

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

<a href="#"><u>Article 1.</u></a>	General Provisions
<a href="#"><u>Article 2.</u></a>	Sidewalk Construction and Repair
<a href="#"><u>Article 3.</u></a>	Driveways
<a href="#"><u>Article 4.</u></a>	Excavations
<a href="#"><u>Article 5.</u></a>	Stormwater Utility and Management
<a href="#"><u>Article 6.</u></a>	Walls, Fences and Other Structures
<a href="#"><u>Article 7.</u></a>	Moving Structures
<a href="#"><u>Article 8.</u></a>	Temporary Use of Right-of-Way
<a href="#"><u>Article 9.</u></a>	Location of private facilities in Right-of-Way
<a href="#"><u>Article 9A.</u></a>	Use of Right-of-Way by Franchisees
<a href="#"><u>Article 10.</u></a>	Railroads
<a href="#"><u>Article 11.</u></a>	Requirements for Traffic Impact Study
<a href="#"><u>Article 12.</u></a>	Access Management

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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 31<sup>st</sup> 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.

16-302.1

**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

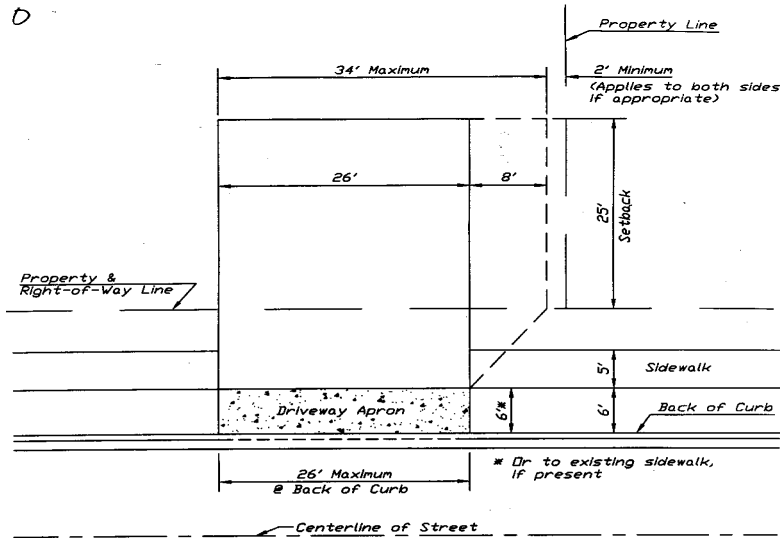
attached sketches, then it must be reviewed and approved by the Driveway Review Committee before a building permit will be issued.

- (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).

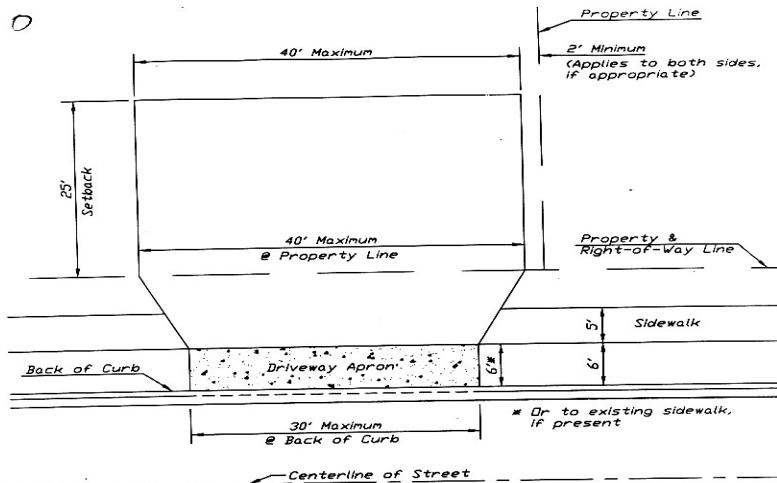


## DRIVEWAY DETAIL FOR A SINGLE FAMILY HOME

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





- 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 stormwater system. (Ord. 6895) CJS

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 Municipal Services and Operations Department, 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, Ord. 9492)

16-504      **ERU RATE; ADMINISTRATION.**

The Equivalent Residential Unit (ERU) rate shall be Eight Dollars and Fifty-Four Cents (\$8.54) 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, Ord. 9371, Ord. 9555, Ord. 9704, Ord. 9801, Ord. 9892, 9959, 10022, Ord. 10091)

