

CHAPTER XVI. STREETS, SIDEWALKS AND RIGHT-OF-WAY

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ARTICLE 1. GENERAL PROVISIONS

- 16-101 **DRIVING IN PUBLIC PARKS.**
No person shall drive or ride, lead or permit any domestic animal or drive any vehicle in any public park in the City except in and along especially prepared driveways therefor. This Section shall not be construed to prohibit any person from permitting a dog, cat or other small domestic animal in any portion of a public park when the animal is on a leash in the control of such person. (Code 1979, 16-102)
- 16-102 **REMOVING PORTIONS OF SIDEWALK; ACCUMULATIONS.**
No person shall loosen or remove any plank, brick, block, or support from any sidewalk or crosswalk or any curbing or gutter. This Section shall not apply to persons making repairs on any such sidewalk, gutter, curb, or crosswalk, or any person temporarily removing the same on account of building operations. No owner or occupant of any lot or parcel of ground shall permit earth or other substances to accumulate on the sidewalk along such property. (Code 1979, 16-103)
- 16-103 **ANIMALS ON SIDEWALKS.**
No person shall allow any animal to be ridden or driven upon any sidewalk. (Code 1979, 16-104)
- 16-104 **HEDGE FENCES.**
No person owning or controlling any hedge fence bordering on any street or sidewalk in this City shall permit the same to overhang and obstruct any sidewalk. (Code 1979, 16-105)
- 16-105 **SIDEWALK HAZARDS.**
No owner of any property having a sidewalk adjacent thereto shall permit any plank, brick, stone or segment of such sidewalk to be raised above the established level of such sidewalk more than one-half (1/2) inch, in any manner which might catch the foot of a pedestrian, or to permit any holes or depressions to occur in the sidewalk in which a pedestrian might step or catch their foot in a manner to cause injury. (Code 1979,16-106)
- 16-106 **Reserved.**
- 16-107 **Reserved.**
- 16-108 **GUTTER DRAINAGE: OBSTRUCTIONS; CHANGES.**

No person shall place anything in any street or alley, the effect of which is or might be to interfere with the free flow of water along the drains or gutters placed in such streets or alleys for the purpose of conducting water from one place to another along such street or alley. Hot water heaters shall not be allowed for any future drive entrance. Those existing hot water tanks shall be replaced when the ditches are graded. No plastic pipes may be used.

Minimum diameter of pipes shall be fifteen (15) inches unless grade conditions dictate otherwise and smaller diameter is specifically approved by the City Engineer or his or her designated representative. Only riveted corrugated metal pipe, helical welded corrugated metal pipe or well casings are approved drive entrances.

No person shall in any way change or interfere with the drainage of any street or alley. (Ord. 5351, Sec. 1)

- 16-109 **CHANGE IN STREET OR ALLEY GRADE.**
No person shall in any way change or interfere with the grade of any street or alley without the approval of the City Commission. (Code 1979, 16-111)
- 16-110 **DRIVING ON UNFINISHED CONSTRUCTION.**
No person shall walk upon, drive or ride over or across any pavement in course of construction before the same has been opened for public travel or upon any uncompleted grading or sidewalk construction which has not been opened for travel. (Code 1979, 16-112)
- 16-111 **INTERFERENCE WITH PROTECTIVE DEVICES AROUND CONSTRUCTION.**
No person shall remove, throw down, run over or interfere with any barricades, lights lanterns, signals or signs placed to guard and protect any grading, paving, sidewalk or other construction work. (Code 1979, 16-113)
- 16-112 **TEMPORARY STANDS AND RETAILING VEHICLES.**
No temporary stands shall be allowed in the public streets or on the sidewalks outside the line of areas, and the right is hereby reserved to the City to designate certain streets or parts of streets upon which and the distance therefrom within which no such stand or vehicle shall be permitted for the purpose of retailing goods. (Code 1979, 16-114)
- 16-113 **NUMBERING BUILDINGS.**
The Codes Enforcement Manager, under the authority of the Board of Commissioners, shall assign numbers to all buildings and dwellings in the City, and shall have the power to determine the form, size and material of such numbers: Provided, That it shall be the duty of the owner of each such building or dwelling to affix the assigned numbers in a conspicuous place, so that such numbers may be clearly read from the street. No person shall affix to or suffer to remain on any building owned by him for more than three (3) days, a street number other than the one designated for such building by the Codes Enforcement Manager. (Code 1979, 16-115)
- 16-114 **STANDARDS FOR CURB CUTS**
- (A) Two or more curb cuts shall not be permitted on lots where narrow dimension on the abutting public right-of-way is less than 100 feet.
 - (B) The curb cuts on corner lots shall be at least 25 feet from the intersection of the curbs of the adjacent streets extended.
 - (C) Curb cuts on an interior tract shall have at least 20 feet between the throat

- (straight portion) of the drive at the property line.
- (D) The City Commission may waive the provisions of this Section. (Res. No. 4668)

16-115

REMOVAL OF SNOW OR ICE FROM PUBLIC SIDEWALKS.

- (A) It shall be unlawful for the property owner of record of property immediately adjacent to a public sidewalk on public right-of-way to fail to remove from the sidewalk, within forty-eight (48) hours of the cessation of accumulation of snow or ice on the sidewalk, any snow or ice accumulated on such sidewalk or obstructing such sidewalk. If ice has accumulated of such character as to make removal thereof impossible, the sprinkling or placement of sand thereon within the time specified for removal in such a manner as to make such sidewalk safe for travel of pedestrians shall be deemed compliance with the provisions of this section. (Ord. 7456, Ord. 8324)
- (B) Pursuant to the authority of Charter Ordinance No. 31, employees of the Planning and Development Services Department shall have the authority to issue notices to appear for violations of this ordinance (Ord. 7456, Ord. 8324)
- (C) Violation of the provisions of this ordinance shall be considered a municipal offense and upon an adjudication of guilty, the violator shall be fined \$20.00. Each day of a continuing violation shall be deemed a separate offense. (Ord. 7456, Ord. 8324)

16-116

MAINTENANCE OF DESIGNATED SIDEWALKS.

The City of Lawrence shall be responsible for all future maintenance, including snow and ice removal, of the 8 foot wide sidewalk, the exposed aggregate adjacent to the sidewalk, and the retaining walls to be constructed on the west side of Kasold Drive from Bob Billings Parkway to Clinton Parkway and the 10 foot wide recreation path, exposed aggregate and the retaining walls constructed on the west side of Kasold Drive from Clinton Parkway to 31st Street in Lawrence, Kansas (Ord. 7978)

ARTICLE 2. SIDEWALK CONSTRUCTION AND REPAIR

16-201

SUPERVISION.

All sidewalk construction, reconstruction or repair within the City limits shall be done with the approval of and under the supervision of the City Engineer or his or her representative and according to plans and specifications approved by the City Commission and on file in the City Clerk's office. (Code 1979, 16-201)

16-202

CONSTRUCTION: BONDS, PERMITS.

Persons proposing or requesting permission to construct, reconstruct or repair any sidewalk within the City shall furnish to the City Clerk a surety bond sufficient to insure the completion of the project. The amount of the bond will be set by the City Engineer. The bond may be waived by the City Engineer in the case of minor construction, reconstruction or repair work. (Code 1979, 16-202)

16-203

SIDEWALK CONTRACTORS' BONDS.

Any person who shall contract to build sidewalks for the City shall give a good and sufficient surety bond that he or she will construct the same according to specifications and in a manner acceptable to the Commission or its authorized agent and maintain the same in good condition under ordinary conditions for a period of one (1) year from the completion of the work. (Code 1979, 16-203)

- 16-204 **ESTABLISHMENT OF SIDEWALK GRADES.**
All sidewalk grades shall be established by the City Engineer and approved by the City Commission prior to the time of construction. Ten (10) days' notice shall be given the City Engineer when sidewalk grade has not been established previously, prior to commencing construction. (Code 1979, 16-206)
- 16-205 **SAME; RECORD FILED.**
All sidewalks constructed or reconstructed in this City shall be constructed on the established grade. The established grade shall be filed for record in the Office of the City Engineer, after approval by the City Commission. (K.S.A. 12-1802, 1807; Code 1979, 16-204)
- 16-206 **RELATION OF WALK AND CURB GRADE; SLOPE; PLACEMENT OF INNER EDGE OF WALK.**
When practical, the slope across the sidewalk shall not exceed one-half (2) inch per foot, nor be less than one-fourth (1/4) inch per foot; the inside edge of the sidewalk shall be located one (1) foot from the property line; and the grade from the curb to the sidewalk shall rise at the rate of one-fourth (1/4) inch per foot. If any of these criteria are not practical, the sidewalk will be located by the City Engineer, with the approval of the Commission, so that the alignment and grade of the sidewalk are compatible with existing topographic features. (Code 1979, 16-205)
- 16-207 **CONFORMITY TO CONNECTING SIDEWALK.**
All sidewalks hereafter constructed or reconstructed shall as nearly as possible conform to the grade of the connecting permanent sidewalk. (Code 1979, 16-207)
- 16-208 **NEW CONSTRUCTION, RECONSTRUCTION, REPAIR.**
The Commission may by resolution order sidewalks reconstructed or repaired when in its judgment the same is necessary. The Commission may by resolution order sidewalks constructed upon receipt of a petition signed by twenty-five (25) resident property owners in any precinct of any ward praying for construction of such sidewalks within that area. (K.S.A. 12-1803; Code 1979)
- 16-209 **NOTICE OF ORDER.**
- (A) It shall be the duty of the City Clerk to serve a written or printed notice to construct or reconstruct as contemplated by K.S.A. 12-1805 or cause such a notice to be served on the owner or authorized agent for the owner of the property in front of which or adjacent to which the new sidewalks have been ordered constructed or sidewalks have been ordered reconstructed or repaired under Section 16-208 of this Article.
- (B) The notice shall be served on a nonresident property owner by publication in the City's official newspaper, when the address of the owner or agent is unknown to the City Clerk. (Code 1979, 16-210:21 1)
- 16-210 **CONSTRUCTION BY CITY, WHEN.**
If a sidewalk is not constructed, reconstructed or repaired within the time provided in the notice required by Sections 16-209, the same shall be done by contract or by the City and the cost thereof levied against the property. If the cost levied under this Section shall not be paid within thirty (30) days, it shall be certified to the City Clerk to be collected the same as other taxes. (Code 1979, 16-212)
- 16-211 **SAME; NOTICE OF INTENT.**
Any property owner may build a sidewalk adjacent to his or her property without first

