **City Termination Right.** In addition to the remedies set forth in Section 8.1.2, the City shall have the right to terminate this Agreement if (i) the City is mandated by law, a court order or decision, or the federal or state government to take certain actions that will cause or require the removal of the Facilities from the public right of way; or (ii) if COX’s licenses are terminated, revoked, expired, or otherwise abandoned. Such termination rights shall be subject to COX’s rights to just compensation, if any, for any taking of a protected property right.

8.3 **No waiver.** A waiver by either party at any time of any of its rights as to anything herein contained shall not be deemed to be a waiver of any breach of covenant or other matters subsequently occurring.

8.4 **Interest.** If COX fails to make any payment under this Agreement when due, such amounts shall accrue interest from the date such payment is due until paid, including accrued interest, at an annual rate of ten percent (10%) or, if lower, the highest percentage allowed by law.

SECTION 9 INTERFERENCE

9.1 **Non-Interference with Non-Public Safety Communications Systems.** COX shall operate the Network in a manner that will not cause interference with City non-public safety communications systems and to the services and facilities of other licensees or lessees of City property located at or near the Facilities that were in operation prior to the installation of the Network or that are in operation prior to any modifications COX may make to the Network.

9.2 **Non-Interference with Public Safety Communications Systems.** COX’s Network and Facilities shall not cause interference with public safety communications systems operated by City or any other public agency, regardless of the date such systems or any Facilities cause interference with the City’s use of the New Poles for their intended purpose as streetlights, traffic lights, and/or stand-alone light poles.

9.3 Correction of Interference. If such interference with the Facilities described in Sections 9.1 and 9.2 occur, COX shall, upon receipt of written notice thereof from City, immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. If such interference cannot be corrected by COX to the reasonable satisfaction of City within the cure period set forth for in the City's notice, which notice shall not be less than ninety (90) days, such interference shall be deemed a material breach under this Agreement and City may terminate this Agreement. Interference caused by actions of COX's Customer(s) remains the responsibility of COX. If the interference is an emergency or a danger to public health and safety, the City shall be entitled to require correction in a time period necessary to avoid the emergency or public health and safety issue.

If COX determines that other licensee(s) or lessee(s) of the Property is causing harmful interference to COX, COX shall notify LICENSOR in writing. CITY represents and warrants to COX that CITY shall require any other such licensee(s) or lessee(s) to immediately commence commercially reasonable, diligent, efforts to correct or eliminate such interference. If such interference is not corrected to the reasonable satisfaction of COX within the cure period set forth for in the CITY's notice, which notice shall not be less than 90 days, such interference shall be deemed a material breach under this Agreement and COX may in addition to any other rights that it may have at law or in equity, including injunctive relief and specific performance, terminate this Agreement.

SECTION 10 MISCELLANEOUS PROVISIONS

10.1 Nonexclusive Use. COX acknowledges that this Agreement does not provide COX with exclusive use of the City's ROW or any municipal facility and that City retains the right to permit other providers of communications services to install equipment or devices in the City's ROW and on municipal facilities. The parties hereto specifically agree that all such franchises issued to telecommunications providers shall be competitively neutral and not unreasonable or discriminatory in nature.

10.2 Notices. All notices which shall or may be given pursuant to this Agreement shall be in writing and served by (1) electronic mail; and (2) personally served or transmitted through first class United States mail, or by express mail providing for overnight delivery, postage prepaid, to the following address or such other address of which a party may give written notice:

City:	City of Winfield
	200 East 9 th Street
	Winfield, KS 67156
	Attention: City Manager

Notice to Cox Communication Kansas, L.L.C. shall be addressed to the company as follows:

Cox Communications Kansas, L.L.C.
Attn: Cox Business
901 S. George Washington Blvd
Wichita, KS 67211

With copy to:

Cox Communications
6205B Peachtree -Dunwoody Road
Atlanta, Georgia 30328
Attn: VP of Government Affairs

Such notice shall be deemed made when personally delivered; if mailed via first class U.S. Mail, such notice shall be deemed made three (3) calendar days after the date of deposit in the U.S. Mail, if mailed via express/overnight mail, such notice shall be deemed made two (2) calendar days after the date of deposit in a designated overnight delivery mailbox or other like facility. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

10.3 Sublease/Assignment. If COX assigns, sublets, enters into a franchise license or concession agreement, changes ownership of the Network or voting control of COX, mortgage, encumber, pledge, hypothecate or other transfer (including any transfer by operation of law this Agreement or any interest therein) COX will provide notice of a transfer within a reasonable time.