16-505      **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)

bte

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 the Municipal Services and Operations Department who shall schedule a hearing on the appeal within thirty (30) days of the Director of Finance's receipt of the written appeal. (Ord. 9492)
- (D) The Director of the Municipal Services and Operations Department, 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 the Municipal Services and Operations Department shall make a written finding on the appeal within forty-five (45) days of the hearing. (Ord. 9492)
- (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 the Municipal Services and Operations Department within ten (10) days of the action or application of the Stormwater Management Criteria requirement to a particular property or activity. The Director of the Municipal Services and Operations Department, 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 the Municipal Services and Operations Department concerning the appeal shall be final. (Ord. 6778, Ord. 9492)
- 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 Director of the Municipal Services and Operations Department, 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 Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the temporary use of public rights of way. (Ord. 6159, Ord. 9680)

16-802 **DEFINITIONS.**

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 9680)

- (A) **“City”** shall mean the City of Lawrence, Kansas, its Governing Body, or any duly designated or appointed representative thereof.
- (B) **“MSO”** shall mean the Department of Municipal Services and Operations.
- (C) **“Person”** shall mean any natural person, business association, or business entity, including but not limited to a corporation, a partnership, a limited liability company, a sole proprietorship, a political subdivision of the State or other governmental entity, a public or private agency, a utility, or any other legal entity, or any successor or assign of any of the foregoing.
- (D) **“Public Rights of Way”** shall mean those areas of real property in which the City has a right-of-way interest, whether through purchase, dedication, or other means of acquisition. It shall include the area on, below, or above any present and future street, alley, avenue, road, highway, parkway, boulevard, or bridge, or other public way.
- (E) **“ROW Permit,”** as used herein, shall mean any Temporary Right of Way Permit or any Annual Right of Way Permit.
- (F) **“Temporary”** shall mean a period of time less than 180 consecutive days.

16-803

**NOTICE TO THE PUBLIC.**

- (A) The Governing Body hereby gives notice to the public that the City has the right to make immediate use of any and all Public Rights of Way, in their entirety, for street, sidewalk, utility, storm sewer, and drainage purposes, and for the construction, installation, inspection, maintenance, repair, and removal of the same. Generally, the City will not compensate any adjoining landowner for damage to plants, trees, sprinklers, or other private improvements or appurtenances located overhead, above-ground, or underground in the Public Rights of Way, as the result of any construction, installation, inspection, maintenance, repair, or removal of streets, sidewalks, utilities, storm sewers, or drainage ways. (Ord. 9680)
- (B) The Governing Body hereby gives notice to the public that the Chief of Police has the authority to close Public Rights of Way in order to protect the health, safety, and welfare of the community in cases of emergency or when it is anticipated that there will be a large influx of people to a particular area of the City. The duration of the closure of the Public Rights of Way hereunder shall last only as long as is necessary to accomplish the purposes causing the closure. (Ord. 9680)

16-804

**PERMIT REQUIRED.**

No Person, unless otherwise exempted either by this Article or by Article 9 of this Chapter, shall use the Public Rights of Way on a Temporary basis without first obtaining from the City and having in their possession a valid ROW Permit. (Ord. 9680)

16-805

**APPLICATION.**

Application for a ROW Permit shall be made in writing to the MSO on a form or on a platform provided by the MSO for that purpose. The applicant shall complete the form in full and shall provide all information requested therein, including but not limited to the name of the applicant, contact information, the date or dates for which the Permit is sought, the location and nature of the proposed use, an approved traffic control plan (if necessary), other approved plans (if necessary), certificate(s) of insurance (if necessary), a performance and maintenance bond (if necessary), payment of the ROW Permit Fee and any Additional ROW Fee required by Section 16-806, and any and all other information that may be required by the MSO to review and to process the application. (Ord. 9680)

16-806

**ROW PERMIT FEES.**

(Ord. 9680)

- (A) **ROW Permit Fees.** Together with the Application for a ROW Permit, the applicant shall remit to the City a nonrefundable ROW Permit Fee. The ROW Permit Fee shall be determined annually by the City Manager, or his or her designee, on or before February 1 of each year, and the ROW Permit Fees shall be included on the Schedule of Right of Way Fees. The Schedule of Right of Way Fees shall be made available to the public during regular business hours at the City Clerk's office and the office of the MSO and shall be posted on the City website. The ROW Permit Fee shall be reasonable and shall be calculated to recapture the City's costs of processing the application.
- (B) **Additional ROW Fees.** In addition to the ROW Permit Fee, the application shall remit to the City any Additional ROW Fees required by the Administrative Regulations promulgated hereunder. Such Additional ROW Fees, unless the Administrative Regulations specifically provide otherwise, shall be nonrefundable.