having been ordered to construct such sidewalk by the Commission of the City, provided he or she first shall notify the City Engineer of his or her intention to do so. The property owner acting under this Section must satisfy the Commission of his or her competency to construct such sidewalk or may contract with a properly bonded contractor approved by the Commission. (K.S.A. 12-1806; Code 1979, 16-213)

16-212 **GRADE TO BE GIVEN; OFFICIAL DIRECTION; SUPERVISION.**
The City Engineer shall give the property owner referred to in Section 16-211 the grade of the sidewalk and the line next to the property line and shall direct such property owner how such walk shall be constructed, and shall supervise the construction as provided in 16-201 of this Article. (Code 1979, 16-214)

16-213 **CONFORMITY TO SPECIFICATIONS.**
All sidewalks constructed in this City shall be constructed of Portland cement concrete or material approved by the City Commission in strict accordance with the specifications adopted by the commission and on file in the City Engineer's office except if a brick sidewalk exists and the owner chooses, the walk may be reconstructed or repaired with brick. No person shall construct any sidewalk in this City unless such sidewalk shall conform to the specifications therefor and according to the provisions of this Article and/or the provisions of K.S.A. 12-6a04 et seq. (Ord. 5479)

16-214 **NONCONFORMING WORK.**
Any sidewalk which shall not be constructed as provided in this Article may be torn out and reconstructed and the cost thereof assessed as provided in Section 16-212 of this Article. (Code 1979, 16-216)

16-215 **STANDARD SIDEWALK WIDTH.**
The standard sidewalk width shall be established by the subdivision regulations for new and reconstructed sidewalks. (Code 1979)

16-216 **THICKNESS.**
The thickness of all sidewalks shall be four (4) inches except through entrance drives or other such places, where in the opinion of the City Engineer the load may require additional thickness. In such places, the thickness shall be determined by the City Engineer. (Code 1979)

ARTICLE 3. DRIVEWAYS

16-301 **CONSTRUCTION PERMIT REQUIRED.**
Any person owning lands abutting any public street who may desire to construct a driveway from the curb line to the lot line may do so only on written permit from the City Engineer. (Code 1979, 16-301)

16-302 **CONSTRUCTION SPECIFICATIONS.**
Driveways shall be constructed according to standard driveway specifications as approved by the City Commission. Driveways shall be paved from the gutter for a distance of at least six (6) feet toward the property. (Code 1979, 16-302)

A committee of staff members shall be established to review all requests for driveway curb cuts and configurations which do not conform with these requirements. The Driveway Review Committee shall consist of the City Engineer, Engineering Supervisor, Planning Director, Assistant Planning Director and the Code Enforcement Manager. If the proposed driveway and curb cut are determined to be acceptable, a variance will be issued by the Driveway Review Committee. Meetings to review requests will be scheduled as necessary. All requests to vary from these requirements must be submitted in writing to the City Engineer.

GENERAL REQUIREMENTS FOR ALL DRIVEWAYS.**(A) Driveway Curb Cuts.**

- (1) Driveway curb cuts are defined as the area in the existing curbline along a street, which needs to be removed in order to provide proper access for vehicles.
- (2) Driveway curb cuts on corner lots shall be at least 25 feet from the curbline extended of a local street; 50 feet from the curbline extended of a minor arterial or collector street; and 75 feet from the curbline extended of a major arterial street.
- (3) Driveway curb cuts on the same lot shall have a minimum of 20 feet between the inner edge of the drives measured at the curbline. This applies to both single-family and multi-family residences.
- (4) Not more than one driveway curb cut per lot is permitted on the bulb of a cul-de-sac.

(B) Driveway Aprons.

- (1) The driveway apron is defined as the area between the sidewalk and the curb. When there is no sidewalk, the apron shall extend a minimum of 6 feet from the back of the curb towards the property line.
- (2) The driveway apron shall be constructed with a minimum depth of 6 inches of Class A (AE, 4000 lb. 564 lb. minimum cement content) Portland cement concrete. Welded wire fabric (6 x 6 x W 2.9 x W 2.9) or rebar (#4 bars @18" centers) or fiber reinforcement shall be placed in the apron 2 inches from the top of the concrete surface.

(C) Construction Requirements.

- (1) The contractor who constructs the driveway is responsible for repairing any asphalt that may be removed or damaged in the street while removing the curb and gutter.
- (2) The driveway, except the driveway apron, shall be constructed of one of the following improved surfaces:
 - (a) Four (4) inches of reinforced (welded wire fabric 6 x 6 x W 2.9 x W 2.9) Portland cement concrete.
 - (b) Five (5) inches of granular rock base with two (2) inches of asphaltic concrete.
 - (c) Seven (7) inches of granular rock with a double asphaltic prime and seal.
 - (d) Five (5) inches of full depth asphaltic concrete.
- (3) The curb and gutter section shall be separated from the driveway apron by a 1/2" minimum expansion joint. This expansion joint may be fiber, treated lumber, or redwood. This expansion joint may be

used to establish the line and elevation of the back of curb. With this joint in place, the curb and gutter may be poured at the same time as the driveway.

(D) Historic Resources Commission Requirements

All driveways and curb cuts within historical districts or their environs, must be approved by the Historic Resources Commission before construction is allowed. This request must be submitted to the Historic Resources Commission Administrator in the Planning Department, for review based on the design criteria in Section 22-501 or the Secretary of Interior Standards, whichever is applicable. Once approval has been obtained, a permit to construct the driveway and curb cut will be issued by Building Inspection, if a new home is involved, or by the Engineering Department, if the home is existing.

16-302.2

NEW HOMES; SINGLE FAMILY AND MULTI-FAMILY

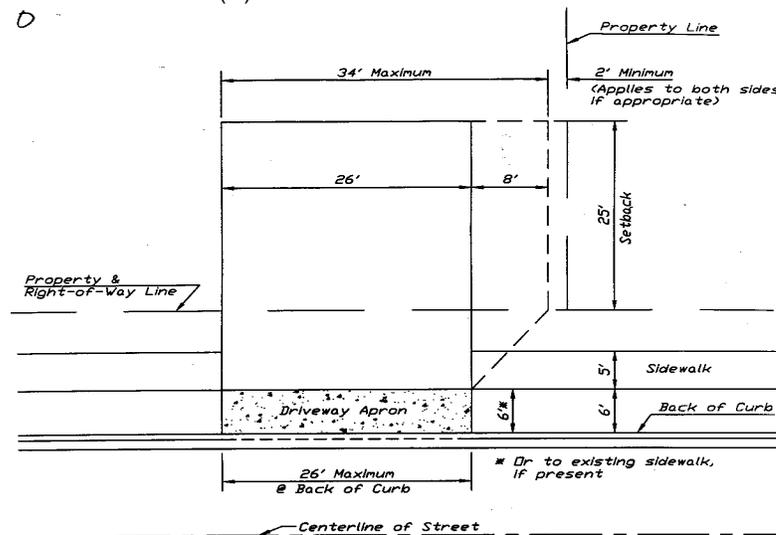
- (A) A new residential driveway shall conform to one of the attached sketches A, B or C, such sketches being hereby incorporated by reference and made part of this article. When a building permit is issued for a new home, the driveway is also approved if it conforms to one of the attached sketches. If the driveway does not conform to the attached sketches, then it must be reviewed and approved by the Driveway Review Committee before a building permit will be issued.
- (B) Each single family residential property will be allowed one driveway curb cut with the following exceptions: (a) Interior lots will be allowed two driveway curb cuts if the length of the lot line adjacent to the street is 100 feet or greater. (b) Corner lots will be allowed two driveway curb cuts if either lot line adjacent to the street is 100 feet or greater. These two curb cuts on corner lots may both be used along one lot line or one along each lot line; however, two curb cuts may be placed along one lot line only if that lot line is greater than 100 feet.
- (C) On multi-family homes, two curb cuts are permitted on the duplex lot per the attached sketch C.

16-302.3

EXISTING HOMES; SINGLE FAMILY AND MULTI-FAMILY.

