



**The City of Fairway,  
Right of Way  
Restoration Manual**

# Manual of Infrastructure Standards

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    (PROWAG)

# Manual of Infrastructure Standards

## Definitions

For purposes of this Manual, the following words or phrases shall have the meaning given herein:

**AB-3** is a material designation for a graded combination of limestone aggregate.

**Abandoned Facilities** means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.

**AE** shall mean air-entrained as it pertains to concrete and percentage of air-entrained admixture.

**Affiliate** means any person controlling, controlled by or under the common control of a **service provider**.

**AIMS** shall mean Johnson County Automated Information Mapping System.

**Applicant** means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.

**APWA Specifications** means The American Public Works Association Specifications and Criteria, current edition and its supplements.

**Area of Influence** means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.

**ASTM** shall mean American Society for Testing and Materials, also known as ASTM International.

**BMP's** shall mean Best Management Practices.

**City** means the City of Fairway, Kansas

**Community Tree Manager** means the Director of Public Works or his designee.

**Construct** means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

**Covered property** means real property located within the incorporated boundaries of the City that is owned, leased, or rented by the City, including all parkland and green space; and all easements and rights-of-way within the incorporated boundaries of the City that are used, in whole or in part, for a public road or highway.

**Day** means calendar day unless otherwise specified.

**Diameter at breast height (DBH)** means the diameter in inches of a tree as measured through the main trunk at a point four and one-half feet (4.5') above the natural grade level.

**Director of Public Works or Public Works Director** shall mean the person with that title as designated by the City of Fairway, Kansas. Furthermore, it may also be the person designated by the Public Works Director.

**Drip line** means a vertical line run through the outermost portion of the canopy of a tree and extending down to the ground.

**Emergency** means a condition that (a) poses a clear and immediate danger to life or health or of a loss of property; or (b) requires immediate repair or replacement in order to restore service to a user.

**EPA** shall mean the Environmental Protection Agency.

**Excavate** means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.

**Excavation Fee** means the fee charged by the City for each street or pavement cut which is intended to recover the costs to the City associated with construction and repair activity of the ROW-user and its contractors and/or subcontractors.

**FCC** means Federal Communications Commission.

**Facility** means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, or other equipment.

**Feature tree** means any tree that has a DBH of greater than thirty inches (30"). Trees that have received special care provided by the City for the treatment or prevention of disease or infestation may also be considered a feature tree.

**Governing Body** means the Mayor and the City Council of the City of Fairway, Kansas.

**Governmental Entity** means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States or of the United States.

**HDD** shall mean Horizontal Directional Drilling.

**IMSA** shall mean International Municipal Signal Association.

**Kansas One-Call** is the statewide notification system established pursuant to the Kansas Underground Utility Damage Prevention Act, K.S.A. 66-1801, *et seq.*

**KCMMB Specifications** means The Kansas City Metro Materials Board Specifications, current edition.

**KCC** means the Kansas Corporation Commission.

**KDHE** means the Kansas Department of Health and Environment.

**KDOT** shall mean Kansas Department of Transportation.

**MSDS** shall mean Material Safety Data Sheet(s).

**MUTCD** means the latest edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices.

**NPDES** shall mean the National Pollution Discharge Elimination System.

**OSHA** shall mean Occupational Safety and Health Administration.

**Owner** means the person who has the legal title to the property or lessee, agent or other person acting on behalf of the titleholder with authorization to do so.

**Parkway** means the area between a property line and the street curb, sometimes called boulevard, tree-shelf or snow-shelf.

**Pavement** means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.

**Permit and Inspection Fee** means the fee charged by the City to recover its cost incurred for right-of-way management including, but not limited to, costs associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Ordinance.

**Permittee** means any person to whom a right-of-way permit is issued to excavate a right-of-way.

**Person** means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

**Protected tree** means any tree that has a DBH of thirty inches (30") or less.

**Protective/temporary fencing** means a snow fence, chain-link fence, orange vinyl construction fence or other similar fencing with a minimum four foot (4') height.

**Public Improvement** means any project undertaken by the City for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, streetlights, public facilities, parks, public easements, recreational facilities, irrigation system, public improvements, public buildings or public lands.

**Public Lands** means any real property of the City or any interest therein that is not right-of-way.

**Registration** means the application process of an applicant, the approval of the application by the City, and the authorization of the applicant to use any portion of the right-of-way within the City to provide service both within and beyond the City limits.

**Repair** means the temporary construction work necessary to make the right-of-way useable.

**Repair and Restoration Costs** means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.

**Replacement tree** means a tree from the replacement tree list with a preferred caliper size of two and one-half inches (2.5") but a minimum of two inches (2"), measured 12 inches (12") from the ground and height of not less than seven feet (7') when planted.

**Restoration** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than that which existed before the commencement of the work.

**Right-of-Way** means the area on, below or above public streets, alleys, bridges and parkways.

**Right-of-Way Permit** means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.

**Routine Service Operation** means a work activity that makes no material change to the facilities and does not disrupt traffic.

**ROW** shall mean right-of-way.

**ROW-User** means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities thereon, including, but not limited to, landowners (residents) and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an agreement pursuant to K.S.A. 12-2901, *et seq.*, with the City regarding the use and occupancy of the City's right-of-way.

**Service** means a commodity provided to a person by means of a system such as a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, open video systems, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewers.

**Service Provider** means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons owning, possessing, or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service.

**Street** means the pavement and sub-grade of a City residential, collector or arterial roadway.

**Tree removal authorization** means permission granted by the City to remove a protected tree or a feature tree.

**Tolerance Zone** shall mean the minimum acceptable horizontal and vertical separation between the existing utility and the proposed utility or structure.

**USDA** shall mean the United States Department of Agriculture.

**WB-1** means the traffic control device designation "Bump" as designated in the MUTCD.

## PUBLIC RIGHT-OF-WAY USE AND EXCAVATION

### Purpose

The purpose of this article is to:

- i. To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;
- ii. To clarify and regulate conditions of occupancy and construction for those ROW users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW users throughout the country;
- iii. To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;
- iv. To treat each ROW user equitably and in a competitively neutral and nondiscriminatory manner with considerations that may be unique to the technologies and situation of each particular ROW user;
- v. To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health, safety and welfare;
- vi. To comply with State and federal legislation.

### Applications:

Right-of-way Topics covered in this manual include:

- i. Pre-construction Requirements
- ii. Construction Requirements
- iii. Excavation
- iv. Restoration
- v. Concrete Construction / Replacement
- vi. Street Repair
- vii. Horizontal Directional Drilling Guidelines
- viii. Safety
- ix. Dumpster locations
- x. Work Requirements and Inspections
- xi. Other ROW topics

# 1. Pre-construction Requirements

## 1.1. Sketch Submittal:

1.1.1. Permit Applications shall be accompanied by a location sketch. Information shown shall include at a minimum:

- 1.1.1.1. Scalable drawing showing extents of pavement, curb and sidewalk, building foundation, and a graphic scale and north arrow (such as shown on the plot plan for the property);
- 1.1.1.2. The property address, permittee's name and phone number, labels for the adjacent street and an indication of the direction to and name of the nearest cross street;
- 1.1.1.3. Location, size and material of proposed improvements;
- 1.1.1.4. For an individual site excavation permit, the location of the existing utility mains and the location and presumed size of the excavation;
- 1.1.1.5. Sketch shall be legible and line weights and styles, symbols and abbreviations shall be distinct and widely recognized by practitioners in the Kansas City Metropolitan Area.

1.1.2. Multiple ROW or Permit Requests Exceeding 100 Lineal Feet shall be accompanied by a location drawing prepared by a Kansas Licensed Professional Engineer. Information shown shall include at a minimum:

- 1.1.2.1. Scalable drawing showing extents of pavement, curb and sidewalk, building foundation, and graphic scale and north arrow (such as shown on the plot plan for the property);
- 1.1.2.2. The property address, permittee's name and telephone number, labels for the adjacent street and an indication of the direction to and name of the nearest cross street;
- 1.1.2.3. Location, size and material of proposed improvements;
- 1.1.2.4. The location of the existing utility mains and other subsurface structures, location and presumed size of the excavation;
- 1.1.2.5. Drawing shall be legible and line weights and styles, symbols and abbreviations shall be distinct and widely recognized by practitioners in the Kansas City Metropolitan Area

## 1.2. Design Review:

Construction affecting more than 100 lineal feet of right-of-way shall be subject to a design review.

- 1.2.1. Coordination: Applicant shall demonstrate that all registered service providers have had 14 days to review and comment on the plans and their comments have been reasonably addressed.
- 1.2.2. Horizontal Separation: The horizontal separation between the facility and deeper utilities such as water, sanitary sewer or

storm sewer shall be four foot or ½ of the deeper utilities' depth, whichever is greater.

1.2.3. Projects involving Horizontal Directional Drilling shall follow the design guidelines in Section 8.

1.2.4. Plan Content: the drawings shall include the following minimum content:

1.2.4.1 Base map shall be scalable map showing extents of pavement, curb, sidewalk, above ground utility appurtenances and other above ground improvements.

1.2.4.2 Marked location of existing underground facilities. Underground facilities shall be marked from record drawings, visible above ground appurtenances, or by tracing electric signal in metallic line or tracer wire.

1.2.4.3 Accurate horizontal location of improvements including bulk dimensions of conduit, mains or other buried lines.

1.2.4.4 Vertical information where necessary to identify and avoid potential conflicts.

1.2.4.5 Property lines, right-of-way lines and construction limits.

1.2.4.6 Traffic control plan and erosion control plan.

1.2.5. Plan Presentation: Plans shall be neat, orderly, and legible and shall comply with the following format and content requirements:

1.2.5.1 Employ distinct line types, symbols and notes to indicate different types of facilities. Include a drawing legend.

1.2.5.2 Sheet size shall be a minimum 11" by 17" to a maximum 24" by 36".

1.2.5.3 Name of facility owner and legend of symbols and abbreviations shall be on each sheet.

### **1.3. Preconstruction Documentation:**

Document the existing conditions of the improvements along the route that are scheduled to remain. Provide copies of preconstruction photos or video tape to the City of Fairway on request.