16-807

**INSURANCE.**

(Ord. 9680)

- (A) The applicant for a ROW Permit shall file with the MSO, together with the application, a certificate of general liability insurance in an amount not less than \$1,000,000.00, unless a different amount is otherwise required by the MSO in accordance with subsection (b). If required by law, the applicant shall also file with the MSO a certificate of Worker's Compensation insurance in the amount required by law, or, provided the applicant has no employees, a written certificate to that effect. The City shall be named as an additional insurer on all such policies. The insurance shall be written by companies licensed to provide insurance in the state of Kansas, in good standing with the State of Kansas Department of Insurance, and acceptable to the City.
- (B) Depending on the nature of the proposed use of the Public Rights of Way, the MSO may, in the exercise of its discretion, require general liability insurance coverage in an amount exceeding \$1,000,000.00, may require general liability insurance coverage in an amount less than \$1,000,00.00, or may, upon the written request of the applicant and good cause shown, waive the requirement for general liability insurance.

16-808

**BOND.**

Every applicant for a ROW Permit involving an excavation of the Public Right of Way shall post with the MSO an annual performance and maintenance bond to ensure the appropriate and timely performance of all work in the Public Rights of Way without the attachment of any liens or other encumbrances and to warranty all work done in the Public Rights of Way. The amount of the bond shall be established and set forth in the Administrative Regulations promulgated hereunder. (Ord. 9680)

16-809

**ROW PERMIT ISSUANCE; DENIAL.**

(Ord. 9680)

- (A) The MSO shall review each application for a ROW Permit and may, in the exercise of its discretion, upon a finding that the application is complete, that the requisite ROW Permit Fee, including any Additional ROW Fee has been paid, that the proposed use is Temporary in nature, and that, in view of the proposed location, the proposed use will not constitute a traffic safety hazard, will not destroy, damage, or impair the Public Rights of Way or use of the Public Rights of Way, and will serve a legitimate purpose, issue to the applicant a ROW Permit.

- (1) In the exercise of its discretion, the MSO may impose additional conditions

on the issuance of any ROW Permit, as may be necessary.

- (B) The MSO may, in the exercise of its discretion, deny any application for a ROW Permit if the application is incomplete, if the ROW Permit Fee or any Additional ROW Fee has not been paid, if the application does not otherwise meet all the requirements of the preceding subsection, if the applicant has had a ROW Permit revoked within the past two years, or if the proposed use will constitute a traffic safety hazard, will destroy, damage, or impair the Public Rights of Way or use of the Public Rights of Way, or will not serve a legitimate purpose,.

16-810

**ROW PERMIT DISPLAY.**

Any ROW Permit Holder shall, at all times, either: (Ord. 9680)

- (A) Prominently display the ROW Permit at the site where the Public Right of Way is being used; or
- (B) Have the ROW Permit in his, her, or its possession at the site where the Public Right of Way is being used and shall display the same to any officer or employee of the City upon request.

16-811

**EMERGENCY.**

In the event of an emergency, in order to protect the health, safety and welfare of the community, a Person may perform temporary work in the Public Right of Way or may use the Public Right of Way on a temporary basis without first acquiring from the City a ROW Permit. In the event of an emergency, the Director of MSO shall be notified of the emergency at the earliest practicable time. In such cases, the Director of MSO may require the Person to obtain an after-the-fact ROW Permit and may require the Person to pay the ROW Permit Fee or Additional ROW Fee necessary to cover any costs accruing to the City thereby. (Ord. 9680)

16-812

**PERMITS AFFECTING TRAFFIC.**

Any application for a ROW Permit that, in any way, affects vehicular or pedestrian traffic shall be accompanied by an approved Temporary Traffic Control Plan that complies with the Manual for Uniform Traffic Control Devices (MUTCD) and any Administrative Regulations adopted by the City in accordance with this Article. At all times during the use of the Public Right of Way, the Public Right of Way shall be signed, barricaded, and otherwise safeguarded. In providing such signs, barricades, and other safeguards, the ROW Permit Holder shall comply with the Temporary Traffic Control Plan, the MUTCD, the Administrative Regulations, all City policies, and all conditions placed on the ROW Permit regarding the placement of signs, barricades, and other safeguards. (Ord. 9680)

16-813

**REVOCATION.**

(Ord. 9680)

- (A) The MSO may, in the exercise of its discretion, revoke any ROW Permit issued under this Article if:
  - (1) The ROW Permit Holder's use of the Public Right of Way creates a traffic or other safety hazard or will otherwise destroy, damage, or impair the Public Right of Way or use of the Public Right of Way, such that immediate action must be taken to protect the public safety or the Public Right of Way;



- (2) The ROW Permit Holder violates any provision of the City Code or other law governing the use allowed by the ROW Permit;
  - (3) The ROW Permit Holder fails to meet any and all conditions imposed upon the issuance of the ROW Permit;
  - (4) The ROW Permit Holder fails to comply with any submitted plan, including any Temporary Traffic Control Plan;
  - (5) The ROW Permit Holder fails to comply with any Administrative Regulation promulgated by the City in accordance with Section 16-817 of this Article; or
  - (6) The ROW Permit was procured through fraud or misrepresentation.
- (B) Any revocation of a ROW Permit shall be in writing, shall state the grounds for the revocation, and shall include an order to cease forthwith use of the Public Rights of Way.