10.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, legal representatives, successor, assigns and transferees.

10.5 Entire Agreement; Modification; Waiver. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof. All prior and contemporaneous agreements, representations, negotiations, and understandings of the parties, oral or written, relating to the subject matter hereof are merged into and superseded by this Agreement. Any modification or amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any provisions, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit either party to provide a waiver in the future except to the extent specifically set forth in writing. No waiver shall be binding unless executed in writing by the party making the waiver.

10.6 Severability. If any one or more of the provisions of this Agreement shall be held by a court of competent jurisdiction in a final judicial action to be void, voidable, or unenforceable, such provision or provisions shall be deemed separable from the remaining

provisions of this Agreement and shall in no way affect the validity of the remaining portions of this Agreement.

10.7 **Governing Law.** This Agreement shall be interpreted and enforced according to, and the parties' rights and obligations governed by, the domestic law of the State of Kansas or applicable federal law, without regard to laws regarding choice of applicable law. Any proceeding or action to enforce this Agreement, or otherwise directly related to this Agreement shall occur in the state courts located in Cowley County, Kansas.

10.8 **Survival of Terms.** All of the terms and conditions in this Agreement related to payment, removal due to termination or abandonment, indemnification, limits of City's and COX's liability, attorneys' fees and waiver shall survive termination of this agreement.

10.9 **Captions and Paragraph Headings.** Captions and paragraph headings used herein are for convenience only. They are not a part of this Agreement and shall not be used in construing this Agreement.

10.10 **Drafting.** The parties agree that this Agreement is the project of joint draftsmanship and that should any of the terms be determined by a court, or in any type of quasi-judicial or other proceeding, to be vague, ambiguous and/or unintelligible, that the same sentences, phrases, clauses or other wording or language of any kind shall not be construed against the drafting party.

10.11 **Execution in Counterparts.** This Agreement may be executed in one or more identical counterparts and all such counterparts together shall constitute a single instrument for the purpose of the effectiveness of this Agreement.

10.12 **Authority to Execute This Agreement.** Each person or persons executing this Agreement on behalf of a party, warrants and represents that he or she has the full right, power, legal capacity and authority to execute this Agreement on behalf of such party and has the authority to bind such party to the performance of its obligations under this Agreement without the approval or consent of any other person or entity.

10.13 **No Warranty by the City.** The City makes no representations or warranties regarding the suitability, condition or fitness of the locations for the installation, maintenance or use of the New Poles or the Facilities.

10.14 **Agreement Applicable Only to the Facilities.** This Agreement shall not be construed to permit construction, installation, maintenance or use of Facilities on any property other than the Facilities.

10.15 **No Abrogation of Legal Responsibilities.** The City's execution of this Agreement shall not abrogate, in any way, COX's responsibility to comply with all permitting requirements

or to comply with all Laws with respect to its performance of the activities permitted under this Agreement.

10.16 Contractual Interpretation. In the interpretation and application of its rights under this Franchise Agreement, the City will act in a reasonable, non-discriminatory, and competitively neutral manner in compliance with all applicable federal, state, and local laws and regulations.

10.17 Effective Date of Ordinance. This Ordinance shall be effective upon its final passage and publication as required by law.

Adopted this 19th day of April 2021.

