

## Dining Deck History

**May 25, 2023: Arts Festival Contract** ([report](#) p. 204 / [minutes](#) p. 9 / [audio](#) r. 2:33:00)

From the Minutes: Council Member Rubell asked if KAC set the deck fee. Gilson stated the fee was increased from \$1,200 to \$1,500 this year, but the fee did not increase annually. Council Member Rubell asked Gilson if Gilson could write in a cap to the dining deck retention fee in the five-year agreement, to which Gilson affirmed. ....

Council Member Rubell indicated he didn't want to put out KAC and Main Street business owners and asked if the money could come from the leases the businesses paid to the City for the dining decks. Diersen stated she would analyze that and bring back a recommendation. She summarized Arts Fest had been in Park City for 50 years. The council might want to reinvent how Arts Fest worked with the dining deck program. Mayor Pro Tem Gerber asked if it could be done for next year's dining deck lease. Diersen stated she could report back during the dining deck debrief in the fall. For this contract, the dining deck fee would be capped at \$1,500, and a clause would clarify potential community benefit projects and shifting programming that might come forward for a parking lot or property within the Old Town District. Council member Rubell seconded the motion, and it was unanimously approved.

### Kimball Art Festival Special Event City Services Agreement:

(p. 3) Term: Effective August 15, 2023 to November 3, 2028.

(p. 3) Dates:

- August 2-4, 2024
- August 1-3, 2025
- August 7-9, 2026, moved to accommodate Extreme Soccer on July 30, 31, and August 1
- August 6-8, 2027
- August 4-6, 2028

(p. 8) City Services 6-6.1-1:

KAC shall be entitled to a waiver of the following fees, which may not exceed \$180,000 annually....

(p. 9) section 6-6.1-1-m. Park City will update the terms of the Dining Deck agreements through the terms of this Agreement. KAC will not charge dining decks more than \$1,500 per deck to remain on the street and will work with restaurants in good faith to accommodate them in the footprint of the Festival as developed in November annually.

(p. 13) Financial: KAC hereby agrees to make an annual cash payment of \$10,000 toward City Services as outlined in section 6.1.

**December 14, 2023: Dining Deck Update** ([report](#) p. 309 / [minutes](#) p. 14 / [audio](#) r. 3:52:00)

From the Minutes: Council asked for more vibrancy with dining decks. However, there were concerns that this would limit Arts Festival Booths further... Council member Rubell thought the \$1,500 fee was a barrier to restaurants setting up a deck for the season. He wanted to encourage dining decks. (He said) If this became a problem for KAC, they could address it. Council member Dickey suggested making dining decks free and encouraging more dining decks. Then, the restaurants could pay the fee to the KAC. Council Member Doilney stated Arts Fest was a community event and he didn't want to hurt it. Council Member Rubell supported no fee for dining decks and hoped to address KAC's revenue loss through the community identifying events process. He did not favor KAC charging for the decks. Margaret Plane stated that when public property was disposed below fair market value, it would need a public hearing, or it should be established in the fee schedule with the associated public hearing.

Council Member Rubell suggested promoting vibrancy and dining decks and keeping the fees the same. Then direct staff to have a discussion with KAC about the impact. Council Member Doilney expressed

concern that this scenario would look like the Council was subsidizing businesses on Main Street without considering businesses in other parts of town. He agreed with the intent, but it gave KAC uncertainty and showed preferential treatment to one group. He was not comfortable moving forward as suggested. Diersen summarized that the Council wanted more vibrancy. She tried to meet KAC to understand their impacts. She would come back in early spring for another discussion.

**March 7, 2024: Dining Deck Program Update** ([report](#) p. 110 / [minutes](#) p. 11 / [audio](#) r. 3:14:50)

From the Minutes:

Diersen provided an overview of the Dining Deck program's history. She included that eliminating the fee (for restaurants) would require a public benefit analysis. *She said the fees were not restricting additional dining decks from participating; rather, the restrictions set up for the program were prohibiting additional restaurants from participating.*

*Diersen reviewed an option in exchange for Arts Festival waiving the dining deck fees to restaurants, which was for the City to no longer charge \$10,000 towards the Kimball Art Festival's City Services and to pay the KAC \$2,000 to make up the difference in lost revenue.*

*Mayor Worel asked if additional dining decks would be constructed on Main Street if the barriers were eliminated. Diersen indicated that waiving fees could help, but a bigger incentive would be to eliminate the operational restrictions on dining decks. She noted that the two-meal requirement was a big deterrent to restaurants, as they considered dining decks. The HPCA also looked at Main Street restaurants; most had private space for outdoor dining. ...*

*Council Member Dickey supported not charging the KAC \$10,000 for City Services. He did not support paying them \$2,000. He favored the City charging a lease fee and permitting fee. Council Member Rubell stated the goal was Main Street vibrancy and getting people out of their cars. He would support Prospector doing the same thing. He favored waiving the fees. If fees were not waived, then a public benefit analysis was needed for new methodology. ... He also agreed that the two-meal service requirement should end. For KAC, he supported recovering the \$12,000 for this year only and then working together on a long-term solution.*