16-814

**APPEAL.**

(Ord. 9680)

- (A) Any Person aggrieved by a decision of the MSO in denying an application or revoking a ROW Permit may appeal such decision to the City Commission. Notice of such appeal must be made in writing to the MSO and shall be made within 14 days of the date of the denial or revocation. Said Notice of Appeal shall be in writing and shall state clearly and concisely the reason for the appeal and how or why the MSO erred in denying the application or in revoking the Permit.
- (B) The City Commission shall, as soon as may be practicable, schedule the appeal for public hearing. On appeal, the appellant bears the burden of proof. The City Commission shall review the decision *de novo*. The decision of the City Commission shall be the final decision of the City.

16-815

**UNLAWFUL ACTS.**

(Ord. 9680)

- (A) Except in the case of emergency or if otherwise exempted by this Article or Article 9 of this Chapter, it shall be unlawful for any Person to use a Public Right of Way for any Temporary purpose without first obtaining from the City and having, in their possession, a current, valid ROW Permit.
- (B) It shall be unlawful for any Person to violate any condition imposed upon the issuance of any ROW Permit.
- (C) It shall be unlawful, unless otherwise permitted or exempted hereunder, for any Person intentionally to obstruct traffic in a Public Right of Way.
- (D) It shall be unlawful for any Person to place, to leave, or to cause to be placed or left any item in the Public Rights of Way without first obtaining from the City and having, in their possession, a current, valid ROW Permit or an Agreement with the City in accordance with Article 9 of this Chapter.

- (E) It shall be unlawful for any Person to violate any other provision of this Article or any Administrative Regulation promulgated by the City in accordance with Section 16-817.

16-816

**MUNICIPAL OFFENSE.**

- (a) Engaging in any of the unlawful acts set forth at Section 16-815 shall be a municipal offense. Each violation shall constitute a separate municipal offense. Each day of violation shall also constitute a separate municipal offense. Any Person violating Section 16-815 shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$250.00 and a maximum fine of \$500.00 for each municipal offense. (Ord. 9904)
- (b) No Person shall be charged with nor convicted of a municipal offense under this Section unless (i) the City shall first have given said Person a Notice of Violation and a reasonable time within which to cure any alleged defect or unlawful act and (ii) said Person fails to cure the alleged defect or unlawful act within the time allotted and in accordance with the Notice of Violation. For the purposes of this section, in emergent situations, a reasonable time to cure shall -- unless the emergency requires immediate remediation -- be three days. In all other situations, a reasonable time to cure shall be thirty days. (Ord. 9904)

16-817

**ADMINISTRATIVE REGULATIONS.**

- (A) In order to protect the health, safety, and welfare of the community, the Director of the MSO, or his or her designee, shall have the power to promulgate Administrative Regulations governing administration of the Temporary Use of Right of Way program established by this Article. Any Regulations promulgated in accordance with this Article shall be dated and shall be available for inspection by the public at the City Clerk's Office and the Office of the MSO during reasonable business hours and the same shall be posted on the City's website. (Ord. 9680)
- (B) All users of the Public Rights of Way shall comply with all Regulations promulgated hereunder. (Ord. 9680)
- (C) All Regulations promulgated hereunder shall be consistent with the terms of this Article. In the event of any inconsistency or ambiguity, the terms of this Article shall control and supersede the Regulations. (Ord. 9680)

16-818

**REVIEW OF FEES.**

The Governing Body shall, from time to time, at its discretion, review the Schedule of Right of Way Fees as established by the City Manager, or his or her designee, and shall adjust them as may be necessary to fulfill the goals of this Article and the Governing Body's goal that this program be operated on a revenue-neutral basis. (Ord. 9680)

16-819

**EXEMPTIONS.**

- (A) The provisions of this Article shall not apply to any Person lawfully travelling, by whatever lawful means, in the Public Rights of Way. (Ord. 9680)
- (B) The provisions of this Article shall not apply to any Person patronizing or to any Person operating any enterprise located in a Public Right of Way pursuant to a lawful Sidewalk Dining License or other similar permit or agreement. (Ord. 9680)
- (C) The provisions of this Article shall not apply to any Person attending a parade, festival, performance, rally, demonstration, or other similar event that is lawfully conducted in or on a Public Right of Way. (Ord. 9680)