- (A) All modifications to an existing residential driveway may not exceed the dimensions established in the attached sketches. A permit for modifications to an existing driveway must be issued by the Engineering Department before construction begins.
- (B) If a homeowner wishes to widen their driveway, and the existing driveway is gravel, it may be widened with gravel. If the existing driveway is concrete or asphalt, the homeowner must use concrete or asphalt.
- (C) When widening an existing driveway with either concrete, asphalt or gravel, as permitted by the above requirements, the entire driveway apron must be constructed or reconstructed if necessary, to meet the requirements established in Section 16-302.1(B). If the existing driveway apron is concrete or asphalt and in good condition, it will satisfy the requirement in Section 16-302.1(B).

- (D) If an attached or detached garage is added to an existing home the following requirements must be met:
- (1) If access will be taken from an existing street, both the existing and new driveway must be constructed or reconstructed to meet the driveway requirements established in Section 16-302.1.
 - (2) If access will be taken from an existing alley, both the existing and new driveway must be constructed or reconstructed to meet the surfacing requirements established in Section 16-302.1 (C)(2). The maximum width of this driveway is 26 feet.
- (E) If an existing garage is to be demolished and reconstructed, or an existing carport is to be remodeled into a garage, the existing driveway may remain as constructed, i.e., if the surface is gravel, it may remain as gravel. However, the driveway apron must be constructed as established in Section 16-302.1 (B).

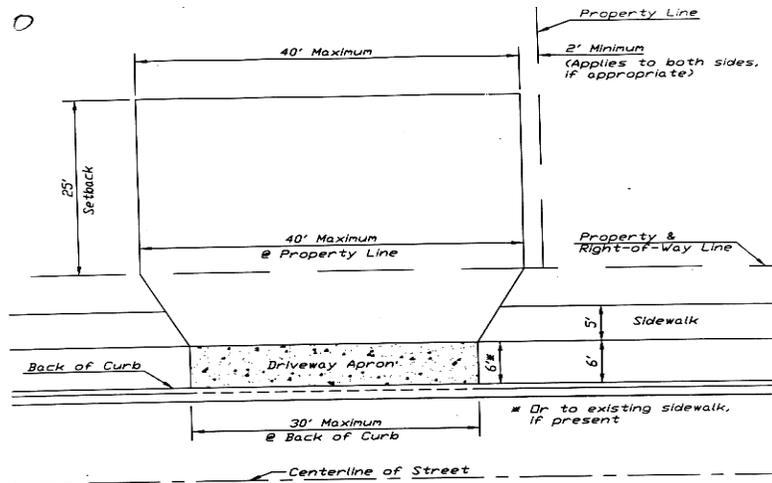


DRIVEWAY DETAIL FOR A SINGLE FAMILY HOME

SCALE : 1" = 10'
(SKETCH A)

NOTE: DRIVEWAY APRON MAY BE FLARED, IF DESIRED, HOWEVER, THE MAXIMUM WIDTH AT THE CURB REMAINS AT 26 FEET.

Last Update: 6/18/96

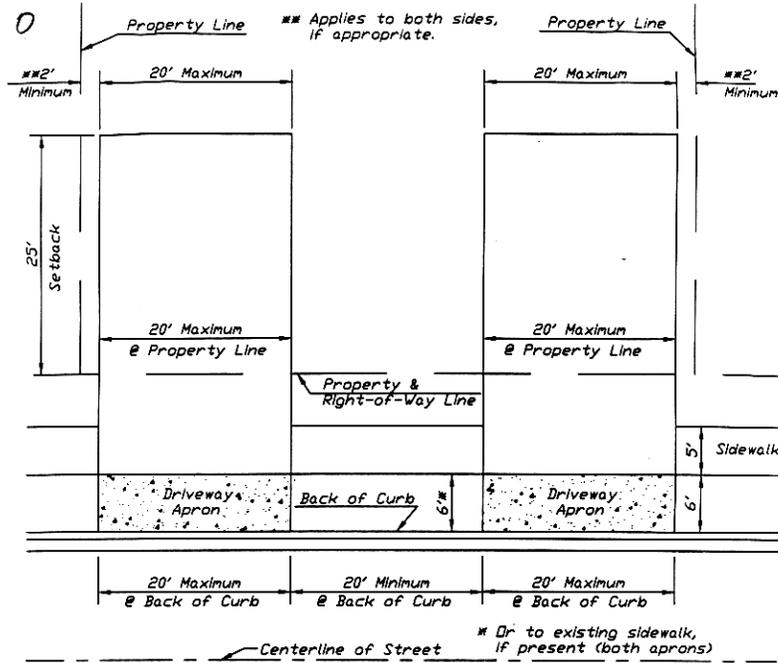


**DRIVEWAY DETAIL FOR A
 DUPLEX WHERE 2-CAR
 GARAGES ARE SIDE BY SIDE**

SCALE : 1"=10'
 (SKETCH B)

**NOTE: DRIVEWAY APRON MAY BE FLARED, IF DESIRED,
 HOWEVER, THE MAXIMUM WIDTH AT THE CURB
 REMAINS AT 30 FEET.**

Last Update: 6/18/96



**DRIVEWAY DETAIL FOR A
DUPLEX WHERE 2-CAR
GARAGES ARE SEPARATED**

SCALE : 1"=10'
(SKETCH C)

**NOTE: DRIVEWAY APRON MAY BE FLARED, IF DESIRED,
HOWEVER, THE MAXIMUM WIDTH AT THE CURB
REMAINS AT 20 FEET.**

Last Update: 6/18/96

16-303

SLOPE.

All driveways shall, wherever possible, slope from the sidewalk toward the gutter. (Code 1979, 16-303)

16-304

STREETS DESIGNED OVER PRIVATE PROPERTY; PERMIT.

No person, firm or corporation shall open, construct or otherwise improve any street or roadway designed for vehicular traffic over private property without first obtaining a permit for the same from the Governing Body of the City after approval by the Planning Commission. (Code 1979, 16-304)

16-305

COMPLIANCE.

Nothing in this Article shall be construed to eliminate the necessity for permit for curb cut and the compliance with all ordinances relating thereto. (Code 1979, 16-305)
Ref.: See Section 16-401 et seq.

16-306

PENALTY.

Any person violating the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction therefor shall be fined not exceeding \$100 or by imprisonment in the City Jail not exceeding ninety (90) days or by both such fine and imprisonment. (Code 1979, 16-306)

ARTICLE 4. EXCAVATIONS

- 16-401 **EXCAVATIONS; PERMIT REQUIRED.**
No person shall open, uncover or dig any hole, ditch or trench or make any excavation or tunnel in or under any street, alley, avenue, pavement, sidewalk or crosswalk or make any connections with or lay any sewer drain, gas, steam, water or other pipe or pipes or conduit or conduits in any street, alley, lane or avenue in the City without first having taken out a permit therefor, having paid a fee therefor and having given a bond, as in this Article provided. (Code 1979, 16-401)
- 16-402 **APPLICATION FOR PERMIT.**
Any person desiring a permit required in Section 16-401 shall file with the City Engineer a written application for the same. Such application shall specify:
- (A) The location or place at which the work is to be performed.
 - (B) The nature of the work which is to be performed.
 - (C) The dimensions of the work-the length, the breadth, and the depth.
- 16-403 **PERMIT ISSUED; FEE.**
If the application for the permit required by this Article is approved by the City Engineer, then the City Clerk shall issue the permit as applied for on payment of \$15 therefor, as a fee to the City to cover in part the cost of the regulations of street excavations and the issuing of permits therefor. (Code 1979, 16-403)
- 16-404 **WHEN NEW PERMIT REQUIRED.**
When any of the terms of the application in Section 16-402 of this Article cannot be complied with or are voluntarily changed, then the person submitting such application shall make a new application for the work in the same manner as if the second application were the original and secure a new permit therefor. (Code 1979, 16-404)
- 16-405 **PERMIT SPECIFIC.**
The permit and fee required by Sections 16-401 and 16-404 shall cover only one (1) specific piece of work. When the piece of work shall extend longitudinally more than six hundred (600) feet, then a new permit shall be secured for each additional six hundred (600) feet or fraction thereof. (Code 1979, 16-405)
- 16-406 **BOND.**
No permit under this Article shall be granted unless the applicant therefor gives or has given to the City a bond in the sum of not less than \$2,000, to be approved as to its sufficiency by the Commission and as to its form by the City Attorney, conditioned that the party giving the same will faithfully comply with all the terms of this Article as well as other ordinances of similar purport, and with all the rules and regulations made by the City Engineer in pursuance hereof. The bond shall provide that the applicant will indemnify and hold the City harmless against all costs, expenses, damages and injuries by the City sustained by reason of the carelessness or neglect of such party in operating under any of the provisions of this Article, or by reason of any failure or neglect to comply with any of its provisions or any rules or regulations made in pursuance thereof. No bond for this purpose shall run longer than a period of two (2) years without being renewed and such bond shall remain in force and effect as to each excavation or piece of work for two (2) years after the same has been done or made. (Code 1979, 16-406)
- 16-407 **EXEMPTIONS.**
Nothing in this Article shall be construed to mean that persons in the course of paving or curbing any of the streets or alleys, or in the construction of any main or

lateral sewer in the City shall be required to comply with the provisions of this Article, provided such parties are operating under a contract entered into with the City for the work. (Code 1979, 16-407)