(SEAL)

City of Winfield, Kansas

By: _____
Gregory N. Thompson, Mayor

ATTEST:

By: _____
Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager

Cox Communications Kansas, LLC (COX)

By: _____



Request for Commission Action

Date: April 19, 2021

Requestor: Josh Wallace, Environmental Inspector

Action Requested: Seeking consideration for the approval of - Nuisance Resolutions determining the existence of a nuisance at:

906 E 15th: Back yard full of trash, limbs, mattresses and lumber, front porch with misc. materials.

1112 E 5th: Alley contains limbs, lumber tires and roofing.

821 E 13th: Side yard has misc. junk, large tree, alley has misc. junk including pallets and hot-tub shell..

332 N Mass: Back yard contains a large amount of lumber, construction materials, tires and other junk.

820 E 7th: Side yard contains misc. construction material, furniture and fixtures.

1018 E 6th: Front porch contains misc. junk and furniture, driveway has mattresses and furniture.

Analysis: The owners of all properties listed have received a door hanger warning, were sent a certified letter and a notice of upcoming commission action warning.

Fiscal Impact: Unknown fiscal impact at this time. Once approved, a contractor will be assigned to remove the nuisances and the owners will be billed for the cost of the removal as well as an administrative fee of \$100.

Attachments:

Nuisance Resolution 906 E 15th - 2 Photos

Nuisance Resolution 1112 E 5th - 2 Photos

Nuisance Resolution 821 E 13th - 2 Photos

Nuisance Resolution 509 E 12th - 2 Photos

Nuisance Resolution 820 E 7th - 2 Photos

Nuisance Resolution 1018 E 6th - 2 Photos

Request for Commission Action

906 e 15th #1-2



Request for Commission Action



Request for Commission Action



Request for Commission Action



Request for Commission Action



Request for Commission Action



A RESOLUTION

DETERMINING the existence of certain nuisances at 906 E 15th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 3rd day of March 2021, and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: EMMONS,CYNTHIA M
906 E 15TH
Winfield, KS 67156

Occupant: EMMONS,CYNTHIA M
Property Address: 906 E 15TH
Legal Description: PARSONAGE ADD, Lot 13.

Nature of Nuisance: A nuisance consisting of a large accumulation of trash, limbs, mattresses, lumber and misc. materials in the back yard and porch creating an unsightly appearance and harborage for vermin.

Disposition of Items: Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager/jw

A RESOLUTION

DETERMINING the existence of certain nuisances at 1112 E 5th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 6th day of June 2020 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner:	WEBBER,DARRELL L & WEBBER,HILMA L BUCK,ROBERT DEAN & BUCK,LYDIA FAITH 1112 E 5th Winfield, KS 67156
Occupant:	WEBBER,DARRELL L & WEBBER,HILMA L BUCK,ROBERT DEAN & BUCK,LYDIA FAITH
Property Address:	1112 E 5 th Ave
Legal Description:	JEWETT'S ADD, Lot 10.
Nature of Nuisance:	A nuisance consisting of a large accumulation of limbs, lumber tires and roofing in the alley creating an unsightly appearance and harborage for vermin.
Disposition of Items:	Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager/jw

A RESOLUTION

DETERMINING the existence of certain nuisances at 821 E 13th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 27th day of May 2020 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner:	BEACH, MICHAEL B & PATRICIA L 821 E 13 th Ave Winfield, KS 67156
Occupant:	BEACH, MICHAEL B & PATRICIA L
Property Address:	821 E 13 th Ave
Legal Description:	HAYDEN'S ADD, BLOCK 273, LT 1 & E30 LT 2.
Nature of Nuisance:	A nuisance consisting of a large accumulation of junk, limbs, pallets and a hut tub shell in the side yard and alley creating an unsightly appearance and harborage for vermin.
Disposition of Items:	Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager/jw

A RESOLUTION

DETERMINING the existence of certain nuisances at 332 N Massachusetts St in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 20th day of May, 2020 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner:	MCCULLOUGH, BRIAN D 332 N MASSACHUSETTS ST Winfield, KS 67156
Occupant:	BRIAN MCCULLOUGH
Property Address:	332 N Massachusetts St
Legal Description:	MUSGROVE'S ADD, BLOCK 40, S35 OF N70 LT 9.
Nature of Nuisance:	A nuisance consisting of a large accumulation of lumber, construction materials tires and other junk in the back yard creating an unsightly appearance and harborage for vermin.
Disposition of Items:	Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form:

William E. Muret, City Attorney

Approved for Commission action:

Taggart Wall, City Manager/jw

A RESOLUTION

DETERMINING the existence of certain nuisances at 820 E 7th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 15th day of September 2020 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner:	LAUFFER,MICHAEL & FEASTER,JIM L 17636 181ST RD Winfield, KS 67156
Occupant:	MICHAEL S LAUFFER
Property Address:	820 E 7 th Ave
Legal Description:	CITIZEN'S ADD, BLOCK 266, S95 LT 12.
Nature of Nuisance:	A nuisance consisting of a large accumulation of construction material, furniture and fixtures in the side yard creating an unsightly appearance and harborage for vermin.
Disposition of Items:	Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager/jw

A RESOLUTION

DETERMINING the existence of certain nuisances at 1018 E 6th Ave in the City of Winfield, Kansas, and authorizing further action pursuant to the City Code of said City.

WHEREAS, under the provisions of Section 54-3 and 70-2 of the Winfield City Code, Winfield, Kansas, adopted pursuant to K.S.A. 12-1617e, the Governing Body has the power to remove or abate from any lot or parcel of ground within the City any nuisance thereon, upon a finding and determination thereof by said Governing Body; and,

WHEREAS, the City's inspector, on or about the 24th day of February 2021 and on prior and subsequent times, inspected the premises described below and observed the following conditions as set forth below;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. The conditions hereinafter described are hereby found to be nuisances, and determined to be a menace and dangerous to the health of the inhabitants of the city or of any neighborhood, family or resident of the city, to wit:

Owner: ALLEN, KIM
1018 E 6th Ave
Winfield, KS 67156

Occupant: ALLEN, KIM
Property Address: 1018 E 6th Ave
Legal Description: Grandview Add Winfield, Block 6, LT 11 EXC W5 & EXC E5.

Nature of Nuisance: A nuisance consisting of a large accumulation of mattresses, furniture, and junk in the driveway and front porch creating an unsightly appearance and harborage for vermin.

Disposition of Items: Property items determined by the City to be of value will be impounded and stored at the City impound lot. Such items may be retrieved after appropriate impound fees and other incurred expenses have been paid by the owners.

Section 2. The Clerk of the City of Winfield, Kansas is hereby authorized to issue notice for the removal and abatement of said nuisances and take any remedial action as authorized under Section 54-2 of the Winfield City Code, Winfield, Kansas.

Section 3. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission action: _____
Taggart Wall, City Manager/jw

A RESOLUTION

AUTHORIZING an Outdoor Community Event and Temporary Entertainment District Application (Island Park Productions)

WHEREAS, Island Park Productions has made application for an Outdoor Community Event and Temporary Entertainment District; and

WHEREAS, Island Park Productions requests the possession and consumption of alcoholic liquor or cereal malt beverage in Island Park during a series of outdoor concert events in May, June, July and August 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. Within Section 6-120 of Article IV of Section 6 of the Code of the City of Winfield, Kansas, "Temporary Entertainment District" means a defined area, which includes City streets, alleys, parking lots and public sidewalks on which the City Commission has authorized the sale, possession or consumption of alcoholic liquor or cereal malt beverage for a specified period of time, during a community event which has been properly permitted under Chapter 8 of this Code.

Section 2. Island Park Productions requests the possession and consumption of alcoholic liquor or cereal malt beverage in Island Park from 5:00 pm to 11:00 pm during a series of outdoor concert events on May 20, June 17, July 1, August 26, and September 9, 2021. A Temporary Alcohol or Cereal Malt Beverage Permit is not required of Island Park Productions for possession and consumption only. Should any of the 2021 outdoor concert events require postponement and rescheduling, notice will be given to the Winfield City Manager's office. The parties will coordinate, to the best of their abilities, rescheduling in 2021. No further action will be required by the Governing Body of the City of Winfield for said rescheduling in 2021.