- (D) The provisions of this Article shall not apply to any person sitting on any chair or bench located on a Public Right of Way that is supplied by a public agency or abutting property owner, or while awaiting public or private transportation at a bus stop. (Ord. 9680)
- (E) The provisions of this Article prohibiting the obstruction of traffic on a Public Right of Way shall not apply in the following circumstances: (Ord. 9680)
  - i. The exercise of a person's constitutional right to picket, to protest, or of assembly, but only to the extent that such right would be impermissibly restricted by operation of this Article.
  - ii. The use of a wheelchair, walker, or other similar device as the result of a disability.
  - iii. Sitting or lying in a Public Right of Way due to a medical emergency.
  - iv. Any accident or mechanical failure occurring in the Public Rights of Way that may, until removed, temporarily obstruct traffic.

## ARTICLE 9. LOCATION OF PRIVATE FACILITIES IN PUBLIC RIGHTS OF WAY

16-901

### **PURPOSE.**

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including the location of private facilities in Public Rights of Way. (Ord. 9681)

16-902

### **DEFINITIONS.**

The following words, terms, and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings: (Ord. 9681)

- (A) **"Abandoned Facilities"** shall mean those Facilities owned by a ROW User that are not in use and which are not anticipated to be used by the ROW User or any other Person in the future.
- (B) **"Agreement"** shall mean any Contract Franchise, License Agreement, Memorandum of Understanding, Video Service Provider's Agreement, or other similar agreement with the City, wherein the City grants to a ROW User the right to locate private Facilities in a Public Right of Way on more than a Temporary basis.
- (C) **"City"** shall mean the City of Lawrence, Kansas, its Governing Body, or any duly designated or appointed representative thereof.
- (D) **"Facilities"** shall mean any parking areas, landscaping, structures, lines, pipes, irrigation systems, wires, cables, conduits, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, wireless communications systems, or other structures, equipment, or appurtenances that are intended to be more permanent than Temporary in nature.
- (E) **"MSO"** shall mean the Department of Municipal Services and Operations.
- (F) **"Person"** shall mean any natural person, business association, or business entity, including but not limited to a corporation, a partnership, a limited liability company, a sole proprietorship, a political subdivision of the State or other governmental entity, a public or private agency, a utility, or any other legal entity,

or any successor or assign of any of the foregoing.

- (G) **“Public Improvement”** shall mean any existing or contemplated public facility, building, or capital improvement project, including, without limitation, streets, alleys, sidewalks, sewers, water mains, drainage conduits, right-of-way improvements, and other Public Projects.
- (H) **“Public Project”** shall mean any project planned or undertaken by the City, or any other governmental entity, for the construction, reconstruction, maintenance, or repair of public facilities or Public Improvements, or for any public purpose.
- (I) **“Public Rights of Way”** shall mean those areas of real property in which the City has a right-of-way interest, whether through purchase, dedication, or other means of acquisition. It shall include the area on, below, or above any present and future street, alley, avenue, road, highway, parkway, boulevard, or bridge, or other public way.
- (J) **“ROW User”** shall mean any Person who has an Agreement hereunder with the City.
- (K) **“Service”** shall mean a commodity or product provided to a Person by a ROW User by means of a delivery system comprising Facilities located in the Public Rights of Way, including but not limited to gas, electricity, water, sanitary sewers, steam, telephony, telegraphy, Telecommunications Service, wireless communication service, internet service, data transmission, Video Service, open video systems, alarm service, and petroleum pipelines, among others.
- (L) **“Service Provider”** shall mean any Person owning, possessing, or having any interest in Facilities in the Public Rights of Way that are used for the provision of a Service, with or without compensation. Service Provider shall also include any Person owning, possessing, or having any interest in Facilities in the Public Rights of Way that are used by, may be used by, or are intended to be used by third parties, in whole or in part, to provide a Service, with or without compensation, regardless of whether the Person owning, possessing, or having said interest provides any such Service.
- (M) **“Telecommunications Service”** shall mean providing the means of transmission between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information sent and received.

- (N) **“Temporary”** shall mean a period of time less than 180 consecutive days.
- (O) **“Video Service”** shall mean video programming Service provided through Facilities, without regard to delivery technology, including internet protocol technology.