16-408 **SUPERVISION.**
All work done under any permit issued under this Article shall be done under the direction of the City Engineer. (Code 1979, 16-408)

16-409 **COMPLIANCE WITH ARTICLE.**
If any person fails, refuses or neglects to comply with any of the provisions of this Article or any reasonable orders or directions of the City Engineer, the City Engineer shall prohibit further excavation under such permit until orders or directions are complied with. (Code 1979, 16-409)

16-410 **MAINTAINING CLEAR PASSAGE.**
All persons making excavations under, in or through any street, alley, lane, avenue, sidewalk or crosswalk in the City shall at all times keep open in such street, alley, lane, avenue, sidewalk or crosswalk, a good, sufficient, secure and unobstructed passageway for both pedestrians and vehicles. (Code 1979, 16-411)

16-411 **REFILLING, REPLACEMENTS; COST.**
The refilling of all paving, curbing guttering and macadamizing replaced shall be made under the supervision of the City Engineer. The cost thereof shall be paid by the applicant therefor. (Code 1979, 16-412)

16-412 **EXCAVATIONS; LIMITATION.**
No person shall keep any paved street or sidewalk up or open longer than the time specified in the permit therefor, and the taking out of such a permit shall be construed to mean the applicant therefor does thereby consent to the terms of this Section and that he will be controlled thereby. Contractor may perform work at the direction of the City Engineer and to the specifications provided. (Code 1979, 16-413)

ARTICLE 5. STORMWATER UTILITY AND MANAGEMENT

16-501 **FINDINGS OF THE GOVERNING BODY.**
The Governing Body of the City of Lawrence, Kansas, hereby finds the following:

- (A) That all Developed Property within the corporate limits of the City contributes generally to the displacement of stormwater in rough proportion to the amount of impervious surface developed on that property, and to the extent financially and technically appropriate, the stormwater should be managed in the public's interest in the City's stormwater system and other related public and private facilities;
- (B) That the public benefits and the general health, safety and welfare of the community is enhanced by the maintenance, operation, rehabilitation, construction and other improvement of the City's stormwater system;
- (C) That it is reasonable and proportionate to impose a charge on Developed Property, generally in proportion to the amount of impervious surface on the property, to finance the City's Stormwater Utility to manage and improve the City's stormwater system. (Ord. 6895)

16-502 **DEFINITIONS.**
Unless the context clearly requires a different definition, the terms and words in this

ordinance shall have the following meanings:

Developed Property means real property other than Undisturbed Property.

Equivalent Residential Unit or **ERU** means the average Impervious Area of Residential Developed Property as determined by the City's stormwater management master plan, and amendments thereto. The ERU shall serve as the basis for determining the Stormwater Drainage Charge for Developed Property.

Impervious Area means that portion of Developed Property which contains hard surface areas which either prevent or retard the entry of water into soil mantle.

Master Water Meter Residential means Developed Property which contains both 1) a master water meter pursuant to Chapter 19 of the City Code; and 2) residential property.

Multiple Water Meter Residential means Developed Property which contains both 1) multiple water meters pursuant to Chapter 19 of the City Code; and 2) residential property.

Non-Residential means Developed Property which does not contain Residential Property, and includes governmental, not-for-profit, commercial, industrial and other property.

Residential means Developed Property which includes one or more habitable dwelling units.

Sewer System means the terms stormwater and stormwater system.

Single-Family Residential means Developed Property which has one (1) dwelling unit and one (1) water meter which is not a master water meter.

Storm Sewer shall include the terms stormwater and stormwater system.

Stormwater System shall include all terms and definitions as defined as storm sewer or storm sewer system in Charter Ordinance No. 28, including all facilities and improvements related to the disposing of stormwater or surface waters.

Undisturbed Property means real property which has not been altered from its natural condition in a manner which disturbed or altered the topography or soils on the property to the degree that the entrance of water into the soil mantle is prevented or retarded. (Ord. 6895)

16-503

STORM WATER UTILITY; ADMINISTRATION PROVISIONS; STORM WATER UTILITY FUND.

Pursuant to Charter Ordinance No. 28, there is hereby created the Storm Water Utility. The Utility shall be a division of the Department of Public Works, and shall have such responsibilities for the City's stormwater system as the Governing Body may determine from time to time appropriate and prudent given the resources generated by the Storm Water System Drainage Charge. (Ord. 6895)

16-504

ERU RATE; ADMINISTRATION.

The Equivalent Residential Unit (ERU) rate shall be Four Dollars and Twelve Cents (\$4.12) per month. The City Manager shall have the authority to promulgate rules and regulations for the determination of Stormwater Drainage Charges to ensure their equitable and consistent application. (Ord. 6895, Ord. 7245, Ord. 9265)

STORM WATER SYSTEM DRAINAGE CHARGE.

(A) Pursuant to the authority of Charter Ordinance No. 28, there is hereby imposed on each and every Single-Family Residential Developed Property, Master Water Meter Residential Property, Multiple Water Meter Residential Property, and Non-Residential Developed Property, a Storm Water System Drainage Charge. Such charge shall be based on the following property categories and Equivalent Residential Rate (ERU) charge as follows:

(1) Single Family Residential. For property in the single-family residential category the charge shall be based on the building footprint category and the amount billed category as follows:

<u>Building Footprint Area(s)</u>	<u>Amount Billed</u>
Less than or equal to	
1,000 square feet	0.67 times ERU rate
1,001 to 1,800 square feet	1.0 times ERU rate
1,801 to 3,000 square feet	1.25 times ERU rate
3,001 to 4,800 square feet	1.80 times ERU rate
4,801 square feet or greater	2.50 times ERU rate

For purposes of determining the Stormwater Drainage Charge, the building footprint for the single family residential category shall include any permanent structures required by the City Code to obtain a building permit for construction or modification. Non-covered wood decks shall not be included in the single family residential building footprint.

(B) **Multiple Water Meter Residential.**

For the multiple water meter residential property, the charge for each water customer shall be determined pursuant to the provisions below. For purposes of this subsection, Unit Size shall mean the total building footprint size divided by the total number of living units in the building:

<u>Unit Size</u>	<u>ERU Multiplier</u>
less than or equal to 750 square feet	0.37
751 square feet or greater	0.66

The charge for each water customer shall be the ERU Multiplier times the ERU rate.

(C) **Master Water Meter Residential.**

For the master water meter residential property, the charge for the single water customer shall be determined pursuant to the provisions below. For purposes of this subsection, Unit Size shall mean the total building footprint size divided by the total number of living units in the building.

<u>Unit Size</u>	<u>ERU Multiplier</u>
less than or equal to 750 square feet	0.37
751 square feet or greater	0.66

The charge for each water customer shall be the ERU Multiplier times the ERU rate multiplied by the number of units.

- (D) **Non-Residential Property.** For the non-residential property, the charge shall be the ERU rate times the square footage of all impervious area of the property divided by 2366 square feet. Non-residential properties with shared impervious area shall be charged on a proportionate amount as determined by the Director. (Ord. 6895)

16-505.1

BILLING AND COLLECTION ADMINISTRATION.

- (A) The Stormwater Drainage Charge levied pursuant to this Ordinance shall be billed and collected by the Utility Billing Division of the Department of Finance. The Charge shall be billed on the monthly water, sewer, and/or sanitation bill for customers within the City of Lawrence receiving City water, sewer, and/or sanitation services. For those properties within the City of Lawrence not receiving City water, sewer, or sanitation service, the Department of Finance shall bill, on a monthly basis, the property owner of record for the Developed Property.
- (B) In the event any person, firm, corporation, political unit or organization living or operating on property served by the City's storm sewer system shall neglect, fail, or refuse to pay the Stormwater Drainage Charge imposed by Section 5, the City shall have the authority, after lawful notice, to refuse delivery of City water service to the property, pursuant to the regulations governing the City water system and Charter Ordinance No. 28.
- (C) In addition to the discontinuation of water service pursuant to subsection (B), the City Clerk shall have the authority to certify to the Douglas County Clerk unpaid Stormwater Drainage Charges to be placed on the tax roll for collection, pursuant to applicable laws for the collection of the same.
- (D) A late fee shall be assessed on late Stormwater Drainage Charges pursuant to Section 19-308 of the City Code. (Ord. 6895)

16-506

ADJUSTMENT TO STORMWATER SYSTEM DRAINAGE CHARGE.

- (A) An adjustment to the stormwater system drainage charge shall be made pursuant to the provisions of this Section for properties qualifying pursuant to the requirements of this Section.
- (B) The Governing Body finds that a limited adjustment to the stormwater system drainage charge for properties which meet certain drainage standards and requirements serves the public interest in promoting compliance with drainage standards and investment in constructing and maintaining drainage facilities.
- (C) All applications for an adjustment to the stormwater system drainage charge shall be accompanied by a topographical survey and a drainage study prepared by a licensed engineer which satisfactorily documents the required information for the adjustment. The City may request additional information from the applicant to document topographical and drainage concerns for the property.
- (D) The Governing Body finds that based on a five (5) year projected average of the stormwater utility budget, approximately 42% of the utility budget will be expended upon the operations and maintenance function of the utility and

approximately 58% of the utility budget will be expended upon capital improvements for the stormwater system. The Governing Body further finds that an adjustment shall be limited to the capital improvement portion of the stormwater utility budget, because properties meeting enhanced drainage standards reduce the need for capital improvements while still requiring the need for continuing maintenance and regulation activities of the stormwater utility.