Section 3. The governing body of the city of Winfield Kansas hereby authorizes the Outdoor Community Event and Temporary Entertainment District Application, in accordance with the rules and procedures set forth by Article IV of Section 6 of the Code of the City of Winfield, Kansas, regarding the possession or consumption of alcoholic liquor as presented by the Island Park Productions from 5:00 pm to 11:00 pm during a series of outdoor concert events on May 20, June 17, July 1, August 26, and September 9, 2021, in Island Park, Winfield Kansas, as identified in the Outdoor Community Event and Temporary Entertainment District Application; a copy of which is attached hereto and made a part hereof.

Section 4. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

ATTEST:

Gregory N. Thompson, Mayor

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission Action: _____
Taggart Wall, City Manager

A RESOLUTION

AUTHORIZING an Outdoor Community Event and Temporary Entertainment District Application (Young Professionals of Cowley County)

WHEREAS, Young Professionals of Cowley County has made application for an Outdoor Community Event and Temporary Entertainment District; and

WHEREAS, Young Professionals of Cowley County requests the sale, possession, and consumption of alcoholic liquor on city streets, alleys, parking lots, and public sidewalks during the Spring Music Crawl, a special event, from 4:30 pm to 9:30 pm, on May 14, 2021, on Millington Street between 9th and 10th Avenues.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WINFIELD, KANSAS, THAT:

Section 1. Within Section 6-120 of Article IV of Section 6 of the Code of the City of Winfield, Kansas, "Temporary Entertainment District" means a defined area, which includes City streets, alleys, parking lots and public sidewalks on which the City Commission has authorized the sale, possession or consumption of alcoholic liquor or cereal malt beverage for a specified period of time, during a community event which has been properly permitted under Chapter 8 of this Code.

Section 2. A Special Event is defined by K.S.A. 41.719(a)(2). Alcoholic liquor may be consumed at a special event held on public streets, alleys, roads, sidewalks or highways when a temporary permit has been issued pursuant to K.S.A. 41-2645 for such special event. Such special event must be approved, by ordinance or resolution, by the local governing body of any city, county or township where such special event is being held. No alcoholic liquor may be consumed inside vehicles while on public streets, alleys, roads or highways at any such special event.

Section 3. Young Professionals of Cowley County has contracted with Bottle Service LLC, 1421 Millington Street, Winfield KS, a Caterer licensed by the Kansas Department of Revenue, Alcoholic Beverage Control Division and the City of Winfield. A "caterer" means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related thereto, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit. [Subsection (c) of K.S.A. 41-2601]. Kansas Department of Revenue, Alcoholic Beverage Control Division granted Bottle Service LLC liquor license #4760, attached and made a part hereof, effective 02/21/2020 and expiring 02/20/2020. Bottle Service LLC will notify the Alcoholic Beverage Control Division Director by electronic

notification of its intent to sell and serve alcoholic liquor by individual drink at least 48 hours prior to the event. A separate Temporary Alcohol Permit is not required of Young Professionals of Cowley County or Bottle Service LLC.

Section 4. The governing body of the city of Winfield Kansas hereby authorizes Outdoor Community Event and Temporary Entertainment District Application in accordance with the rules and procedures set forth by Article IV of Section 6 of the Code of the City of Winfield, Kansas, regarding the sale, possession or consumption of alcoholic liquor as presented by the Young Professionals of Cowley County for the Spring Music Crawl, a special event, from 4:30 pm to 9:30 pm, on May 14, 2021, on Millington Street between 9th and 10th Avenues, Winfield Kansas as identified in the Outdoor Community Event and Temporary Entertainment District Application; a copy of which is attached hereto and made a part hereof.

Section 5. This resolution shall be in full force and effect from and after its passage and approval.

ADOPTED this 19th day of April 2021.

(SEAL)

Gregory N. Thompson, Mayor

ATTEST:

Brenda Peters, City Clerk

Approved as to form: _____
William E. Muret, City Attorney

Approved for Commission Action: _____
Taggart Wall, City Manager