### **1.4. Notification:**

Permittee/Right-of-way user shall provide notification to impacted property owners or tenants:

1.4.1. Applicants for permits and multiple ROW permits must comply with these notification requirements.

1.4.2. Notice shall include:

- 1.4.2.1 Work being completed and how long work will continue.
  - 1.4.2.2 Whether streets will be closed or remain open to traffic.
  - 1.4.2.3 Whether any utilities will be out of service during construction.
  - 1.4.2.4 The name and telephone number of the superintendent or project manager or person who has authority over the job site, schedule, workers and subcontractors on the worksite.
  - 1.4.2.5. Subject to City's discretion for a project more than 100 linear feet of right-of-way, provide invitation and opportunity for residents and businesses to review project plans.
- 1.4.3. Notice should be a door hanger placed 48 hours prior to commencement of work. The City of Fairway shall be given a copy of the notice and distribution list.
- 1.4.4. Notice should be given to all residents and business within 200' of the work, on both sides of the street. If the street is to be completely closed for any portion of the work, notice should be given to all residents and businesses in the entire block.

## **2. Construction Requirements:**

### **2.1. Times of Operation:**

All work on the ROW shall remain within the following times in order to minimize traffic interference and keep the peace and quiet of the neighborhood. Except with the permission of the Director of Public Works, non-emergency work shall be restricted as follows:

- 2.1.1. Work on arterial and collector streets may not be performed during the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m.
- 2.1.2. Work may be performed during the hours of 7:00 a.m. to 9:00 p.m. Monday through Friday and 9:00 a.m. to 9:00 p.m. on Weekends and Holidays aside from the exceptions in Section 2.1.1.

### **2.2. Service Disruptions:**

The Permittee shall not disrupt the utility service to any structure unless:

- 2.2.1. Separate notification has been given to the tenant / owner of the structure on both the day before and the day of the disruption.
- 2.2.2. Disruption is limited to the hours between 9:00 a.m. and 4:00 p.m. or other times as negotiated with the structure's tenant / owner.

### **2.3. Vehicle Marking:**

Any vehicle or mobile equipment used by the permittee in connection with excavation of, disruption of, or any work in the right-of-way shall be clearly identified with the name of the permittee or the person doing the work painted or

otherwise durably marked on both sides of the vehicles or equipment, in plain letters, not less than two inches high and not less than one-fourth inch stroke.

#### **2.4. Sediment and Erosion Control:**

The permittee shall utilize temporary erosion control methods on the project site to prevent mud and debris from entering the roadway or the storm/sanitary system and to prevent damage to other properties. The forms of temporary erosion control shall conform to APWA Section 5108 "Sediment Control," as amended and the APWA BMP Manual. A temporary erosion control plan shall be provided, prior to construction, for approval by the Director of Public Works.

#### **2.5. Tracer Wire:**

New non-metallic underground facilities placed in the right-of-way shall be accompanied by tracer wire as provided in section 5.8.1. and 6.9.2. This requirement applies to new facilities installed in excess of 100 feet.

8.9.1. If conduit or innerduct is used, the tracer wire can be pre-installed or blown in after the conduit or innerduct installation.

8.9.2. If conduit or innerduct is not used then the tracer wire shall be installed as integral part of the facility installation.

8.9.3. Tracer wire shall be accessible at least every three hundred feet. Access points may include valve boxes, hand-holes, manholes, vaults or other covered access devices. Access point covers should be clearly marked with the type of facility.

#### **2.6. Damage to Utilities:**

Any ROW-user that damages an underground facility, power pole or tracer wire shall immediately notify the damaged facility owner and the Director of Public Works for the City of Fairway. The owner of the damaged facility may conduct, direct, oversee or specify how the repair is to take place. Permittee shall coordinate and cooperate with the owner of the damaged facility

### **3. Excavation in Unpaved Portion of Right of Way**

#### **3.1. Trenching:**

For trenching details see APWA 2600 "Storm Sewers"

#### **3.2. Bracing and Shoring:**

The Contractor or Permittee shall provide adequate bracing, sheeting, and shoring, as necessary, to provide protection for the workers and the work. All bracing, sheeting, or shoring shall fully conform with the APWA Specifications and the OSHA Technical Manual (OTM).

### **3.3. Backfill:**

General embankment and backfill shall conform to APWA 2100 “Grading and Site Preparation.” For pipe or conduit backfill standards see APWA 2600 “Storm Sewers”

## **4. Excavation in Paved Portion of Right of Way**

### **4.1. Trenching:**

For trenching details see APWA 2600 “Storm Sewers”

### **4.2. Sawing Pavement:**

Prior to excavating sidewalks and streets, the pavement shall be sawed to the width of the intended trench a minimum of two inches deep. After the trench is excavated, utility work and backfill is complete; a final vertical saw cut shall be made completely through the pavement. This final saw cut shall be made 12 inches wider on each side of the trench than the trench width at the widest point. A similar saw cut shall be made at the beginning and end of the trench. This requirement is to provide a 12 inch undisturbed subgrade to support the repair pavement. All broken pavement shall be removed from the site and not placed in the backfill.

### **4.3. Bracing and Shoring:**

The Contractor or Permittee shall provide adequate bracing, sheeting, and shoring, as necessary, to provide protection for the workers and the work. All bracing, sheeting, or shoring shall fully conform with the APWA Specifications and the OSHA Technical Manual (OTM).

### **4.4. Backfill:**

General embankment and backfill shall conform to APWA 2100 “Grading and Site Preparation.” For pipe or conduit backfill standards see APWA 2600 “Storm Sewers.” Additional paving information can be referenced in APWA 2200 “Paving.”

For sidewalks and streets, quick-setting, removable flowable fill shall be placed above embedment material and up to the bottom of the surrounding pavement, unless otherwise authorized by the Director of Public Works. Prior to any placement of flowable fill, a mix design shall be submitted for approval and be on file in the Public Work’s office.

### **4.5. Compaction Testing:**

For compaction specifications follow APWA 2100 “Grading and Site Preparation”

When the Permittee is required by the Director of Public Works to employ an approved testing laboratory said testing laboratory shall certify the proper

backfilling on any street cut that has been created by the Contractor or Utility covered under the issued permit. The Permittee shall pay all costs associated with such testing. The compaction testing provision may be waived by the Public Works Director when removable flowable fill is used as backfill. The Permittee shall provide a copy of the compaction test results to the Director of Public Works prior to the final restoration inspection. Start of the two-year maintenance period shall not commence until the compaction test results have been received and approved by the Director of Public Works. If test results do not meet specified compaction requirements, permittee shall be required to re-excavate, remove and re-compact backfill, employ a testing laboratory, provide a copy of the compaction test results, and repair pavement to the reasonable satisfaction of the Director of Public Works.

#### **4.6. Plating the Excavation:**

Plating may not be used without the consent of the Director of Public Works. The ROW user will be fined \$50 per day for each plate that is left on a paved surface for longer than 72 hours without prior, written permission from the Director of Public Works. During the months of November through March, plates shall be imbedded into the pavement so that it is flush with the top of the driving surface. This will allow for snow removal. Any excavation left overnight on any thoroughfare or collector street shall be adequately covered with a steel plate. The plate shall be securely anchored, and all edges of the plate shall be ramped with hot mix asphaltic concrete. If cold weather prohibits the availability of hot mix asphaltic concrete, cold mix may be used, so long as it is maintained in a smooth and drivable condition. Permittee may be required to post a WB-1 "Bump" advance warning sign with flashing light a minimum of 250 feet ahead of a steel plate. See also Traffic Control. Any excavation left overnight on any residential street shall either be plated as stated above or backfilled up to the surface of the street. Under extenuating circumstances and with the approval of the Director of Public Works, if an excavation cannot be backfilled, and must be left unattended overnight, the excavation shall be adequately covered. If temporary surfacing material is used, it shall be maintained in a smooth and drivable condition. No excavation shall be left unattended in excess of 72 hours, without permission of the Director of Public Works. The Permittee assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or warning lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

## **5 Restoration of Unpaved Right-of-Way:**

### **5.1 Soil Backfill:**

The top six inches of topsoil shall be removed and preserved. When construction is complete, the preserved topsoil shall be placed on the top of the finished surface. All soil backfill material above the embedment area shall be clean soil free from aggregate, woody material, trash, pavement material, or any other debris. When the original topsoil cannot be restored, the remaining six inches from

the surface of the trench or excavation shall be composed of topsoil free from clods, rocks, trash and other debris and shall be suitable for supporting vegetation. The area shall be prepared such that sodding may be placed on bare soil. This will consist of cultivating, fine grading, removing clods, surface stones of one half inch diameter or larger, and weeds/old vegetation.

## **5.2 Fertilization:**

Fertilization is to follow guidelines in APWA 2400 “Seeding and Sodding”

## **5.3 Sodding:**

Sodding materials and construction details should follow APWA 2400 “Seeding and Sodding”

Disturbed turf in developed areas shall be sodded. Seeding will be allowed only with the consent of the Director of Public Works or his designee. Sod shall be replaced with materials consistent with APWA or with grasses that match the existing sod type when approved by the Director of Public Works.

## **5.4 Seeding: Only if Approved by the Director of Public Works.**

Seeding may not be used in lieu of sodding unless approved by the director of Public works. When approved, seeding and mulch specifications shall be in compliance with APWA 2400 “Seeding and Sodding”

## **5.5 Public Tree Protection\*:**

\*State law reference—Authority to regulate trees on public property, K.S.A. 12-3201.

### **5.5.1. Enforcement and penalty**

The Community Tree Manager or his designee has the authority to enforce the terms and conditions of this article. Any person, firm, corporation, agent, or employee thereof who violates any provision of this article shall be assessed an administrative fine of not more than five hundred dollars (\$500.00) for each incident. The unlawful injury, destruction or removal of each protected tree shall be considered a separate incident. In addition, all violations shall be required to meet the requirements outlined under tree replacement or the Fairway Tree Fund. If any administrative fine or assessment to the Fairway Tree Fund shall remain unpaid thirty (30) days after receipt of notice of the imposition or assessment, a lien may be imposed on the property for the amount of the fine or assessment.