16-903

**LOCATION OF PRIVATE FACILITIES IN PUBLIC RIGHTS OF WAY.**

- (a) No Person shall, unless otherwise exempt under subsection (b) hereof or any other provision of this Article, locate any private Facilities in a Public Right of Way, on more than a Temporary basis, without first entering into an Agreement with the City.
- (b) The following private Facilities are exempt from the requirement established at subsection (a) and may -- to the extent that they do not cause a safety hazard to the traveling public or to any other Person -- be located in a Public Right of Way, on more than a Temporary basis, without an Agreement with the City:
  - i. Underground irrigation systems.
  - ii. Sump pump discharge pipes.
  - iii. Downspouts.
  - iv. Landscaping or agricultural crops.
  - v. Underground pet fencing.
  - vi. Monuments and road side murals.
  - vii. Retaining walls less than three feet in height.
  - viii. Little libraries.

16-904

**LIMITATIONS.**

While an Agreement may grant or convey to a Person the right or license to construct, place, replace, repair, maintain, extend, and operate its Facilities along, across, upon, under, or in the Public Rights of Way on more than a Temporary basis, subject to certain restrictions and limitations, no such Agreement shall grant or convey to a Person: (Ord. 9681)

- (A) any title, equitable or legal, in the Public Rights of Way; or
- (B) any exclusive rights or privileges with respect to use of the Public Rights of Way.

16-905

**USE OF THE PUBLIC RIGHTS OF WAY.**

(Ord. 9681)

- (A) Except in cases of emergency or unless the ROW User's Agreement expressly provides otherwise, no ROW User shall use the Public Rights of Way without first obtaining from the City a Temporary Right of Way Permit or Annual Right of Way Permit in accordance with Chapter 8 of this Chapter. In cases of emergency, unless otherwise exempted, all ROW Users must comply with Section 8-1611 of the City Code, as amended.
- (B) Except in cases of emergency, no ROW User shall construct, reconstruct, or relocate Facilities or excavate in the Public Rights of Way without first submitting to the MSO plans outlining the ROW User's proposed use of the Public Rights of Way and without first obtaining from the City approval of those plans. All such plans shall be submitted

to the MSO a minimum of 21 days before the proposed use of the Public Rights of Way.

- (C) A ROW User's use of the Public Rights of Way shall, in all matters, be subject and subordinate to the City's use of the Public Rights of Way for any public purpose or for any purpose relating to the health, safety, and welfare of the residents and visitors of the City. A ROW User shall coordinate the placement of its Facilities in a manner that minimizes adverse impacts on Public Improvements, as reasonably determined by the City. Where placement is not otherwise regulated by the City, a ROW User shall locate Facilities in the Public Rights of Way with adequate clearance from such Public Improvements so as not to affect the Public Improvements.
- (D) As reasonably necessary, a ROW User shall relocate or adjust its Facilities located in a Public Right of Way for a Public Project. Unless the ROW User's Agreement expressly provides otherwise, such relocation or adjustment shall be performed by the ROW User, at its sole cost and expense, without any cost or expense to the City and shall be subject to the rules and regulations of the City. The ROW User shall, if no time is provided for in the Agreement, have 90 days after notice is given by the City within which to relocate or adjust its Facilities. Upon a showing of good cause, the City Engineer may extend the period of time within which a ROW User must relocate or adjust its Facilities.
- (E) It shall be the sole responsibility of a ROW User to take adequate measures to protect and defend its Facilities in the Public Rights of Way from harm and damage. Additionally, the ROW User must be a member of Kansas One-Call.
- (F) A ROW User shall keep and maintain accurate records and as-built drawings depicting the accurate location of all Facilities constructed, reconstructed, located, or relocated in the Public Rights of Way and shall provide that information to the City upon request.
- (G) All earth, materials, sidewalks, paving, crossings, utilities, Public Improvements, or improvements of any kind that are injured, damaged, or removed by a ROW User, while performing work in the Public Rights of Way, shall be fully repaired or replaced to their original condition within a reasonable time by the ROW User at its sole cost and expense and to the reasonable satisfaction of the City.
- (H) All use of the Public Rights of Way that, in any way, affects vehicular or pedestrian traffic shall be signed, barricaded, and otherwise safeguarded. In providing such signs, barricades, and other safeguards, the ROW User shall comply with its traffic control plan, the Manual for Uniform Traffic Control Devices (MUTCD), and all City policies, Administrative regulations promulgated pursuant to Article 8 of this Chapter, rules, and orders regarding the placement of signs, barricades, and other safeguards.
- (I) In connection with the construction, reconstruction, location, relocation, maintenance, repair, or operation of its Facilities in the Public Rights of Way, a ROW User shall comply with the provisions of the City's Street Tree Ordinance, Chapter 18, Article 1, of the City Code, as amended, regarding the care, pruning, trimming, and removing of trees located in or on the Public Rights of Way.
- (J) To the extent possible, a ROW User shall, in accordance with Chapter 5, Article 19 of the City Code, as amended, construct or locate its Facilities underground. Before a ROW User may employ any overhead or above-ground Facilities, it must comply with the terms of the Agreement or receive the prior written consent of the City. Where underground construction is made, the Facilities, appurtenances and improvements

thereto, and any necessary trenching shall be installed and maintained by the ROW User pursuant to City ordinances and at the ROW User's sole cost and expense.