- (E) Upon administrative approval of an application for an adjustment, an adjustment shall be made equaling 58% of the stormwater system drainage charge made pursuant to this ordinance for properties which provide on-site detention or off site improvements, or both, and which comply, on a continuing basis, with the stormwater management criteria adopted by Ordinance No. 6778, Section 16-510. The adjustment shall only apply to stormwater system drainage charges made after the application for an adjustment has been approved, and shall only continue provided the property remains in compliance with the stormwater management criteria. The City may enter into agreements with property owners to ensure the continued compliance with required drainage facilities and improvements.
- (F) Upon administrative approval of an application for an adjustment, an adjustment shall be made for properties not claiming compliance with the requirements set forth in subsection (E), pursuant to the following formula:

Fee Adjustment = 0.58 times stormwater system drainage charge times Q_r/Q_p

 Q_r = 1.8 times acreage of property = release rate required by current criteria (cfs)

 Q_p = actual peak discharge (cfs) from property during a one hundred (100) year storm event
- (G) No adjustment to the stormwater system drainage charge shall be made unless the applicant demonstrates that at least a ten percent (10%) or greater adjustment is warranted to the stormwater system drainage charge pursuant to the provisions of this ordinance.
- (H) The City Manager shall have the authority to promulgate rules and regulations for the administration of adjustments to stormwater system drainage charges. (Ord. 6895)

16-507

APPEAL OF ADMINISTRATIVE DETERMINATION OF STORM WATER SYSTEM DRAINAGE CHARGE.

- (A) Any person seeking to appeal the administrative determination of the storm water system drainage charge imposed pursuant to this ordinance on property or an account held by such person may seek an appeal of such administrative determination pursuant to the provisions of this Section.
- (B) Such an appeal must be in writing on a form prescribed by the Director of Finance and presented to the Director of Finance within thirty (30) days of the City's mailing of the storm water system drainage charge bill. The appeal must provide the following information: the location of the property subject to the Charge, the name, address, and other contact information of the appellant.

- (C) The Director of Finance shall transmit the written appeal to the Director of Public Works who shall schedule a hearing on the appeal within thirty (30) days of the Director of Finance's receipt of the written appeal.
- (D) The Director of Public Works, or such qualified hearing officer as the Director may designate, shall conduct a hearing on the appeal. The appellant may waive the right for a hearing on the appeal. The appellant shall be provided the opportunity to present written information and make a verbal presentation at the hearing. The Director of Public Works shall make a written finding on the appeal within forty-five (45) days of the hearing.
- (E) The failure to appeal a Stormwater Drainage Charge within six (6) months of the mailing of the stormwater drainage charge bill shall foreclose 1) any and all rights to appeal the determination of such individual charge or charges for the property; and 2) the authority of the City to provide a complete or partial refund for inappropriately determined stormwater drainage charges. The failure to timely appeal a specific stormwater drainage charge bill shall not foreclose the right to appeal stormwater drainage charges which may be charged in the future on the property. (Ord. 6895)

16-508 **ADMINISTRATION OF STORMWATER SYSTEM DRAINAGE CHARGES.**
 The Director of Finance shall place all stormwater system drainage charges in the Storm Water Utility Fund. The fund shall be solely used to finance the operations of the Stormwater Utility, including the payment of principal and interest for debt issued pursuant to Charter Ordinance No. 28. (Ord. 6895)

16-509 **RULE AND REGULATION ADMINISTRATIVE AUTHORITY.**
 The City Manager shall have the authority to promulgate necessary rules and regulations for the administration of the Stormwater Utility, the billing and collection of the Stormwater System Drainage Charge, and such other necessary matters for the purpose of enforcing the intent of this ordinance and Charter Ordinance No. 28. (Ord. 6895)

16-510 **ADOPTION OF STORMWATER MANAGEMENT CRITERIA.**
 There is hereby incorporated by reference, and adopted by the City of Lawrence, Kansas, that certain document entitled "Lawrence, Kansas Stormwater Management Criteria, February, 1996" prepared and published by Burns & McDonnell consulting engineers, Kansas City, Missouri, save and except such provisions as are hereafter omitted, deleted, modified or changed. Pursuant to K.S.A. 12-3010, no less than three (3) copies of the Lawrence, Kansas Stormwater Management Criteria, February, 1996" shall be marked or stamped Official Copy as Adopted by Ordinance No. 6778", with all sections or portions showing the sections, articles, chapters, parts or portions that are incorporated, and to which shall be attached a copy of Ordinance No. 6778, and filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours. (Ord. 6778)

16-511 **STORMWATER MANAGEMENT CRITERIA; DESIGN, CONSTRUCTION AND MAINTENANCE REQUIREMENTS.**
 The Stormwater Management Criteria, adopted pursuant to 16-510, shall be used as criteria and guidelines in the design, construction, use, and maintenance of all new storm drainage systems and facilities and for the rehabilitation of existing drainage system facilities, as such terms are defined in the Stormwater Management Criteria.

16-512 **APPEALS FROM STORMWATER MANAGEMENT CRITERIA REQUIREMENTS.**
 Any person aggrieved by any requirement established in the Stormwater

Management Criteria may appeal the requirement pursuant to this Section. The appellant shall provide a written appeal request to the Director of Public Works within ten (10) days of the action or application of the Stormwater Management Criteria requirement to a particular property or activity. The Director of Public Works, or his or her designee, shall schedule a hearing within ten (10) days of receipt of the appeal request, at which time the appellant may present relevant evidence concerning the appeal. The hearing may be waived by the appellant, and the hearing may be continued by the Director as may be necessary. The Director, or the Director's designee, shall make appropriate findings concerning the appeal, and may, after consideration of all relevant evidence: 1) Sustain the appeal, 2) Deny the appeal, or 3) Sustain the appeal with appropriate conditions and requirements. The decision of the Director of Public Works concerning the appeal shall be final. (Ord. 6778)

16-513

PENALTY.

The construction or use, or both, of a stormwater drainage system, in violation of the Stormwater Management Criteria, adopted in Section 1, shall be deemed a municipal offense pursuant to the general penalty provisions of the Code of the City of Lawrence, Kansas. (Ord. 6778)

ARTICLE 6. WALLS, FENCES AND OTHER STRUCTURES

16-601

FENCES DEFINED.

For purposes of this Article, the following shall be deemed fences:

- (a) Masonry walls;
- (b) Ornamental iron;
- (c) Woven wire;
- (d) Wood picket (more than 50% open);
- (e) Solid fences (wood or metal less than 50% open);
- (f) Hedges.

(Code 1979, 16-601)

16-602

STRUCTURES DESIGNED TO ANNOY.

No person shall erect or maintain any fence, hedge or structure for the definite purpose of annoying any other person or for the purpose of injuring another by obstructing the view, shutting out the sunshine, hindering ventilation or causing inconvenience in any other manner. (Code 1979, 16-202)

16-603

PRIVATELY-OWNED FENCES ON PUBLIC PROPERTY.

No privately-owned fence, hedge or structure shall be erected or maintained on any public property. (Code 1979, 16-603)

16-604

FENCE REQUIREMENTS.

In any location, fences enclosing plots used for dwelling purposes shall conform to the following requirements:

16-604.1

Front yard fences. Front yard fences erected in front of the front building line (see zoning ordinance) shall be of any class and shall not exceed a height of four (4) feet excepting classes described in Section 16-601(a) and 16-601(e) which shall not exceed a height of three (3) feet.

- 16-604.2 Side yard fences. Side yard fences erected back of the front building line and within the required side yard of the plot (see Chapter XX) may be of any class not over four (4) feet in height to the rear of the neighboring dwelling, or to the rear of the dwelling located on the same site as the fence, whichever is the greater distance from the front property line. Back of this point such side yard fences may be built to a height of six (6) feet.
- 16-604.3 Rear yard fences. Rear yard fences erected along the rear property line may be of any class not over six (6) feet in height. The height of any rear yard fence may be increased eighteen (18) inches by placing plain or woven wire on the top thereof.
- 16-604.4 Barbed wire and electric fences. No electrically charged fence or barbed wire or other similar fence shall be erected or maintained within the City, except barbed wire may be used on the top of a fence which is more than four (4) feet in height.
- 16-604.5 Fences on retaining walls. The height of a fence erected on top of a retaining wall shall be measured from the grade of the low side. In any case, however, a fence of the class described in Section 16-601(b), (c) and (d) may be erected on top of a retaining wall to a height not to exceed four (4) feet above the grade of the high side.
- 16-604.6 Retaining walls generally. Retaining walls shall be adequately designed and drained so as to resist all lateral pressure to which they may be subject. Retaining walls shall not be erected in any front yard when, in the opinion of the Building Inspector, such retaining wall would be unsightly or detrimental to adjoining property. Nor shall such walls be built higher than the grade of the ground on the high side of the wall when such would exceed the height allowed for a class of fence as described in Section 16-601(a), which height is measured from the low side of the wall. (Code 1979, 16-604)
- 16-605 **SAME; VARIANCES.**
When in the judgment of the Building Inspector, the public health, safety and welfare will be substantially served and the neighboring property will not be materially damaged, or in case of an agreement between neighboring property owners, a certified copy of which shall be filed with the Building Inspector, he or she may, at his or her discretion, vary the requirements of Sections 16-604:604.6. (Code 1979, 16-605)
- 16-606 **NONCOMPLYING STRUCTURES.**
Any fence, hedge or structure erected or maintained in violation of the provisions of this Article is hereby declared to a nuisance and shall be removed by the owner thereof within five (5) days after receipt of notice from the Building Inspector to remove same. (Code 1979, 16-606)

ARTICLE 7. MOVING OF STRUCTURES

- 16-701 **MOVING PERMIT; REQUIREMENTS.**
Every person, before a moving permit is issued and before moving any building or thing over, along or upon any of the streets, alleys, boulevards or other public grounds within the City limits, from the location upon which it now stands or is hereinafter placed to any other location shall:
- (A) File, execute and deliver to the City Clerk a good and sufficient bond approved by the City Clerk in the sum of \$10,000. The bond shall be signed by a surety company, as surety, that is authorized to transact business in the State of Kansas. Such bond shall have the following conditions:

The obligor shall pay to the City for any and all damages to streets, pavements, sidewalks, curbs, bridges, culverts, sewers, trees, public works or public utilities in the City, by reason of the moving of any building by the obligor over, across or upon any of the streets, alleys, boulevards or other public grounds of the City.