(Prior Code, § 13-707; Ord. No. 1565, § 6, 2-10-2014)

### **5.5.2. Tree protection**

Prior to construction the following procedures shall be followed on all types of construction projects. It is the responsibility of the developer and/or contractor and his subcontractors to take appropriate action to preserve all protected trees and feature trees during all phases of construction.

- 5.5.2.1. Protective/temporary fencing. Protective/temporary fencing shall be required for all protected trees and feature trees to prevent infringement on the root system from any construction-related activities. The protective fencing must encompass no less than seventy-five percent (75%) of the drip line of the protected tree, excluding any preexisting structures, foundations, slabs, roadways, highways, and driveways. All fencing must appear on construction documents and shall be installed prior to any other construction-related activity. The fencing shall remain in place until all other construction-related activity has been completed.
- 5.5.2.2. The Permittee shall be responsible for watering trees daily or as often as necessary throughout construction period.
- 5.5.2.3. Prohibited activities. Prohibited activities adjacent to trees shall include the following:
- i. Material storage. No materials for construction or waste accumulated due to excavation, demolition, or construction shall be placed under the canopy of any protected tree or feature tree.
  - ii. Equipment cleaning/liquid disposal. No equipment shall be cleaned or other materials or liquids deposited or allowed to flow over land within the limits of the canopy of a protected tree or a feature tree. This includes, without limitation, paint, old solvents, asphalt, concrete, mortar or similar materials.
  - iii. Tree attachments. No signs, wires or other attachments other than those of a protective nature shall be attached to any protected tree or feature tree.
  - iv. Vehicular traffic. No vehicular and/or construction equipment traffic or parking shall take place within the limits of the protective fencing.
  - v. Grade changes. No grade changes in excess of two inches (2") (cut or fill) shall be allowed within the limits of the drip line of any protected tree or feature tree.
  - vi. New impervious paving. No new paving with asphalt, concrete or other impervious materials in a manner which may, in the reasonable discretion of the Community Tree Manager, reasonably be expected to severely damage or kill a tree shall be

placed within the limits of the drip line of a protected tree or a feature tree.

- vii. Exceptions. Notwithstanding anything contained in this article to the contrary, this section shall not prohibit work that is necessary to install, maintain, repair, replace or remove utility lines or to activity that merely disrupts the surface of the ground.

(Prior Code, § 13-704; Ord. No. 1565, § 4, 2-10-2014)

### 5.5.3. Tree removal

5.5.3.1. Authorization. No person, directly or indirectly, shall cut down, destroy, move or remove, or effectively destroy, any protected tree or feature tree located on covered property without first obtaining tree removal authorization. Generally, if a tree removal authorization is granted, the applicant shall replace the protected trees being removed with replacement trees. A sufficient number of replacement trees shall be planted so that the total caliper of the replacement trees is equal to the caliper of the tree removed as measured at DBH. If, for whatever reason, planting replacement trees is deemed infeasible, the owner shall make payment to the Fairway Tree Fund.

5.5.3.2. Process. Owners must request tree removal authorization in writing to the Community Tree Manager. If the removal is in conjunction with a construction project, the written request must be submitted at the same time as the building permit application.

5.5.3.3. Authority to review; approval. The Community Tree Manager shall be responsible for the review and approval of all requests for tree removal authorizations submitted in accordance with the requirements specified in this article. Upon receipt of a completed application, the Community Tree Manager may take one (1) of the following actions:

- i. Deferral of decision. The Community Tree Manager may defer the approval of a tree removal authorization to the Tree Board for any reason. Any decision made by the Tree Board may be appealed to the City Council. All decisions made by the City Council shall be final.
- ii. Approval. The Community Tree Manager shall issue tree removal authorization provided the owner has agreed in writing to either meet the

tree replacement criteria or make payment to the Fairway Tree Fund.

- 5.5.3.4. Authorization expiration. Tree removal authorization issued in connection with an approved building permit or site plan shall be valid for the period of that building permit's or site plan's validity. A tree removal authorization not issued in connection with an approved building permit or site plan shall become void after one hundred and eighty (180) days after the date of approval.
- 5.5.3.5. Authorization for removal of a feature tree. A feature tree may only be removed with approval from the City Council provided that one (1) of the following exceptions is met. The burden of qualifying the exceptions is upon the applicant to show that the following criteria have been met:
  - i. The tree is dead.
  - ii. The tree is diseased or dying and constitutes a threat to healthy trees, to property, or to public safety.
  - iii. Removal of the tree is necessary for construction, development, or redevelopment, and:
    - a. All reasonable efforts have been made to avoid removing the tree for construction/development and removal cannot be avoided.
    - b. The presence of the tree places undue financial burden on the applicant.
    - c. No other reasonable accommodations can be made to preserve the tree.

(Prior Code, § 13-705; Ord. No. 1565, § 5, 2-10-2014)

## **6 Concrete Construction / Replacement:**

### **6.1 General:**

All concrete used in construction of curbs, sidewalks, sidewalk and driveway entrances shall be classified as KCMMB 4K having a minimum 28 day compressive strength of 4000 pounds per square inch. An approved concrete mix design can be found on-line at the KCMMB website: <http://www.kemmb.org/>.

### **6.2 Concrete Curb and Gutter:**

Concrete Curbs shall be constructed or removed and replaced in accordance with the requirements of APWA Section 2209 "Curbing". The only exceptions are:

- 6.2.1 Concrete used shall be as specified above in "General".

- 6.2.2 Control Joints shall be placed between 10' and 15'. When adjacent to sidewalk, joints shall be in line with sidewalk joints with 10' to 15' spacing.
- 6.2.3. If removed curbs exceed 35 feet in length, then a slip-form curb machine shall be utilized. This requirement may be waived at the discretion of the Director of Public Works.
- 6.2.4. Wherever the term City Engineer is used, this shall mean Public Works Director.

**6.3. Concrete Sidewalks and Sidewalk Ramps:**

Concrete Sidewalks, Sidewalk Ramps, inlet tops, and any other flatwork shall be constructed or removed and replaced in accordance with the requirements as stated in APWA Section 2301 “Standard Sidewalks, Sidewalk Ramps, Driveways, and Bicycle/Pedestrian Paths” and shall comply with the latest requirements of the Public Right of Way Accessibility Guidelines (PROWAG). The only exceptions are:

- 6.3.1. Concrete used shall be as specified above in “General”.
- 6.3.2. Sidewalk contraction joints shall align with the curb contraction joints when the curb is adjacent to the sidewalk.
- 6.3.4. Sidewalks at driveway entrances shall be six inches thick as indicated on the “Standard Detail for Driveway Entrances”.
- 6.3.5. The detectable warning surface shall be tactile panels that are brick red in color and shall comply with PROWAG guidelines.
- 6.3.6. Concrete joints for sidewalks and sidewalk ramps shall be finished with a float and broomed. All edges shall be finished with a smooth edging tool to give a "picture frame" appearance.

**7. Street Repair**

**7.1. General:**

In addition to its own street cuts, permittee must also restore any area within five feet of the new street cut that has been previously excavated, including the paving and its aggregate foundations. The Director of Public Works may require the repaving of an entire lane in an instance of long longitudinal cuts.

The majority of streets in the City are constructed of bituminous materials, consisting of: full depth asphaltic concrete, asphaltic concrete over aggregate base, or seal coat over asphaltic concrete; Therefore, asphaltic concrete street repair shall be performed by either Type I or Type II method as described below, unless otherwise approved by the Director of Public Works.

**7.2. Asphaltic Concrete Street Repair:**

Asphaltic concrete street repair and restoration shall be performed by one of the following methods:

- Type I            Asphaltic Concrete Street Repair, 8” High Early Strength Concrete Bench with a 2” Asphaltic Concrete Surface

Type II Asphaltic Concrete Street Repair, Full Depth Asphaltic Concrete – Only if allowed with approval from the Director of Public works.

7.2.1. Type I: Shall conform to APWA Specifications, Section 2200

### **7.3. Portland Cement Concrete Street Repair:**

This option shall only be used for the repair of an existing full depth Portland Cement Concrete Street. A mix design shall be approved by the Director of Public Works and will be filed in the office of the Director of Public Works prior to placement. This new concrete pavement surface shall be flush with existing street surface.

### **7.4. Pavement Markers:**

Permittee shall be responsible for the replacement of permanent pavement markings on all roadways which have been removed or disturbed due to any street cut. Permanent pavement markings shall be installed immediately after the roadway surface is complete unless prior approval is received by The Director of Public Works. If permanent pavement markings may not be installed immediately, temporary pavement markings shall be installed. The contractor shall make every effort to remove the temporary pavement markings and install permanent pavement marking within 48 hours. With approval of The Director of Public Works, the duration of temporary pavement markers may be extended. Under no circumstance should the temporary pavement markings be in place for more than 2 weeks. All pavement markings are to be in accordance with APWA Specifications 2306, "Pavement Markings."

## **8. Horizontal Directional Drilling Guidelines**

### **8.1 General:**

Horizontal Directional Drill shall be at a minimum of four feet depth under any street.

### **8.2. Introduction:**

This section is to be used as a basic guide for Horizontal Directional Drilling (HDD) applications performed within the limits of the City of Fairway. The overall purpose is to provide guidelines that will help ensure public safety and protection of existing underground facilities. This protection effort is made up of many different aspects and each one has been addressed within this section. This section is not intended to be a step-by-step procedure manual, but rather a collection of fundamental elements of the HDD process.

By following these guidelines, all involved can better assure that all reasonable steps have been taken to ensure public safety and to protect existing underground facilities.

**8.3. Design Guidelines:**

Prior to submitting an application for a Right-of-Way Permit that will involve HDD, the Permittee, or its designer shall undergo a thorough design process. At a minimum, the Permittee shall complete the following tasks prior to submitting a Right-of-Way application.