- (K) No ROW User shall use above-ground markers or appurtenances related to its Facilities located in the Public Rights of Way, without first seeking written approval of the City. All above-ground markers or appurtenances shall comply with City rules, regulations, and conditions, including those of the Conservation of Historic Resources Code, Chapter 22 of the City Code, as amended. Any such above-ground markers or appurtenances so placed shall be unobtrusive.

16-906

**HEIGHT RESTRICTIONS.**

(Ord. 9681)

- (A) In order to protect the health, safety, and welfare of the community, as well as its aesthetics, no new pole, tower, or other above-ground Facility located by a ROW User in the Public Rights of Way shall, unless otherwise first approved by the City in writing, exceed the lesser of:
  - (i) 35 feet (35') for residential or collector streets;
  - (ii) 45 feet (45') for arterial streets; or
  - (iii) 72 inches (72") above the height of existing light poles or other poles along the Public Right of Way wherein the Facility is located.
- (B) The foregoing shall not apply to any existing pole, tower, or other above-ground Facility located in the Public Rights of Way prior to January 1, 2020. Any pole, tower, or other above-ground Facility in place prior to January 1, 2020, may be replaced or reconstructed to its existing height as of January 1, 2020.

16-907

**SHARING SPACE.**

Due to the limited amount of space available in the Public Rights of Way, the City strongly encourages all ROW Users to share space and Facilities when possible. For that reason, all ROW Users are encouraged to co-locate Facilities on existing infrastructure when possible. (Ord. 9681)

16-908

**ACCESS TO INFORMATION.**

In determining the amount of fees due and owing to the City under an Agreement hereunder, a ROW User shall use commercially reasonable efforts to ensure the accuracy of all records and submissions, including fee payments. A ROW User shall, upon written request of the City, make all books, records, documents, contracts, and agreements, as may reasonably be necessary for an effective audit, be opened to the City, including its duly authorized agents, auditors, and employees, for inspection and examination for the purposes of verifying the ROW User's accounting. The City shall bear the costs of any such audit, unless, however, the audit discloses that the ROW User owes the City money and has failed to use commercially reasonable efforts in rendering its accounting. In that case, the ROW User shall be responsible to the City for the reasonable costs of the audit in addition to any money due and owing to the City under this Article. (Ord. 9681)

16-909

**TAXES.**

A ROW User shall be solely responsible for the payment of all applicable taxes, *ad valorem* taxes, property taxes, fees, assessments, or other impositions levied on the ownership, use, and maintenance of its Facilities located in the Public Rights of Way. (Ord. 9681)

16-910

**REMOVAL OF FACILITIES.**

Upon the termination, for whatever reasons, of any Agreement governed by this Article, a ROW User shall remove its Facilities from the Public Rights of Way within a reasonable time

after such termination. It shall be the duty of a ROW User, immediately upon removal of its Facilities, to restore the Public Rights of Way from which said Facilities are removed to as good condition as the same were before said removal was effected and without any cost to the City. (Ord. 9681)

16-911

**ABANDONED FACILITIES.**

(Ord. 9681)

(A) ROW User owning Abandoned Facilities in the Public Rights of Way, must:

- (1) Remove the Abandoned Facilities and replace or restore any damage or disturbance caused by the removal at its sole cost and expense. The City may allow underground Facilities or portions thereof to be abandoned in place if the City determines that it is in the best interest of the public safety to do so. At such time, the City may, at its discretion, take ownership of such Abandoned Facilities abandoned in place;
- (2) Provide information to the City's satisfaction that the ROW User's obligations for the Abandoned Facilities have been assumed by another authorized ROW User; or
- (3) Submit to the City a proposal and instruments for transferring ownership of the Abandoned Facilities to the City. If the ROW User proceeds under this subsection, then the City may either accept the Abandoned Facilities, require the ROW User to remove the Abandoned Facilities, or require the ROW User to post a bond sufficient to reimburse the City for the reasonable anticipated costs of removing the Abandoned Facilities.

(B) Facilities of a ROW User, who fails to comply with subsection (a), and whose Facilities remain unused for a period of two years, shall be deemed Abandoned Facilities, unless, after the City has made a good faith effort to contact the ROW User, the ROW User establishes to the satisfaction of the City that the Facilities are not Abandoned Facilities.