- (B) Purchase a liability policy as specified in Section 16-703 of this Article, that will save and hold the City harmless from any and all claims, actions, suits or demands for damages or injuries to persons or property which may be caused by the occupancy of any streets, alleys, boulevards or other public grounds by the moving of any building by the obligor and for all of the negligent acts or omissions of the principal or obligor.
- (C) File, execute and deliver to the City Clerk cash or certified check in the amount of \$2,500 to insure: (1) compliance with this permit and City building codes; and (2) that the obligor will pay all bills owing and incurred in the removal, cutting or raising of, and the replacement of wires, conduits, pipes or other equipment by reason of the moving of such structure over, along or upon any of the streets, alleys boulevards or other public grounds of the City, together with the expenses or bills which may be incurred by reason of the damage, removal or relocation of such equipment to allow the passage of such structure, and also all necessary expenses which may be incurred in the furnishing of protection to the City trees.
- (D) Provide proof to the City Clerk that the City Public Works Director, County Public Works Director, Code Enforcement Manager, Chief of Police, Fire Chief, City Forester and Planning Director of the City have each investigated their appropriate areas of concern, including but not limited to:
 - (1) Investigation of the structure or thing to be moved;
 - (2) The proposed route to be used in such moving;
 - (3) The location of wires or other property of the telephone company, city, electric light or power company, cablevision company or other public utility having wires strung alone or over streets; and
 - (4) Zoning and site plan requirements for the proposed site the structure or thing will be moved to. If the Code Enforcement Manager finds that it is unwise or unsafe to move such building, he or she shall recommend denial of the permit or require as a condition of approval an agreement by the person applying for such permit that he or she will comply with such conditions as may be imposed to protect the public.
- (E) Pay to the City Clerk a minimum charge of \$75 or a fee of \$0.20 per square foot of gross building area, whichever sum is greater. The requirement relating to the payment of fees will not apply to garages or similar buildings having fewer than four hundred (400) square feet of floor space; the fee for moving such structure shall be \$25.
- (F) Deliver to the City Clerk a written application signed by the applicant describing the structure or thing to be removed, the point from which and to which the same is to be removed, the time when moving will begin and the time when such moving will be finished. (Ord. 5481)

16-702

SAME; APPLICATION.

The City Clerk shall not issue such permit as required by Section 16-701, until all the requirements of that Section have been met. Upon completion of these requirements, the City Clerk shall issue a moving permit for such moving over the route applied for or an alternate route approved by the Codes Enforcement Manager. The permit required by this Article shall designate the time when moving shall begin and time such move will be finished and shall be valid for a period of sixty (60) days. (Ord. 5481)

16-703

BOND AND INSURANCE.

No permit shall be issued under this Article until the applicant therefor shall execute and deliver to the City a good and sufficient bond in the sum of \$10,000 to be approved by the City Clerk providing for the payment of all damages the City may sustain to any of its pavements, bridges, culverts, or other property.

Every applicant for a permit under this Article shall file with the City Clerk prior to the permit being issued, a policy of insurance issued by an insurance carrier authorized to do business in Kansas which names the city as additional insured. This policy shall provide liability coverage of not less than \$100,000 for any injury to or death of any one person, and \$300,000 for the injury to or death of any number of persons in any one accident, and with a property coverage of not less than \$50,000 for property damage in any one accident. The applicant shall hold the City harmless from any and all claims that may arise against the City by any person for damage to the person or property caused by or on account of the moving of a building or thing over and along the streets or other public places in the City. (Ord. 5481)

16-704

NOTICE REQUIRED.

It shall be the duty of the applicant for a permit required by Section 16-701 of this Article, upon issuance thereof, immediately to notify in writing all persons owning or operating wires, trees, conduits, poles or other materials likely to be affected by the permitted moving and the Lawrence Police and Fire Departments, of the issuance of such permit and the date of the proposed moving of the building or thing and the route approved by the Codes Enforcement Manager to be used in such moving. The notice required by this Section shall be served on public or municipally-owned utilities not fewer than fifteen (15) days prior to the date of moving and on all other affected persons not fewer than twenty-four (24) hours prior to the moving. Should the operation be delayed, then the applicant shall give all affected persons not fewer than twenty-four (24) hours advance notice of the actual operation. (Ord. 5481)

16-706

CUTTING WIRES.

No person engaged in moving any house, building, derrick or other thing shall raise, cut or in any way interfere with any poles, trees or wires. (Ord. 5481)

16-706

SAME; WORKMEN AND LINEMEN.

Only competent workmen and linemen shall be employed in the work of cutting or manipulating the wires or poles affected by moving permitted by this Article. The work shall be done in a careful and workmanlike manner and the poles and wires shall be promptly replaced and the damages thereto promptly repaired. (Ord. 5481)

16-707

SAME; EXPENSE.

It shall be the duty of the persons owning or operating wires affected by moving, as permitted by this Article, to do the necessary cutting and restoring of such wires. They shall keep an accurate account of time consumed by employees in performing such work or labor and present to the person having the permit or engaged in moving such building or thing a bill for all reasonable charges for performing such work and furnishing material. Such holder of a permit shall pay all reasonable charges for work and material necessarily performed and furnished by the owner of the wires raised, cut or restored. (Ord. 5481)

16-708 **SUPERVISION AND INSPECTION.**
It shall be the duty of the Codes Enforcement Manager, from time to time, to cause the progress of the moving of any house, building, derrick or other thing to be inspected and to see that such structure is being moved in accordance with the provisions of this Article. (Ord. 5481)

16-709 **PROTECTION OF PAVEMENT.**
In case the Codes Enforcement Manager shall deem it necessary for the protection of the pavement, macadam or other street paving, crossings, culverts, drains or bridges on a route permitted under this Article, he or she shall require the applicant under this Article to properly plank places liable to be damaged, to protect the same. (Ord. 5481)

16-710 **SAFETY LIGHTS; NOTIFYING POLICE, FIRE CHIEFS.**
Any person engaged in moving any building, derrick or other high building or heavy structure, machine or thing along, across or over any street, avenue, alley or other public property of the City shall keep and maintain red lights at night visible to anyone approaching such building or other structure from any direction, and shall notify the Chief of the Fire and Medical Department and the Chief of Police where such building or structure is stopped for the night. (Ord. 5481)

16-711 **FRANCHISES OR CITY CONTRACTS.**
This Article shall not in any way interfere with, modify or abrogate the terms of any franchise or contract to which the City is a party. (Ord. 5481)

ARTICLE 8. TEMPORARY USE OF RIGHT-OF-WAY

16-801 **PURPOSE.**
The purpose of this Article is to regulate activities and the placement of materials or devices upon the public rights-of-way to assure public access to and safe use of all public rights-of-way. (Ord. 6159)

16-802 **NOTICE.**
Notice is hereby given that the City of Lawrence has the right to make immediate use of the entire public right-of-way for street, sidewalk, utility and drainage purposes and for the installation, inspection, maintenance, and removal of the same. The City of Lawrence will generally not compensate an adjoining landowner for damage to plants, underground sprinklers and other private improvements located upon the public right-of-way, resulting from the installation, inspection, maintenance or removal of streets, sidewalks, utilities or drainage ways. (Ord. 6159)

16-803 **PROHIBITED USES OF RIGHT-OF-WAY.**
It shall be unlawful to do any of the following without a right-of-way use permit as provided in this Article: (Ord. 7892)

- (1) Place any table, rack, machine or other device for the storage or display of merchandise upon the public right-of-way.
- (2) Leave or allow to be left any implements, tools, boxes, merchandise or goods on any of the sidewalks of this City longer than is necessary for loading and unloading.
- (3) Intentionally obstruct traffic on any street, sidewalk, or other right-of-way of this City.
- (4) Continue to obstruct traffic on any street, sidewalk or other right-of-way of this City after having been ordered by a police officer to end such

obstruction.