- 8.3.1. Prepare or obtain scaled mapping for the planned installation that include the following:
  - i. Existing surface facilities and improvements,
  - ii. Any indication of underground facilities or improvements.
- 8.3.2. Collect existing underground utility information, and include:
  - i. The horizontal location of all know substructures (expected)
  - ii. The depth of all known substructures (whenever possible)
- 8.3.3. Obtain right-of-way information through Johnson County AIMS, survey records or other sources.
- 8.3.4. Obtain general and/or specific geotechnical information,
  - i. including USDA Soil Conservation Service Data for the project area
  - ii. and possibly including site-specific geotechnical sampling and analysis.
- 8.3.5. Prepare construction plans using the information noted above including
  - i. location of all planned improvements,
  - ii. existing underground utility information,
  - iii. right-of-way limits and property ownership information.

In addition to the design requirements listed previously, the Permittee (or designer) shall employ the following practices:

- 8.3.6. The minimum horizontal and vertical clearance requirements when determining the HDD alignment to include road setbacks, existing surface features, exiting underground utilities and underground facilities.

- 8.3.7. Product pipe and reamer diameter requirements:

Product Diameter.....	Reamer Diameter
<8”.....	Product + 4”
8” to 24”.....	Product * 1.5
>24”.....	+ 12”

- 8.3.8. The bore geometry for the given ground profile including bore length(s) and depth requirements, bending radii for the final product pipe: typically 100 foot radius per 1 inch product diameter with 600' to 1000' radius minimums depending on subsurface materials and requirements.
- 8.3.9. The drilling equipment for the given geotechnical conditions, geometry and final product diameter including thrust and pullback ratings, mud motors vs. jetting heads, and wireline vs. walkover tracking systems.
- 8.3.10. The equipment and material handling requirements including drilling fluid and drilling containment, drill operation and final product staging.
- 8.3.11. The material strengths, capacities and coupling methods.

**8.4 Construction Safety Guidelines:**

Prior to performing work involving HDD under a right-of-way permit, the Permittee or Contractor shall consider the following safety guidelines:

- 8.4.1. Perform all operations in compliance with OSHA guidelines and insure that all personnel are properly trained and equipped to work in the public right-of-way.
- 8.4.2. Insure that the approved traffic control plan is implemented and followed at all times.
- 8.4.3. Insure that all storm water pollution prevention measures (required with permit application) are implemented and followed at all times.
- 8.4.4. Insure setbacks, offsets and clearances are maintained.
- 8.4.5. Insure that utility One-Call and other utility coordination have been met.
- 8.4.6. Positively identify (by potholing) all crossed utilities that are expected to be
  - i. above and within 5 feet of the proposed vertical alignment,
  - ii. below and within 3 feet of the proposed vertical alignment
  - iii. and as required by the Director of Public Works.
- 8.4.7. Positively identify (by potholing) all parallel utilities at the beginning and end of all bores and
  - i. every 200 feet if it is within 5 feet of the proposed alignment,
  - ii. every 50 feet if it is within 3 feet of the proposed alignment
  - iii. and as otherwise required by the Director of Public Works.
- 8.4.8. The HDD Contractor shall have a planned response in the event of a utility strike including utility notification and
  - i. avoiding electrocution in the event of an electric strike,
  - ii. avoiding combustion in the event of a gas line strike,
  - iii. avoiding contamination in the case of a sewer strike.

### **8.5. Drilling Fluid Containment and Disposal Requirements:**

The HDD Contractor shall contain, handle and dispose of drilling fluids in accordance with the following requirements:

- 8.5.1. All drilling fluid and fluid additives shall be disclosed and MSDS shall be provided to the Director of Public Works on request.
- 8.5.2. Excess drilling fluid shall be confined in a containment pit at the entry and exit locations until recycled or removed from the site.
- 8.5.3. Precautions shall be taken to insure that drilling fluid does not enter roadways, streams, municipal storm or sanitary sewer lines, and/or any other drainage system or body of water.
- 8.5.4. Unintended surfacing of drilling fluid shall be contained at the point of discharge and recycled or removed from the site.
- 8.5.5. Drilling fluids that are not recycled and reused shall be removed from the site and disposed at an approved disposal site.
- 8.5.6. Drilling fluids shall be completely removed from the construction site prior to back filling or restoring the site.
- 8.5.7. Collection, transportation and disposal of the drilling fluids shall be environmentally safe and comply with local ordinances and Federal Government Regulations.

### **8.6. Construction Requirements:**

All construction work shall be performed in accordance with the “Municipal Code of the City of Fairway” and “Manual of Infrastructure Standards for Right-of-Way Restoration”. For all work involving HDD under a right-of-way permit, the Permittee or Contractor shall perform the following:

- 8.6.1. Prior to the construction the HDD Contractor shall familiarize himself with the work area and the technical requirements of the plans.
- 8.6.2. The Permittee or Contractor shall establish construction marking/staking prior to construction to indicate HDD entry and exit locations and proposed HDD alignment at 50-foot (max.) intervals.
- 8.6.3. Provide the Director of Public Works with a list of all crew foreman and/or superintendents.
- 8.6.4. During construction the HDD Contractor shall calibrate its’ tracking and locating equipment at the beginning of each workday.
- 8.6.5. The HDD Contractor shall monitor and record the alignment and depth readings provided by the tracking system every 25 to 30 feet for normal conditions and every 5 to 10 feet where precise alignment control is necessary.
- 8.6.6. The HDD Contractor shall complete the HDD installation as designed and permitted both horizontally and vertically unless otherwise authorized by the Director of Public Works.
- 8.6.7. The HDD Contractor shall maintain drilling fluid circulation throughout the HDD Process, which includes the initial pilot hole installation and the reaming and back pull process.
- 8.6.8. The HDD Contractor shall not expand the bore hole by more than six inches (6 inch) using only a compaction reamer.

- 8.6.9. The HDD Contractor shall plan its reamer and back pulling operations carefully to insure that, once all reaming and back pulling operations can be completed without stopping and within the permitted work hours.
- 8.6.10. The HDD Contractor shall at all times for the entire length of the HDD alignment be able to demonstrate the horizontal and vertical position of the alignment, the fluid volume used, the return rates, and pressures.
- 8.6.11. The HDD Contractor shall inspect the work and surrounding area to insure that no construction-related damage has occurred, including heaving or humping of paved surfaces and drilling fluid fractures or releases.
- 8.6.12. At the request of the Director of Public Works, the Contractor shall provide access for inspection for the HDD operations.
- 8.6.13. Following construction the Permittee shall notify the Director of Public Works on completion of the authorized work.
- 8.6.14. Prior to the start of the backfilling of excavations under paved surfaces, the permittee shall notify the Director of Public Works to schedule an inspection. On completion of all right-of-way restoration activities, the Permittee will schedule a closeout inspection.
- 8.6.15. The Permittee or Contractor shall insure that all cleanup and restoration complies with the Restoration Section of this Manual.
- 8.6.16. The Permittee's two year maintenance period will not begin until any corrective actions required have been completed, inspected and approved by the Director of Public Works.

### **8.7. Storm Water Pollution Prevention/Best Management Practices:**

All construction activities shall be performed in accordance with the NPDES as regulated by the EPA, the KDHE & and the City of Fairway.

The Permittee or its Contractor shall implement BMP's to insure that storm water runoff is not contaminated by sediment caused by land disturbances associated with construction activities. For a full list and discussion of recommended BMP's, please see the following publication:

Publication: Manual of Best Management Practices for Stormwater Quality. Produced by the Mid-America Regional Council and the American Public Works Association:  
[http://kcmetro.apwa.net/content/chapters/kcmetro.apwa.net/file/Specifications/BMPManual\\_Oct2012.pdf](http://kcmetro.apwa.net/content/chapters/kcmetro.apwa.net/file/Specifications/BMPManual_Oct2012.pdf)

The following seven goals shall be applied for all Storm Water Pollution Prevention planning:

- 8.7.1. Insure that sediment controls are in place.
- 8.7.2. Maintain sediment controls throughout the construction and restoration process.

- 8.7.3. Minimize the overall disturbance whenever possible.
- 8.7.4. Protect disturbed areas throughout the construction process.
- 8.7.5. Prevent storm water runoff from entering disturbed areas.
- 8.7.6. Never intentionally discharge construction contaminants directly into creeks, rivers, ditches or storm sewer systems.
- 8.7.7. Complete permanent restoration as soon as possible.

In addition to those overall goals stated previously, the contractor shall, at a minimum, implement the following Best Management Practices:

- 8.7.8. Provide temporary erosion protection whenever possible. Mulch, seed, or gravel may be applied even if a disturbed area may and/or will be disturbed again or other permanent measures of stabilization are to follow.
- 8.7.9. Cover spoil piles with a tarp or contain with a sediment barrier.
- 8.7.10. Contain disturbed sediment on site by using sediment barriers such as silt fence, sand bags, rock checks and/or sediment traps to contain sediment on the construction site.
- 8.7.11. Existing vegetation may be used as a sediment filter where minimal grades and sheet flow runoff will occur.
- 8.7.12. Insure that all sediment barriers are installed and functioning properly.
- 8.7.13. Avoid causing flooding in roadways and adjacent right-of-way.
- 8.7.14. Do not block existing culverts and storm inlets except as a last resort.
- 8.7.15. Insure that sediment is removed from sediment traps and filters after all storm events

### **8.8. Construction Records and As-Built Plan Requirements:**

The HDD Contractor shall keep detailed and accurate records of all activities associated with the HDD process. Upon completion of HDD installations, the Permittee shall provide the City of Fairway with “As Built Plans” and any supporting documents within 60 days of project completion. As-Built Plans are preferred in both AutoCAD and paper format. HDD construction records and As-Built Plans shall include the following:

- 8.8.1. HDD tracking data and operator logs shall be maintained daily and shall be made available on request from the Director of Public Works. These records and operator notes shall specify:
  - 8.8.1.1. The type of tracking equipment used
  - 8.8.1.2. The length and depth of the HDD installation
  - 8.8.1.3. Additional information that may include steering adjustments and other equipment performance parameters.
- 8.8.2. As-Built Plans shall be derived from the tracking data and operator logs. At a minimum, the drawings shall indicate:
  - 8.8.2.1. Horizontal and vertical HDD alignment
  - 8.8.2.2. Existing utility horizontal locations and depths at all exposed or potholed locations

8.8.2.3. Existing utility horizontal locations where indicated with field locates.

8.8.3. As-Built Plans shall conform to the same requirements for right-of-way permits included previously.

## **9. Miscellaneous/Additional Driveway**

### **Construction/Replacement:**

#### **9.1. General:**

All asphalt, decorative, or gravel driveways that are damaged or removed shall be constructed to the same widths and with the same material that existed prior to right-of-way work. No new construction of gravel driveways will be allowed.