*Council member Ciraco did not want to put a burden on KAC this year. He supported vibrancy on Main Street. The City was starting a Main Street analysis so he didn't want to change things too drastically. He didn't think the lease fee was a burden to the restaurants and was fine with the restaurants that only served one meal per day. He supported waiving the \$10,000 in City Services fee for the KAC but was unsure about paying them \$2,000. He supported a public benefit analysis and potentially waiving the lease fees.*

*Mayor Worel asked if a public benefit analysis was needed before waiving the lease fees, to which Plane affirmed. ....Diersen stated the public benefit would be accelerated. ....Diersen summarized the majority of the Council supported facilitating dining decks, performing a public benefit analysis and waiving the fees. Staff could look at the operational restrictions and come back to City Council with some options. The Council agreed not to charge KAC \$10,000 for City Services, and the City would pay \$2,000 for one year and then work towards a long-term solution.*

**April 25, 2024: Dining Deck Public Benefit Analysis and Lease Approvals** ([report](#) p. 89 / [minutes](#) p. 6 / [audio](#) r. 1:50:41)

From the Minutes:

*Diersen stated she changed her recommendation on meal service because she was unsure that the City should be regulating how businesses conduct their service. ... Rob Sant presented the Public Benefit Analysis.... Council Member Rubell asked how the City would administer the twelve-restaurant cap. Diersen admitted it was difficult to achieve required fire lanes for special events when decks were on the street ...*

*Council Member Rubell stated that it was a fantastic report and analysis. It supported a number of city goals, and he supported removing the two-meal requirements and the cap. He suggested having health and safety requirements. Council Member Ciraco agreed with taking the meal service requirements away but favored leaving the cap for now and revisiting the cap at another time. Council Member Parigan didn't like to see the empty decks. He thought the numbers were flawed in the report... He liked the idea of collaborating among restaurants that only wanted one meal service. Diersen noted the Council can always change their rules regarding the cap in a future year.*

*Council Member Rubell moved to waive the dining deck lease fees based on the Public Benefit Analysis and approve the 2024 Dining Deck Leases with amendments to remove the meal service requirements and required that staff return to the Council if a 13<sup>th</sup> Deck or beyond applies. The Council approved unanimously (Toly and Dicky absent).*

**May 23, 2024: Kimball Arts Festival Supplemental Plan** ([report](#) p. 241 / [minutes](#) p. 16 / [audio](#) r: 5:32:01)  
From the Minutes

*.... Council Member Rubell stated the current policy allowed some fees to be waived. KAC asked that the City waive their current assessment of \$10,000 permanently. There was also the issue of KAC having a voice in how the dining decks could stay on Main Street. Gilson indicated they didn't have a say of which decks could stay on the street, but they were concern that the program would continue expanding, which would result in a revenue loss due to fewer booths at the festival. They asked that Council consider helping KAC recuperate that loss of income, or at least have a conversation on how it would affect the layout of the festival. Council Member Rubell thought it would be similar to this year, in that the City would tell KAC how many dining decks would be on Main Street and KAC could make a request for an offset. Gilson stated for the remainder of the contract they requested not to pay City service fees and as additional dining decks were constructed, they needed to protect their revenue from the festival. Mayor Worel noted KAC used to collect a fee from the restaurants with dining decks and now the City was paying that \$10,000. Margaret Plane stated these were contractual terms that needed to be worked out. The City was paying \$10,000 to KAC to cover the decks and KAC was paying \$10,000 for City service fees. Gilson noted this was originally for one year, but now the contract was coming back so the provisions could be adjusted permanently.*

*Council Rubell expressed frustration that when the contract was renewed, the Council made it clear they wanted to revisit how the dining decks were treated on Main Street. Now he learned the contract would have to be amended by both parties for a long-term solution for dining decks. Council Member Parigian asked for a compromise. Jenny Diersen, Special Events Manager, clarified KAC was willing to remove the dining deck language from the contract as long as they were no longer required to pay for City services. Council Member Dickey stated all that had to be done was to clarify the second bullet point. He suggested amending the contract with regard to the decks and*

the City service fee waiver and build in a notice provision to KAC if new dining decks applied to be on Main Street. Gilson asked to be compensated for space taken by dining decks since booth fees were a huge part of KAC's revenue.

Diersen summarized there was not a long-term agreement regarding what to do about dining decks and the cost scenario, but for 2024 the KAC would not charge dining decks to stay on the street, the City would not charge \$10,000 for City service fees and it would pay KAC \$2,000 as was agreed in March. She noted KAC would no longer charge dining decks, but they were asking for a long-term solution for that part of the contract. Council Member Rubell requested that the long-term solution part of the contract not be considered tonight. The Council was only considering this year's event. Mayor Worel opened the public hearing. No comments were given. Mayor Worel closed the public hearing.

Council Member Dickey moved to approve the 2024 Park City Kimball Arts Festival Supplemental Plan and Level Five Special Event Permit. Council Member Ciraco seconded the motion. ( Approved unanimously)