For the purposes of this section, “obstruct traffic” means to walk, stand, sit, lie, or place an object in a manner as to: block lawful passage by another person or vehicle, or to require another person or driver to take evasive action to avoid physical contact, or to block the entrance of any private or public building or establishment from any public street or sidewalk.”

16-804

EXCEPTIONS.

(Ord. 7892)

- (A) This article shall not apply to newsstands, news racks, and other devices for the distribution or sale of newspapers, pamphlets and handbills.
- (B) This article shall not apply to activities for which a separate permit has been issued by the City.
- (C) This article does not apply to the construction or maintenance of sidewalks and driveways upon the public right-of-ways. Such sidewalks and driveways are separately regulated by the City. However, this article does apply to the activities carried on upon such sidewalks and driveways.
- (D) The restrictions of this section pertaining to obstruction of traffic do not apply to the following:
 - (1) Acts authorized as an exercise of one’s constitutional right to picket, or to legally protest, but only to the extent that such rights would be impermissibly restricted by operation of this section.
 - (2) Utilizing a wheelchair, walker or other similar device to move about the sidewalk, street or right-of-way as a result of a disability.
 - (3) Sitting or lying on a street, sidewalk or right-of-way due to a medical emergency.
 - (4) Patronizing or operating a commercial establishment lawfully conducted on the sidewalk pursuant to this code.
 - (5) Attending a parade, festival, performance, rally, demonstration or other similar event lawfully conducted on a public sidewalk, street or right-of-way.
 - (6) Sitting on a chair or bench located on the public sidewalk supplied by a public agency or abutting property owner, or waiting for public or private transportation at a bus stop.

16-805

APPLICATION FOR PERMIT.

An applicant for a right-of-way use permit shall:

- (1) File a written application on a form to be determined by the City Manager that includes the following information: the date or dates for which the permit is sought; the name of the applicant; the location of the encroachment or obstruction; the type of encroachment or obstruction; and such other information as the City Manager may deem necessary. The form shall be made available to the public at the City Clerk’s office.
- (2) The application shall be filed with the City Clerk at least two (2) weeks before the first date for which the permit is sought.

- (3) If the applicant is not the owner or tenant of the land adjoining the right-of-way sought to be used, the permit must be accompanied by a writing from such owner or tenant consenting to such use of the adjoining right-of-way.
- (4) Pay an application fee in the amount of \$10.00. (Ord. 6159)

16-806

ISSUANCE OF PERMIT.

- (A) All applications for a right-of-way use permit shall be forwarded by the City Clerk to the City Manager or designee for approval. The City Manager or designee shall issue such a permit upon a finding that in view of the location or area proposed to be used and the type of encroachment or obstruction proposed to be carried on, the proposed encroachment or obstruction does not constitute a traffic hazard or destroy or impair use of the right-of-way or land by the public, or serves a purpose that otherwise cannot be accomplished and it is a temporary obstruction of the right-of-way.
- (B) The City Manager or his or her designee may impose conditions on the issuance of the permit if failure by the permittee to comply with the conditions would constitute a safety or traffic hazard or would destroy or impair use of the right-of-way by the public.
- (C) The City Manager or his or her designee may condition the issuance of a permit upon the applicant providing proof that the applicant has obtained general liability insurance for which the permit is being issued. The minimum policy limits shall be \$500,000.00, unless the City Manager or his or her designee determines that higher or lower limits are warranted by the particular circumstances.
- (D) Any application for a right-of-way use permit not granted, conditionally granted or denied within eight (8) business days after the date such application was filed with the City Clerk shall be presumed to have been denied. (Ord. 6159)

16-807

DISPLAY OF PERMIT.

Any person making use of the right-of-way under the authority of a right-of-way use permit shall at all times when so making use of the public right-of-way, either:

- (1) Prominently display the permit at the site where the public right-of-way is being used pursuant to the permit; or,
- (2) Have the permit in their possession at the site where the public right-of-way is being used and display the same to any officer or employee of the City upon demand. (Ord. 6159)

16-808

REVOCAION OF PERMIT.

The City Manager or designee, the Chief of Police or the Codes Enforcement Manager, may suspend or revoke a permit issued under this Article if:

- (1) The permittee fails to meet the conditions imposed on the issuance of the permit;
- (2) The permittee violates any provision of this Code or other ordinance of the City governing the activities permitted by the permit; or,
- (3) The permit was obtained by fraud or misrepresentation. (Ord. 6159)

16-809 **HAZARD PROHIBITED.**
Notwithstanding that a permit may have been issued for the private use of the public right-of-way pursuant to this Article, no person shall make any use of the public right-of-way that constitutes an immediate hazard requiring immediate action to protect the public. (Ord. 6159)

16-810 **PENALTY.**

(A) Any person who violates the requirements of this Article shall, upon conviction, be fined not less than \$20.00 nor more than \$500.00, or be imprisoned for not less than one (1) day nor more than three (3) months, or be both so fined and imprisoned. Each day that a person violates the requirements of this Article shall constitute a separate offense.

(B) The violation of any condition imposed on the issuance of a permit shall constitute a violation of this Article. (Ord. 6159)

16-811 **APPEAL.**
Any person may appeal to the City Commission from the denial, suspension or revocation of a right-of-way use permit or the conditions imposed on the issuance of a permit by the City Manager or designee. Notice of such appeal must be given in writing to the City Clerk within fifteen (15) day of the denial, suspension, revocation or conditional issuance of the permit (Ord. 6159)

ARTICLE 9. USE OF RIGHT-OF-WAY

16-901 **DEFINITION OF RIGHT-OF-WAY.**
For purposes of this article, Right-of-Way shall mean present and future streets, alleys, right-of-way and public easements, including easements and right-of-way dedicated in plats or other instruments to the City. (Ord. 6896)

16-902 **WRITTEN PERMISSION OF THE CITY REQUIRED.**
No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 et seq. or by such other agreement as the governing body determines best protects the public interest in the right-of-way. (Ord. 6896)

16-903 **COMPLIANCE WITH, MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES.**
Any person, firm, corporation, association, utility, or entity entering upon the right-of-way of the City, or in any manner establishing a physical presence on the right-of-way of the City, for the purpose of installing, constructing, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults or appliances, or related facilities or appurtenances thereto, shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated herein by reference as if fully set forth herein. (Ord. 6896)

16-904 **PENALTY PROVISION.**

Any person, firm, corporation, association, utility, or entity, or agent, contractor or subcontractor thereof, violating any provision of this article, shall be guilty of a municipal offense, and shall upon conviction be subject to a maximum fine of \$500.00. Each day of violation shall constitute a separate and distinct offense. (Ord. 6896)

ARTICLE 9A. USE OF RIGHT-OF-WAY BY FRANCHISEES OF THE CITY OF LAWRENCE, KANSAS

16-9A01

APPLICABILITY.

This article shall apply to those franchisees of the City of Lawrence, Kansas that have no right-of-way use provisions in their franchise ordinances with the City of Lawrence or have right-of-way use provisions in their franchise ordinances that are less stringent than those contained in this article. (Ord. 8073)

16-9A02

USE OF RIGHT-OF-WAY.

In the use of the right-of-way under this Ordinance, the franchisee shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and is subject to all applicable laws, orders, rules and regulations adopted by the governmental bodies now or hereafter having jurisdiction. In addition, the franchisee shall be subject to all rules, regulations, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City relating to permits, sidewalk and pavement cuts, utility location, construction coordination, beautification, tree care, and other requirements on the use of the right-of-way and shall comply with the following: (Ord. 8073)

- (A) The franchisee's use of right-of-way shall in all matters be subordinate to the City's use of the right-of-way for any public purposes. The franchisee shall coordinate the placement of its facilities in a manner which minimizes adverse impact on public improvements, as reasonably determined by the City. Where placement is not otherwise regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement.
- (B) All earth, materials, sidewalks, paving, crossings, utilities, public improvements or improvements of any kind injured, damaged or removed by the franchisee in its activities under this Ordinance and its Franchise Ordinance shall be fully repaired or replaced within a reasonable time by the franchisee at its sole expense and to the reasonable satisfaction of the City and the franchisee.
- (C) The franchisee shall keep and maintain accurate records and as-built drawings depicting the accurate location of all facilities constructed, reconstructed, or relocated in the right-of-way after the date hereof and provide the above information to the City upon request. Where such information is available electronically, upon request from the City, franchisee agrees to provide such information in an electronic format. City agrees to use information obtained pursuant to this subsection only to locate utility facilities in connection with municipal projects and further agrees not to disclose such information to anyone other than City employees requiring such information to locate utility facilities in connection with municipal projects, except as required by law. Franchisee and the City agree that such information is confidential and proprietary and agree that such information shall remain the sole property of the Investor owned utility and agree that pursuant to the Kansas Open Records Act, K.S.A. 45-215 et seq., as amended, such information does not constitute public records

subject to K.S.A. 45-218, as amended. In the event that the City is required by law to disclose such information, the City shall provide the franchisee advance notice of its intended disclosure of such information and shall take such action as may be reasonably required to cooperate with the franchisee to safeguard such information.

The franchisee agrees to indemnify and hold the City harmless from any and all penalties or costs, including attorney's fees, arising from the actions of the franchisee, or of the City at the written request of the franchisee, in seeking to safeguard the confidentiality of information provided by the franchisee to the City under this section.