#### **9.2. Concrete Driveway Entrances:**

Concrete Driveway Entrances shall be constructed or removed and replaced in accordance with the requirements as stated in APWA Section 2301 "Standard Sidewalks, Sidewalk Ramps, Driveways, and Bicycle/Pedestrian Paths," the "City of Fairway Zoning Ordinance" and the PROWAG. The only exceptions are:

9.2.1. Concrete used shall be as specified above in "General".

9.2.2. Driveway Entrances shall be constructed as shown in the APWA standard details

9.2.3. Wherever the term City Engineer is used, this shall mean Public Works Director.

9.2.4. When sidewalks cross a driveway entrance, the driveway entrance shall be constructed as indicated in the PROWAG

9.2.5. The concrete surface joints shall be finished with a float and broomed. All edges shall be finished with a smooth edging tool to give a "picture frame" appearance.

#### **9.3. Asphaltic Concrete Driveway Entrances and Decorative Driveway Entrances:**

All driveway approaches shall be constructed using Concrete. Beyond the approach, driveways may be constructed of asphalt when approved by the Director of Public Works. Driveways shall be constructed or removed and replaced in accordance with the requirements as stated in APWA Section 2301 "Standard Sidewalks, Sidewalk Ramps, Driveways, and Bicycle/Pedestrian Paths" and APWA Section 2302 "Asphalt Sidewalks, Driveways, and Bicycle/Pedestrian Paths". The only exceptions are:

9.3.1. All asphaltic concrete driveways shall be a minimum of four inches of APWA Type 1-01 or Type 2-01 Base Mix. A two-inch surface mix of Type 3-01 shall then be placed. The six-inch section previously described shall be the minimum acceptable section, if the existing section exceeds six inches, then the existing section thickness shall be

comprised of the base as described above being increased in thickness to make up the difference in sections.

- 9.3.2. When a decorative driveway exists, the driveway shall be restored to the original condition using the same or like materials. Some examples may be exposed aggregate concrete, pavers, stamped or imprinted concrete and stylized finishing techniques.
- 9.3.3. No new construction of gravel driveway entrances or driveways will be allowed. Existing gravel driveway entrances may be replaced at existing width, but may not be widened. The replacement material shall consist of a minimum of six inches of AB-3, which shall be placed, in three-inch lifts, with a moisture content being uniform throughout, and the material shall be compacted to 95 percent standard density as specified in ASTM D698.

## **10. Safety:**

### **10.1. Potholing:**

- 10.1.1. Prior to excavating in the public rights-of-way, permittee must pothole to verify existing utilities when the following circumstances are present:
  - 10.1.1.1. Whenever an excavation or bore, including one using trenchless technology except Cured-in-Place-Pipe or slip lining, will be within the tolerance zone of an existing underground facility.
  - 10.1.1.2. Whenever an excavation using trenchless technology except Cured-in-Place-Pipe or slip lining will parallel an underground facility within three feet of that facility, potholing is required every 100 feet.
  - 10.1.1.3. Whenever an excavation will be in the vicinity of an area of congested underground facilities.
  - 10.1.1.4. Whenever an excavation is within three feet of a hazardous or vital underground facility.
- 10.1.2. The preferred method of excavating a pothole is air vacuum excavation. When air vacuum excavation is not feasible, the preferred method of potholing is the use of water vacuum excavation or hand digging. When potholing, exposed underground facilities should be protected and supported. Potholes shall be backfilled in accordance with Sections 6 & 7.
- 10.1.3. If potholing reveals incorrectly located lines, permittee must report discrepancy to the facility owner and Kansas One Call along with proper location information.

### **10.2. Locates:**

Prior to excavation permittee shall call for locates pursuant to Kansas One-Call.

### **10.3. Clothing:**

Workers in the right-of-way shall wear apparel that follows the requirements of ANSI 107.

### **10.4. Safety Officer:**

Permittee shall identify a safety officer, and 24-hour contact numbers, with job site responsibilities to oversee compliance with all safety regulations. The Safety Officer shall be on 24-hour call.

### **10.5. Trench Safety:**

U.S. Department of Labor, OSHA has standards for excavations and trenches that may affect the work.

### **10.6. Hazardous Material Spills:**

Permittee shall comply with all KDHE, EPA, and other requirements for reporting spills of hazardous materials, including fuels and other equipment maintenance fluids.

### **10.7. Open Excavation Protection:**

If an excavation cannot be backfilled immediately and will be left unattended, the excavation shall be enclosed with orange safety fencing material, which is properly secured around the excavation. In addition, all trenches and other excavations shall be provided with suitable barriers, signs, lights, or other traffic control devices to the extent that adequate protection is provided to the public against accident because of the open construction. No excavation shall be left unattended in excess of seventy-two hours, without permission of the Director of Public Works.

### **10.8. Traffic Control:**

Permittee must provide adequate traffic control for any permitted activity that obstructs any part of the roadway pavement. Traffic Control Devices and Flaggers shall be provided to maintain traffic in a safe, orderly manner. All traffic control devices and flagging operations shall conform to the latest editions of the MUTCD and APWA Section 2305 "Maintenance of Traffic".

All devices shall be installed and maintained in conformity with applicable statutory requirements and other legal requirements and, where within KDOT State Highway right-of-way, as required by the authority having jurisdiction there over. Obstructions requiring traffic control include but are not limited to workers adjacent to or in the roadway, excavations, equipment maneuvering areas, stored materials, spoil stockpiles, any stationary equipment that is a source of construction activity such as delivery trucks, tool trucks, lifts, excavators, and unoccupied parked maintenance equipment, except where parked entirely within permitted parking zones, and any other area or activity that present a potential conflict with the traffic operations of the roadway.

10.8.1. Installer Qualifications: Individuals designing, placing and maintaining traffic control devices shall have adequate training and

have a basic understanding of the principles established by the MUTCD.

10.8.2. Traffic Safety Resources: The Permittee shall either:

10.8.2.1. Have on staff a work zone traffic safety officer who has either an ATTSA traffic control technician certification or IMSA Certification in work zone traffic safety and who has oversight responsibility of traffic control and work zone safety, or;

10.8.2.2. Contract all traffic control setup, maintenance and removal to a firm specializing in traffic control that has a technician on each crew that has either an ATTSA traffic control technician certification or IMSA certification in work zone traffic safety.

10.8.3. A detailed traffic control plan shall be required prior to issuance of a Right of Way permit, for any lane closure on a thoroughfare or collector street. It shall be unlawful for any person without proper authority to move or remove traffic control devices, warning devices or other protective devices.

10.8.4. All traffic control devices shall be removed immediately upon elimination of the roadway obstacle.

10.8.5. The permittee, the responsible person on site, and each individual worker creating an obstruction shall be severally liable for fines and other penalties for failure to provide adequate traffic control.

## **12. Work requirements and inspections.**

12.1. Any excavation, backfilling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.

12.2. The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper backfilling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.

12.3. The permittee shall notify the office of the Public Works Director upon completion of the authorized work.

12.4. The permittee will notify the Public Works Director to schedule an inspection at the start of backfilling. Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout inspection.

12.5. When any corrective actions required have been completed, inspected and approved by the Public Works Director, the two (2) year maintenance period will begin.

12.6. In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the

permittee. One shall be in advance of the start of backfilling operations in any area within the right-of-way; and a second inspection shall occur upon completion of all right-of-way restoration activities, including concrete, asphalt, sod, or seed. If weather conditions are such that concrete, asphalt, sod, or seed work cannot be performed, permittee shall notify the Public Works Director after work is substantially complete, except for weather dependent work. In such a case, Permittee shall notify the Public Works Director to schedule a third inspection after all restoration work has been completed, including concrete, asphalt, sod, or seed.

**12.7.** At the time of any inspection, the Public Works Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public. The Public Works Director may issue a citation to the permittee for any work which does not conform to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit. (Prior Code, § 13-4270; Ord. No. 1284)

**12.8.** Except in the event of an emergency, permittee shall notify the Director of Public Works a minimum of two working days in advance of any street closure. No such closure shall take place without notice and prior authorization from the City. See also 1.3. Notification of Emergency and Traffic Control.

## **13. Other activities affecting the right-of-way.**

### **13.1. Violation**

Except as otherwise provided in this chapter, any person or entity violating any provision of this chapter is guilty of a public offense, and upon conviction thereof shall be fined a sum of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). Every day that this chapter is violated shall constitute a separate offense. Additionally, the City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent a violation of this chapter.

### **13.2. Supervision**

The supervision and control of the construction, alteration, maintenance and repair of all streets, bridges, tunnels, sidewalks, curbs and gutters, driveway entrances, storm sewers, street lights, and other public rights-of-way and thoroughfares of the City are under the direction of the Public Works Director. (Prior Code, § 13-101)

### **13.3. Required approval to use right-of-way**

As provided by Federal and State law, any person requiring a contract, grant, right, privilege or franchise to engage in any activity requiring the use of the public right-of-way shall first receive the appropriate City approval before engaging in such activity. To aid in the review and approval, the City shall:

- 13.3.1. Develop appropriate application requirements and forms;
- 13.3.2. Establish and require the payment of a nonrefundable application fee to offset the City's costs and expenses in developing, negotiating and administering the terms of any approval permitting the use of the public right-of-way. Such fee shall be approved by the Governing Body and listed in the fee schedule as established by an ordinance entitled Schedule of Fees maintained in the City Clerk's office;
- 13.3.3. Seek reimbursement of any reasonable City cost and expense exceeding the application fee amount as described in Subsection (2) of this section. To aid such reimbursement, the Governing Body may approve, in addition to such application fee, a required sum to be deposited by applicants that may be used for any such additional City cost and expense. Such deposit shall be approved by the Governing Body and listed in the fee schedule as established by an ordinance entitled Schedule of Fees maintained in the City Clerk's office. Within a reasonable time after the completion of the City approval (or denial), the unused balance of such deposit shall be returned to the applicant.