(C) Abandoned Facilities are hereby determined to be a nuisance. The City may exercise any remedies or rights that it has at law or in equity, including but not limited to:

- (1) abating the nuisance, and then seeking restitution therefor from the ROW User that abandoned those Facilities;
- (2) taking possession and ownership of the Abandoned Facility and restoring it to use; or
- (3) requiring the ROW User, by injunction or otherwise, to abate or remove the nuisance.

16-912

**VACATION OF PUBLIC RIGHTS OF WAY.**

(Ord. 9681)

(A) If the City vacates a Public Right of Way which contains Facilities of a Service Provider and if the vacation does not require the relocation of the Service Provider's Facilities, then the City shall reserve to and for itself and all Service Providers having Facilities in the vacated Public Right of Way, an easement for the right to install, maintain, and operate said Facilities and to enter upon such easement at any time for the purpose of reconstructing, inspecting, maintaining, or repairing the same.

(B) If the City vacates a Public Right of Way which contains Facilities of a Service Provider, if the vacation requires the relocation of the Service



Provider's Facilities, and

- (1) if the vacation proceedings are initiated by the Service Provider, then the relocation costs shall be borne by the Service Provider.
- (2) if the vacation proceedings are initiated by the City, then the relocation costs shall be borne by the Service Provider unless the City and Service Provider agree otherwise in writing.
- (3) if the vacation proceedings are initiated by a Person other than the Service Provider, then the relocation costs shall be borne by the Person requesting the vacation.

16-913

**UNLAWFUL ACTS.**

- (A) It shall be unlawful for any Person to locate private Facilities in the Public Rights of Way on more than a Temporary basis without the prior written consent of the City, either through an Agreement or other arrangement with the City. (Ord. 9681)
- (B) It shall be unlawful for any Person to violate any provision of this Article. (Ord. 9681)

16-914

**MUNICIPAL OFFENSE.**

- (a) Engaging in any of the unlawful acts set forth at Section 16-913 shall be municipal offense. Each violation shall constitute a separate municipal offense. Each day of violation shall also constitute a separate municipal offense. Any violation of Section 16-913 shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a minimum fine of \$250.00 and a maximum fine of \$500.00 for each municipal offense. (Ord. 9905)
- (b) No Person shall be charged with nor convicted of a municipal offense under this Section unless (i) the City shall first have given said Person a Notice of Violation and a reasonable time within which to cure any alleged defect or unlawful act and (ii) said Person fails to cure the alleged defect or unlawful act within the time allotted and in accordance with the Notice of Violation. For the purposes of this section, in emergent situations, a reasonable time to cure shall -- unless the emergency requires immediate remediation -- be three days. In all other situations, a reasonable time to cure shall be thirty days. (Ord. 9905)

**ARTICLE 9A. FRANCHISEES' PRIVATE FACILITIES  
LOCATED IN PUBLIC RIGHTS OF WAY**

16-9A01

**PURPOSE.**

The Governing Body finds that, in order to advance the health, safety, and welfare of the residents of the City of Lawrence, Kansas, it is necessary to regulate certain activities, including franchisees' location of private facilities in public rights of way. (Ord. 9682)

16-9A02

**APPLICABILITY.**

This Article shall apply to those franchisees of the City of Lawrence, Kansas, that have no Right of Way use provisions in their contract franchise or franchise

ordinance with the City, or that have Right of Way use provisions that are less stringent than those set forth in Article 9 of the City Code. (Ord. 9682)

16-9A03

**FRANCHISEES' LOCATION OF PRIVATE FACILITIES IN PUBLIC RIGHTS OF WAY.**

In locating private Facilities in the Public Rights of Way, all franchisees 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 powers. In addition, in locating private Facilities in the Public Rights of Way, all franchisees shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City relating to permits, fees, sidewalk and pavement cuts, location and relocation of Facilities, construction coordination, beautification, tree care, above-ground markers, Complete Streets policies, and the like. Furthermore, all franchisees shall be subject to the provisions of Chapter 16, Article 8 of the City Code, as amended, governing Temporary uses of the Public Rights of Way, and Chapter 16, Article 9 of the City Code, as amended, governing private Facilities located in the Public Rights of Way on more than a Temporary basis. (Ord. 9682)

**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, Ord. 9494)

- (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. 6<sup>th</sup> Street, 31<sup>st</sup> Street, and the 23<sup>rd</sup> 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 85<sup>th</sup> 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 Director of the Municipal Services and Operations Department 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, Ord. 9390)

- (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)
- (D) In addition to the exceptions listed in subsection (a), a west-bound right-in only access point on the north side of West 6th Street between Wakarusa Drive and Congressional Drive shall be allowed, subject to the necessary approvals of the City and the Kansas Department of Transportation. (Ord. 9390)