In the event such information is required by force of law to be publicly disclosed, the franchisee shall have no further obligation under this section to provide the City with such information. Such facilities shall be horizontally and vertically located at least every 100 feet and at any other alignment change.

All points of facilities shall be horizontally located from street centerline or section or quarter section lines or corners. Vertical locations or all points of facilities shall consist of elevations in either City datum or United States Geological Survey datum.

- (D) Except in cases of an emergency, a minimum of fourteen (14) days prior to construction, reconstruction or relocation of any facilities in the right-of-way, the franchisee shall submit to the City Engineer, or her or his designee, for approval, plans and specifications of the proposed installation. Such approval shall not be unreasonably withheld, delayed or conditioned. City review shall only concern matters related to the interests of the City as set forth in this Ordinance.
- (E) The franchisee shall cooperate promptly and fully with the City and take all measures necessary to provide accurate and complete information regarding the nature and locations, both horizontal and vertical, of its facilities located within right-of-way when requested by the City or its authorized agents for a public project. Such location and identification shall be at the sole expense of the franchisee, without expense to the City, its employees, agents, or authorized contractors. The franchisee shall designate an agent to provide the City with timely information when required by this subsection.
- (F) As reasonably necessary, the franchisee shall relocate or adjust any facilities located in the right-of-way for a public project within a reasonable time. Such relocation or adjustment shall be performed by the franchisee at its sole expense, without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules and regulations of the City not inconsistent with this Ordinance pertaining to such.
- (G) It shall be the sole responsibility of the franchisee to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage. If the franchisee fails to accurately or timely locate facilities when requested, the franchisee has no claim for costs or damages against the City and its authorized contractors or any other party authorized to be in the right-of-way, except to the extent such harm or damage is caused by such party's negligent or intentional conduct. City and its authorized contractors agree to take reasonable precautionary measures, including, but

not limited to, calling for utility locations and observing marker posts, when working near franchisee facilities.

- (H) Except in the event of an emergency, the franchisee shall notify the City not less than ten (10) days in advance of any construction, reconstruction, repair or relocation of facilities which would require any street closure which reduces traffic flow to less than two lanes of moving traffic. The City shall follow its policies in the grant or denial of such authority, which shall not be unreasonably delayed. Except in the event of an emergency, no such closure shall take place without such notice and prior authorization from the City.

In addition, all work performed in the traveled way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected. For all work within the right-of-way, the franchisee shall erect and maintain signs and other devices as required by City ordinances, regulations and rules.

- (I) All technical standards governing construction, reconstruction, installation, operation, testing use, maintenance, and dismantling of the facilities in the right-of-way shall be in accordance with applicable present and future federal, state and City law and regulations.

16-9A03

COMPLIANCE WITH STREET TREE ORDINANCE.

The franchisee shall comply with the provisions of the Street Tree Ordinance (Chapter 18, Article 1, of the Code of the City of Lawrence, Kansas) and amendments thereto, in the care, pruning, trimming, and removing of trees located in or on the City right-of-way. (Ord. 8073)

16-9A04

LOCATION OF UNDERGROUND EQUIPMENT AND FACILITIES.

Franchisee's equipment shall be placed underground as required by City ordinances, including Chapter 5, Article 4A of the Code of the City of Lawrence, and amendments thereto. Where underground construction is made, the equipment and any necessary trenching shall be installed and maintained or provided by the franchisee in accordance with the ordinances of the City without expense to the City. (Ord. 8073)

16-9A05

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance. (Ord. 8073)

ARTICLE 10. RAILROADS

16-1001

PROHIBITED CONDUCT ON RAILROAD PROPERTY.

It shall be unlawful for any person to climb through or upon any railroad car or engine while the same is in motion, or through or upon any train which has been stopped temporarily; nor shall any person ride upon any engine or car while the same is in motion, except regular passengers, railroad employees, and other authorized persons; nor shall any unauthorized person remove from any railroad car any part thereof, or any of the material being transported therein; nor shall any person loiter or loaf in any railway waiting room, or upon any platform or freight loading. Railroad property is hereby declared to be public property for the purpose of the enforcement of this Section. (Code 1979, 16-1003)

ARTICLE 11. REQUIREMENTS FOR TRAFFIC IMPACT STUDY

16-1101

TRAFFIC IMPACT DATA: WHEN REQUIRED.

Collection of traffic impact data is required for all non residential new developments or redevelopments and all residential developments of eleven (11) or more lots or dwelling units. (Ord. 7650).

16-1102

MINIMUM TRAFFIC IMPACT DATA REQUIREMENTS.

Traffic data collected shall include the following minimum seven (7) items:
(Ord. 7650)

- (1) Identify the specific development plan under study and any existing development on and/or approved plans for the site (land use types and intensities and the arrangement of buildings, parking and access). Also, identify land uses (including types and the arrangement of buildings, parking and access) on property abutting the proposed development site, including property across public streets.
- (2) Identify the land uses shown in Horizon 2020 for the proposed development site under study, as well as the ultimate arterial and collector street network in the vicinity of the site (at least the first arterial or collector street in each direction around the site).
- (3) Identify the functional classification of the public street(s) bordering the site and those streets on which access for the development is proposed. The functional classification is shown on the Major Thoroughfares Plan, adopted as a part of Transportation 2025 and Figure 14 in Horizon 2020.
- (4) Identify allowable access to the development site as defined by criteria included in the adopted Access Management Plans for arterial and collector streets in Lawrence. This list includes, but is not limited to: W. 6th Street, 31st Street, and the 23rd Street Corridor study and shall include any adopted access management plans.
- (5) Document current public street characteristics adjacent to the site, including the nearest arterial and collector streets [number and type of lanes, speed limits or 85th percentile speeds, and sight distances along the public street(s) from the proposed access(es)].
- (6) Compare proposed access with AASHTO established design criteria (driveway spacing, alignment with other streets and driveways, city driveway standards, and minimum sight distances.) Assess the feasibility of access connections to abutting properties, including shared access with the public street system.
- (7) Estimate the number of trips generated by existing and proposed development on the site for a typical weekday and weekday peak hours using the latest edition of Trip Generation published by the Institute of Transportation Engineers. Local trip generation characteristics may be used if deemed to be properly collected and consistent with the subject development application. The Public Works Director shall make such determination. Calculate the net difference in trips between existing and proposed uses. If the development site already has an approved plan, also estimate the number of trips that would be generated by the approved land uses. If the development application is proposing a land use DIFFERENT THAN indicated in Horizon 2020 and Transportation 2025, also estimate the number of trips that would be generated by the land use indicated in Horizon 2020 or Transportation 2025.

16-1103

ADDITIONAL STUDIES: WHEN REQUIRED.

When a development generates 100 or more trips in a peak hour, additional analysis may be required including such items as trip distribution, expansion of the study area, and/or other appropriate and pertinent transportation information necessary to provide a comprehensive impact study. (Ord. 7650)

16-1104

TRAFFIC IMPACT STUDY: WHEN MANDATED BY PEAK HOUR DATA.

A traffic impact study shall be required and completed for developments that generate 100 or more trips in a peak hour. A traffic impact study shall be prepared by a qualified and experienced professional who has specific training in traffic and transportation engineering related to preparing such studies for land development. (Ord. 7650)

ARTICLE 12. ACCESS MANAGEMENT

16-1201

ACCESS MANAGEMENT REQUIREMENTS FOR WEST 6TH STREET.

Access management for West 6th Street (U.S. Highway 40) between Wakarusa Drive and Kansas Highway 10 (K-10) shall be as follows: (Ord. 7465, Ord. 7534)

- (A) Upon the completion of the improvement of West 6th Street to a four lane divided arterial street, and any necessary access acquisition as may be required, no vehicular access shall be allowed to West 6th street between Wakarusa Drive and K-10 Highway (excepting the frontage road access on the north side of West 6th Street immediately east of K-10 Highway) except at the following designated points: Wakarusa Drive; the right-in-only and right-out-only access point on the south side of West 6th Street between Congressional Drive and Wakarusa at a location determined by the Kansas Department of Transportation; Congressional Drive, approximately 1/4 mile west of Wakarusa Drive; Queens Road, approximately 1/4 mile west of Congressional Drive; Stoneridge Drive, approximately 1/4 mile west of Queens Road; and George Williams Way, approximately 1/4 mile west of Stoneridge Drive.
- (B) No vehicular access shall be allowed from or onto the cross streets intersecting West 6th Street (George Williams Way, Fenceline Road, Queen Road, and Congressional Drive) between Wakarusa Drive and Kansas Highway 10 (K-10) within 350 feet north or south of the centerline of West 6th Street except for any platted street or authorized driveway authorized by the City of Lawrence prior to January 15, 2002, to be located 300 feet north or south of the centerline of West 6th Street. (Ord. 7534)
- (C) In addition to the exceptions listed in subsection (A), a west-bound right-in-only and right-out-only access point on the north side of West 6th Street between George Williams Way and K-10 Highway shall be allowed subject to the necessary approvals of the City and the Kansas Department of Transportation including, but not limited to, that the frontage road access on the north side of West 6th Street immediately east of K-10 Highway allowed in subsection (A) shall be concurrently removed and replaced by the right-in-only and right-out-only access point on the north side of West 6th Street between George Williams Way and K-10 Highway. (Ord. 8486)