#### **13.4 Specifications and standards**

The Public Works Director shall provide, with the aid of the City Engineer, minimum specifications and standards for the purposes of regulating the design, construction, alteration, maintenance and repairs of streets, sidewalks, curbs and gutters, driveway entrances, storm sewers, street lights and other public right-of-way and thoroughfares of the City. All contracts entered into by the City relating to the construction of road and drainage structures and replacement of paving and curbing within the City shall comply with these specifications and standards.

#### **13.5 Permit**

A permit to excavate and/or construct within a public right-of-way is required. Application for the permit shall be made at the Public Works Director's office. At the discretion of the Public Works Director, a separate permit may be required for each separate phase of work. All information required by the permit must be completed prior to the approval and issuance of the permit.  
(Prior Code, § 13-104)

#### **13.6 Cutting, excavating or tunneling of public right-of-way**

No person shall make or cause to be made any cut, excavation or tunnel in, through or under any street, sidewalk, alley or other public place or public rights-of-way in the City for any purpose whatsoever, except for as provided by Article III of this chapter.

### **13.7 Building materials in public right-of-way**

No person shall use or temporarily appropriate any sidewalk, street and/or right-of-way or any material part thereof for the temporary deposit of building material during the construction, excavation or repair of any building without the consent of the Public Works Director. Any person desiring such temporary use shall apply for permission from the Public Works Director, who, at his discretion, may grant such permission; provided that, not more than one-third (1/3) of the width of the street shall be used, and in case the sidewalk is obstructed, a temporary walkway shall be provided around such obstruction; further provided that the gutter shall be kept open for flow of water. Under no circumstances shall any dumpster be allowed in any part of the street. Upon the completion of any such permitted use, the material in the sidewalk, street and/or right-of-way shall be removed within five (5) days. Any obstruction shall be adequately lighted from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise to give warning to others.

### **13.8 Commercial use of public right-of-way**

No person may use any portion of any sidewalk, street or any other part of the public right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this chapter, however, shall be construed as prohibiting the Governing Body from waiving the prohibition of this section in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the City.

### **13.9 Dangerous objects in public right-of-way**

It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any sidewalk, street, alley, public right-of-way or other public grounds of the City, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same.

### **13.10 Driving over curbs**

It shall be unlawful for any person to drive any vehicle over or across any curb or gutter where there is no established or improved driveway entrance or drive across any sidewalk when the same is not constructed as a part of the driveway entrance unless such curb or curb and gutter is temporarily bridged by the use of planks of sufficient size and number so that no weight shall be imposed upon the curb or curb and gutter; provided that, such bridging shall not obstruct drainage in the streets.

### **13.11 Altering drainage**

No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the City unless such change or alteration has been authorized or directed by the Public Works Director.

### **13.12 Burning in streets**

It shall be unlawful for any person to make or cause to be made any fire upon any of the paved streets, alleys, or street intersections within the City.

(Prior Code, § 13-302)

### **13.13 Hauling loose material**

It shall be unlawful to haul over the streets or alleys of the City any loose material of any kind except in a vehicle having a tight box so constructed as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys.

(Prior Code, § 13-303)

### **13.14 Dumping prohibited**

13.14.1. No person shall dump or deposit or cause to be dumped or deposited in or on any street, right-of-way, gutter, storm sewer, waterway or drainage way any dirt gravel, rubbish, snow, ice, leaves or other debris, including, but not limited to, lumber, paper, trash, concrete or metal (collectively referred to as dumped materials). Erosion of soil which flows onto any street, right-of-way, gutter, storm sewer, waterway or drainage way from property before or during construction shall be considered as depositing dirt, gravel or other construction debris.

13.14.1. If, upon inspection by the Building Inspector, Public Works Director or the designated representative of either of them, it is determined that any dumped materials have been dumped or deposited in or on any street, right-of-way, gutter, storm sewer, waterway or drainage way in violation of the provisions of this chapter, he shall then notify the responsible person and give a four (4) hour period to make the affected area free and clear of said dumped materials. If the said area is not free and clear at the conclusion of this period, the Building Inspector, Public Works Director or designated representative may authorize the City to take necessary action to clean up the said area and assess all charges (including administrative costs) to the responsible person at an established hourly rate, but in no case will the charges be less than two (2) hours for labor, materials and equipment. The Public Works Director shall establish a fee structure for charges to be assessed for cleanup required by this section. The responsible person shall then be given thirty (30) days to reimburse the City for said costs. In the event the responsible person does not pay said costs within the (30) days, the City may take all necessary steps to recover its costs (including any additional administrative or legal costs), including, but not limited to, recovering the same under any performance or maintenance bond issue.

### **13.15. Penalties**

13.15.1. Any person or entity violating any provision of this article is guilty of a public offense, and upon conviction thereof shall be fined

in a sum of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00). Every day that this article is violated shall constitute a separate offense.

13.15.2. The violation of any provision of this article is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

13.15.3. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this article. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this article.

### **13.16. Federal, State and City jurisdiction**

This article shall be construed in a manner consistent with all applicable Federal, State, and local laws. Notwithstanding any other provisions of this article to the contrary, the construction, operation and maintenance of the ROW user's facilities shall be in accordance with all laws and regulations of the United States, the State and any political subdivision thereof, or any administrative agency thereof, having jurisdiction. In addition, the ROW user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this article.

### **13.17. Compliance**

No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided in this article.  
(Prior Code, § 13-401;

### **13.18. City's failure to enforce**

This article or of any permit granted under this article shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as provided in this article.  
(Prior Code, § 13-433

### **13.19. Reservation of rights**

13.19.1 In addition to any rights specifically reserved to the City by this article, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this article. The City shall have the right to waive any provision of this article or any registration, permit or other authorization granted thereunder, except those required by Federal or State law, if the City determines that it is in the public interest to do so; and that the

enforcement of such provision will impose an undue hardship on the person. To be effective, such waiver shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions of this article.

- 13.19.2 Notwithstanding anything to the contrary set forth in this article, the provisions of this article shall not infringe upon the rights of any person pursuant to any applicable State or Federal statutes, including, but not limited to, the right to occupy the right-of-way.

(Prior Code, § 13-4351

### **13.20. Policy**

- 13.20.1 It is the policy of the City to authorize any ROW user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW user shall be subject to the terms and conditions hereof, in addition to other applicable Federal, State or local requirements.
- 13.20.2 The right granted to the ROW user to use the right-of-way is limited to the use that the ROW user has filed with the City in accordance with this article. These rights are for the exclusive use of the ROW user except where otherwise provided in this article, or when authorized by the City.
- 13.20.3 This article also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits which grant the authority to utilize and occupy the right-of-way within the City.
- 13.20.4 All ROW users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

(Prior Code, § 13-404;

### **13.21. Administration**

- 13.21.1. The Public Works Director is the principal City official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties in this article.

13.21.2. The Public Works Director is the principal City official responsible for administration of the registering of a service provider. The Public Works Director may delegate any or all of the duties in this article.

(Prior Code, § 13-405)

### **13.22. Appeals process**

13.22.1. Whenever a person shall deem himself aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice such decision or action.

13.22.2. The person shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.

13.22.3. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.

13.22.4. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions or rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

13.22.5. Pending a decision of the Governing Body, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.

13.22.6. If a person still deems themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective date of the Governing Body's final decision to institute an action in the County District Court.

(Prior Code, § 13-428;

### **13.23. Requirements of service provider**

13.23.1. Any existing service provider must register within thirty (30) days of the effective date of the ordinance from which this article is derived.

13.23.2. Any person who is not an existing service provider prior to the effective date of the ordinance from which this article is derived and who wishes to become a service provider must first register with the City.

13.23.3. The service provider shall report any changes in its registration information within thirty (30) days.

13.23.4. No service provider shall be authorized to utilize the right-of-way

in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.

- 13.23.5. The information required for registration includes the following:
  - 13.23.5.1. Identity and legal status of service provider, including related affiliates.
  - 13.23.5.2. Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.
  - 13.23.5.3. Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.
  - 13.23.5.4. Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.
  - 13.23.5.5. Description of the service provider's intended use of the right-of-way.
  - 13.23.5.6. Information sufficient to determine whether the service provider is subject to franchising by State law.
  - 13.23.5.7. Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the KCC.
  - 13.23.5.8. Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the FCC.
  - 13.23.5.9. Such other information as may be reasonably required by the City to complete the registration statement.
- 13.23.6. Each service provider shall designate a local person familiar with the facilities who will act as a local agent for the service provider and will be responsible for satisfying information requirements of this article. The service provider shall present to the City the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.
- 13.23.7. Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.
- 13.23.8. Prior to providing service to the City and its residents, the service

provider shall first obtain the necessary franchise agreement, if any, from the City.

- 13.23.9. The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.
- 13.23.10. The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.
- 13.23.11. The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

(Prior Code, § 13-406; Ord. No. 1284)

#### **13.24. Mapping requirements of service provider**

- 13.24.1. The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed or relocated in the right- of-way.
- 13.24.2. Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.
- 13.24.3. When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the City's Geographical Information Systems (GIS) and the County Automated Integrated Mapping Systems (AIMS); provided, however, that nothing in this section shall be construed to require the service provider to acquire or modify any electronic mapping system.
- 13.24.4. Underground facilities shall be differentiated from overhead facilities.
- 13.24.5. Such mapping and identification shall be at the sole expense of the service provider.

(Prior Code, § 13-407;

#### **13.25. Service provider's right to sell, transfer, lease, assign, sublet or dispose**

Except as provided in this article, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other

similar instrument, in whole or in part, to secure indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider.

(Prior Code, § 13-408; Ord. No. 1284)

### **13.26. Use of the right-of-way**

- 13.26.1. The ROW user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. The City may reserve sufficient space within the right-of-way for future public improvements. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- 13.26.2. The ROW user shall coordinate the placement of facilities in a manner which minimizes adverse impact on any public improvement, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted by such public improvement as defined in the City's Manual of Infrastructure Standards available in the office of the Public Works Director.
- 13.26.3. The ROW user shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- 13.26.4. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of the right-of-way or other public lands of the City.
- 13.26.5. All facilities of the ROW user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- 13.26.6. Whenever reasonably possible, all newly constructed facilities shall be located underground. The ROW user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location and height.
- 13.26.7. The ROW user shall not interfere with the facilities of the other ROW users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles

and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time.

- 13.26.8. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW user's facilities. Any ROW user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its assigned position within the right-of-way, unless this requirement is waived by the Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, user service needs and hardship to the ROW user.
- 13.26.9. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW users for their input on the planning and design of such conduit. If a ROW user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW user's use of the conduit is reasonable and appropriate under the circumstances.
- 13.26.10. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW user shall be fully repaired or replaced promptly by the ROW user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the City to make such repair or replacement and bill the ROW user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW user to do any necessary additional work.
- 13.26.11. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW user's facilities in the right-of-way shall be in accordance with applicable Federal, State and local law and regulations, including those promulgated by national trade associations commonly

associated with the service provided by the ROW user. It is understood that the standards established in this subsection are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/or specifications submitted be certified by a State registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

- 13.26.12. The ROW user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW user without any expense to the City, its employees, agents, or authorized contractors.
- 13.26.13. The City shall have the authority to prohibit the use or occupancy of a specific portion of the right-of-way by a ROW user due to public health, safety or welfare considerations.  
(Prior Code, § 13-410; Ord. No. 1284)
- 13.26.14. All construction materials shall conform to the references contained in this document, unless otherwise directed by the Director of Public Works.
- 13.26.15. All excavation, backfilling, restoration and replacement work shall be in accordance with the current Standard Details or Referenced Standard Details. The Standard Details shall be adopted and amended by the Director of Public Works with the consent of the Governing Body.
- 13.26.16. The Director of Public Works may delegate any or all of his or her duties contained in this manual.
- 13.26.17. As allowed by the right-of-way management ordinance, penalties for violation of this regulation include stop work orders, revocation of permit, doubling fees for work without a permit, denial of future permits, and fines levied by the Municipal Court.

### **13.27. Facility relocation**

- 13.27.1. The ROW user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW user at the ROW user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW user shall proceed with relocations at due diligence upon notice by the City to begin relocation.
- 13.27.2. The ROW user shall promptly remove, relocate or adjust any facilities located in a private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- 13.27.3. As soon as working drawings are available for public improvements which will require the ROW user to relocate its facilities, the City shall provide the ROW user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- 13.27.4. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW user. The ROW user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- 13.27.5. Any damages suffered by the City, its agents or its contractors to the extent caused by the ROW user's failure to timely relocate or adjust its facilities, or failure to properly relocate or adjust such facilities, shall be borne by the ROW user.
- 13.27.6. In the event the ROW user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.

13.27.7. It is the intent of this section for both the City and the ROW user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.

(Prior Code, § 13-411; Ord. No. 1284)

### **13.28. Protection of the public**

13.28.1. It shall be the responsibility of the ROW user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.

13.28.2. The City shall not be liable for any damage to or loss of any of the ROW user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.

13.28.3. The ROW user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them, including, but not limited to, delay damages, repair costs, downtime, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW user.

13.28.4. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including calling for facility locations when constructing its public improvements.

13.28.5. Any ROW user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.

13.28.6. Whenever a ROW user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.

13.28.7. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. The ROW user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

13.28.8. Every permittee shall notify the occupants of all properties within two hundred feet (200') of the work, provided that the Public Works Director may waive or modify this notification requirement in those limited instances where the Director determines the modification or waiver will not adversely impact the public health, safety or general welfare. There shall be notification, to each such occupant, which notification shall be in the form of a door hanger and shall be received by each occupant no later than three (3) days before the commencement of work. This door hanger notification shall include:

- (i) Scope of project;
- (ii) Construction schedule, including the date of commencement and expected completion of work;
- (iii) Name of field superintendent; and
- (iv) Telephone numbers (office and mobile) and electronic mail addresses for permittee personnel who can timely provide additional project information as needed.

13.28.9. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW user may require such payment in advance. The ROW user must be given not less than fifteen (15) days' written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24) hours' advance notice from the person advising of the actual operation.

(Prior Code, § 13-412; Ord. No. 1284)

### **13.29. Right-of-way vacation.**

13.29.1. If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

13.29.2. If the vacation requires the relocation of facilities, and:

- (i) If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.
- (ii) If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.

(iii) If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs.

(Prior Code, § 13-413; Ord. No. 1284)

### **13.30. Abandonment and unusable facilities.**

13.30.1. A ROW user owning abandoned facilities in the right-of-way must either:

- (i) Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public safety to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place;
- (ii) Provide information satisfactory to the City that the ROW user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW user; or
- (iii) Submit to the City a proposal and instruments for transferring ownership of its facilities to the City. If the ROW user proceeds under this section, the City may, at its option purchase the equipment, require the ROW user, at its own expense, to remove it, or require the ROW user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.

13.30.2. Facilities of a ROW user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW user, unless the City receives confirmation that the ROW user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance, taking possession and ownership of the facility and restoring it to a useable function, or requiring the removal of the facility by the ROW user.

(Prior Code, § 13-414; Ord. No. 1284)

### **13.31. Other obligations.**

13.31.1. Obtaining a right-of-way permit under this article shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal

rules, laws, or regulations. A permittee shall perform all work in full accordance with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable State statutes and the rules and regulations of the KCC or any other local, State or Federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.

- 13.31.2. Except in cases of an emergency or with approval of the Public Works Director, no right- of-way work may be done when conditions are unreasonable for such work.
- 13.31.3. A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.

(Prior Code, § 13-424; Ord. No. 1284)

### **13.32. Indemnification.**

- 13.32.1. A ROW user shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the ROW user, any agent, officer, director, or their respective officers, agents, employees, directors or representatives, while installing repairing or maintaining facilities in a public right-of-way. Nothing in this article shall be deemed to prevent the City or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not under any circumstances relieve the ROW user from its duty to defend against liability or its duty to pay and judgment entered against the City or its agents.
- 13.32.2. If a ROW user and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of the State without, however, waiving any governmental immunity available to the City under State or Federal law. This section is solely for the benefit of the City and ROW user and does not create or grant any rights, contractual or otherwise, to any other person or entity.

(Prior Code, § 13-429; Ord. No. 1284)

### **13.33. Force majeure.**

Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW user's or the City's control.

(Prior Code, § 13-430; Ord. No. 1284)

### **13.34. Notification of Emergency Services:**

The Fairway Police Department, Consolidated Fire District Number 2 and Johnson County Med-Act shall be notified in advance of any street closure. The Public Works Director will allow closing of streets only with prior approval at the time the permit is issued or in the event of an emergency. Appropriate contacts are as follows:

- 13.34.1. Fairway Police Department (Johnson County Sheriffs Dispatch, Non-Emergency) 913-262-2364.
- 13.34.2. Consolidated Fire District Number 2 and Johnson County Med-Act EMS (Non-Emergency) 913-432-1717.
- 13.34.3. Emergency for the entire above dial 911.

### **13.35. Utility Locates and Notification:**

As a condition of the ROW permit, all existing utilities shall be located before any excavation begins. This can be done with the following phone numbers, which are listed on the application as well as the permit:

- 14.1.1. Kansas One-Call.....1-800-344-7233
- 14.1.2. Water District Number 1 of Johnson County.....913-895 1800

If utility locates have not been done, work will be shut down until locates have been completed.

## **14. Permit**

### **14.1 Requirement.**

14.1.3. Except as otherwise provided, no ROW user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.

14.1.4. No permit shall be required if:

- 14.1.2.1. The ROW user is performing routine service operations, which do not require excavation in the right-of-way and which do not disrupt traffic for more than two (2) hours, unless this work disrupts the use of Mission Road, or Shawnee Mission Parkway. Any ROW user effecting Shawnee Mission Parkway (US 56 Hwy) must obtain a ROW permit from KDOT. Once the KDOT ROW permit is issued, The City will consider a ROW permit

application.

14.1.2.2. The Public Works Director determines the work contemplated by the ROW user is of such a nature that requiring a permit would not serve the best interests of the City or its citizens.

14.1.5. No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.

14.1.6. A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW user to immediately perform work in the right-of-way, and it is impractical for the ROW user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.

14.1.7. No permittee may excavate the right-of-way beyond the date specified in the right-of-way permit unless the permittee:

14.1.5.1. Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and

14.1.5.2. A new right-of-way permit or permit extension is granted.

14.1.8. Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.

14.1.9. Prior to the commencement of work in the right-of-way, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by Kansas One Call.

14.1.10. Every permittee shall notify the occupants of all properties within two hundred feet (200') of the work, provided that the Public Works Director may waive or modify this notification requirement in those limited instances where the Director determines the modification or waiver will not adversely impact the public health, safety or general welfare. There shall be a first notification, which shall be in the form of a letter, which letter shall be sent to each such occupant by the date from which that letter would reasonably be expected to be received by those occupants no later than ten (10) days prior to the commencement of work in the right-of-way. This letter notification shall include:

14.1.8.1. Scope of project;

14.1.8.2. Construction schedule, including the date of commencement and expected completion of work;

14.1.8.3. Name of the field superintendent; and

14.1.8.4. Telephone numbers (office and mobile) and

electronic mail addresses for permittee personnel who can timely provide additional project information as needed.

In addition, there shall be a second notification to each such occupant, which notification may be in the form of a door hanger and shall be received by each occupant no later than the day before the commencement of work. This second notification shall include the same information as specified in this Subsection (h).

- 14.1.9. All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW user.
- 14.1.10 Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.
- 14.1.11. Any ROW user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.
- 14.1.12. Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices.

(Prior Code, § 13-415; Ord. No. 1284; Ord. No. 1381)

## **14.2. Applications.**

- 14.2.1 Application for a right-of-way permit shall be submitted to the Public Works Director by either the ROW user or by the person who will do the work and/or excavation in the right-of-way.
- 14.2.2 Right-of-way applications shall contain and be considered complete only upon receipt of the following:
  - 14.2.2.1 Compliance with verification of registration;
  - 14.2.2.2 Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
  - 14.2.2.3 A traffic control plan;
  - 14.2.2.4 Payment of all money due to the City for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the

payment of such money is in dispute and timely appealed as provided in this article.

(Prior Code, § 13-416; Ord. No. 1284)

**14.3. Liability insurance, performance and maintenance bond requirement.**

14.3.1 The permittee shall file with the City evidence of commercial general and automobile liability insurance with an insurance company licensed to do business in the State. The general liability limit will be not less than one million dollars (\$1,000,000.00) per occurrence and two million dollars (\$2,000,000.00) in aggregate. The automobile liability limit will not be less than one million dollars (\$1,000,000.00) combined single limit. The insurance will protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death, or property damage to the extent caused or alleged to have been caused by the negligent acts or omissions of the permittee. If the permittee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the amounts provided for in this subsection.

14.3.2 The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be two thousand dollars (\$2,000.00) or the value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two (2) additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this article. Alternatively, if the permittee anticipates requirements for multiple right-of-way permits, the permittee may choose to meet the bond requirements for the above-prescribed term as follows:

14.3.2.1. Ten (10) permits or less/year: fifteen thousand dollars (\$15,000.00) annual bond.

14.3.2.2. Twenty-five (25) permits or less/year: thirty thousand dollars (\$30,000.00) annual bond.

14.3.2.3. Unlimited permits/year: fifty thousand dollars (\$50,000.00) annual bond.

In the event the City shall exercise its right to revoke the permit as granted in this section, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.

14.3.3 A copy of the liability insurance certificate and performance and maintenance bond must be on file with the City Clerk or their designee.

14.3.4 No performance and maintenance bond will be required for permits issued for driveway replacement or landscaping work such as irrigation systems and tree planting. No performance and

maintenance bond will be required of any governmental entity. No performance and maintenance bond or liability insurance will be required of any residential property owner working in the right-of-way adjacent to his residence, who does not utilize a contractor to perform the excavation.

(Prior Code, § 13-417; Ord. No. 1284)

#### **14.4. Permit fees and costs**

- 14.4.1. The right-of-way permit fee shall be recommended by the Public Works Director, approved by the Governing Body and listed in the fee schedule as established by ordinance
- 14.4.2. The right-of-way permit fee may include a permit and inspection fee, and an excavation fee.
- 14.4.3. Fees paid for a right-of-way permit which is subsequently revoked by the Public Works Director are not refundable.
- 14.4.4. Except as provided for in an emergency situation, when a ROW user is found to have worked or is working in the right-of-way without having obtained a permit, the fee for the permit will be double the amount had the ROW user obtained a permit prior to beginning work.
- 14.4.5. The City may also charge and collect any necessary repair and restoration costs.

(Prior Code, § 13-410; Ord. No. 1284)

#### **14.5. Issuance**

- 14.5.1. If the Public Works Director determines that the applicant has satisfied the requirements of this article, the Public Works Director shall issue a right-of-way permit.
- 14.5.2. The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.
- 14.5.3. When a right-of-way permit is requested for purposes of installing additional facilities and the performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.
- 14.5.4. Issued permits are not transferable.
- 14.5.5. If work is being done for the ROW user by another person, a subcontractor or otherwise, the person doing the work and the ROW user shall be liable and responsible for all damages,

obligations, and warranties described in this section.

- 14.5.6. Individual right-of-way permits are limited to a maximum of two thousand five hundred feet (2,500') of contiguous work length.

(Prior Code, § 13-419; Ord. No. 1284; Ord. No. 1381)

#### **14.6. Permitted work**

- 14.6.1. The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.
- 14.6.2. The permittee shall not at any one (1) time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.
- 14.6.3. The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.
- 14.6.4. The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.
- 14.6.5. The permittee shall notify the City no less than two (2) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.
- 14.6.6. Non-emergency work on arterial and collector streets may not be accomplished during the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m., in order to minimize disruption of traffic flow.
- 14.6.7. All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.
- 14.6.8. The permittee shall identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Water District No. 1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.
- 14.6.9. The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such

facilities or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.

14.6.10. Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by the Public Works Director. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this article.

14.6.11. All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accordance with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable State statutes, as well as the rules and regulations of the Kansas Corporation Commission or any other local, State or Federal agency having jurisdiction over the parties.

14.6.12. Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in Section 9-72.

14.6.13. The City may use the as-built records of the service provider's facilities in connection with public improvements.

(Prior Code, § 13-420; Ord. No. 1284)

#### **14.7. Right-of-way repair and restoration**

14.7.1. The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required in this article must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.

- 14.7.2. All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen (15) days will be provided to allow for the deficiencies to be corrected.
- 14.7.3. After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.
- 14.7.4. In addition to repairing its own street cuts, the permittee must restore any area within five feet (5') of the new street cut that has previously been excavated, including the paving and its aggregate foundations.
- 14.7.5. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its option, serve written notice upon the permittee and its surety that, unless within five (5) days after serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.
- 14.7.6. The permittee responsible for the excavation who leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable Federal or State requirement.
- 14.7.7. If an excavation cannot be backfilled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.
- 14.7.8. In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall,

upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the Public Works Director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works Director (not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable). In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the Public Works Director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.

- 14.7.9. The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.
- 14.7.10. Payment of an excavation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

(Prior Code, § 13-421; Ord. No. 1284)

#### **14.8. Joint applications**

- 14.8.1. Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.
- 14.8.2. Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

(Prior Code, § 13-422; Ord. No. 1284)

#### **14.9. Supplementary applications**

- 14.9.1. A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided in this article. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area:
  - 14.9.1.1. Make application for a permit extension and pay any additional fees required thereby;
  - 14.9.1.2. Receive a new right-of-way permit extension and pay any additional fees required thereby; and
  - 14.9.1.3. Receive a new right-of-way permit or permit extension.
- 14.9.2. A right-of-way permit shall be valid only for the dates specified

in the permit. No permittee may commence work before the permit start date or, except as provided in this article, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date.

(Prior Code, § 13-423; Ord. No. 1284)

#### **14.10. Denial**

14.10.1. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his discretion, may consider all relevant factors, including, but not limited to:

- 14.10.1.1. The extent to which the right-of-way space where the permit is sought is available;
- 14.10.1.2. The competing demands for the particular space in the right-of-way;
- 14.10.1.3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
- 14.10.1.4. The applicability of any ordinance or other regulations that affect location of facilities in the right-of-way;
- 14.10.1.5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
- 14.10.1.6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;
- 14.10.1.7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
- 14.10.1.8. Whether the applicant maintains a current registration with the City;
- 14.10.1.9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated

travel of the public over the right-of-way.

14.10.2. Notwithstanding the above provisions, the Public Works Director may in his discretion issue a right-of-way permit in any case where the permit necessary to:

14.10.2.1. Prevent substantial economic hardship to a user of the applicant's service;

14.10.2.2. Allow such user to materially improve the service provided by the applicant.

(Prior Code, § 13-425; Ord. No. 1284)

#### **14.11. Revocation**

14.11.1. Permittees hold right-of-way permits issued pursuant to this article as a privilege and not as a right. The City reserves its right, as provided in this article, to revoke any right-of-way permit, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to, the following:

14.11.1.1. The violation of any material provision of the right-of-way permit;

14.11.1.2. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;

14.11.1.3. Any material misrepresentation of any fact in the permit application;

14.11.1.4. The failure to maintain the required bond or insurance;

14.11.1.5. The failure to complete the work in a timely manner;

14.11.1.6. The failure to correct a condition indicated on an order issued pursuant to this article;

14.11.1.7. Repeated traffic control violations; or

14.11.1.8. Failure to repair facilities damaged in the right-of-way.

14.11.2. If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated in this subsection, will allow the Public Works Director, at his discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, the permittee shall contact the Public Works Director with a plan, acceptable to the Public Works

Director, for correction of the breach. The permittee's failure to contact the Public Works Director, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

14.11.3. If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with such revocation.

(Prior Code, § 13-426; Ord. No. 1284)

## **15. Drainage**

### **15.1. Penalty**

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars (\$500.00), provided that each day such violation exists shall constitute a separate offense.

(Prior Code, § 13-606)

### **15.2. Drainage of water toward streets**

All water draining from private property and toward a street right-of-way shall be discharged or caused to flow upon the surface of the street, gutter or drainage ditch, provided that such water may be discharged or caused to flow under the surface of a street, gutter or drainage ditch where adequate underground conduits are installed, and said conduits are approved by the Governing Body.

(Prior Code, § 13-602)

## **16. Gutter Fillet Permit**

It shall be unlawful for any person to construct or maintain an obstruction in the gutters of any street which obstructs or prevents the free flow of water in the gutters or diverts water from the gutter onto or across the street or otherwise interferes with street clearing, except temporary obstructions created in the course of street maintenance and repair, provided that asphaltic concrete gutter fillets may be constructed and maintained at and near points where private driveways connect with gutters and streets in accordance with the specifications set forth in Exhibit A to the ordinance from which this division is derived, which is on file in the office of the City Clerk and incorporated in this division by reference and upon the issuance of a permit by the City thereafter as hereinafter provided.

(Prior Code, § 13-603; Ord. No. 58, § 1)

### **16.1. Application for permit**

No permit shall be issued unless an application is made in writing by the person desiring to construct and maintain an asphaltic concrete gutter fillet accompanied by a map or diagram showing the specific location of the proposed gutter fillet, and the house number or legal description of the real estate in front of which the gutter fillet is proposed to be made, and accompanied by a fee as established by ordinance. The diagram or map accompanying the application shall show the dimensions and character of the proposed gutter fillet.

(Prior Code, § 13-604; Ord. No. 58, § 2)

### **16.2. Issuance of permit**

Upon the filing of the written application for such permit, the City Clerk shall notify the City Engineer who shall cause the written application with attached map or diagram and the proposed site to be examined to ascertain that the proposed gutter fillet complies with the specifications set forth in Exhibit A to the ordinance from which this division is derived, which is on file in the office of the City Clerk. If the proposed gutter fillet so complies, the City Clerk shall issue a permit for same.

(Prior Code, § 13-605; Ord. No. 58, § 3)

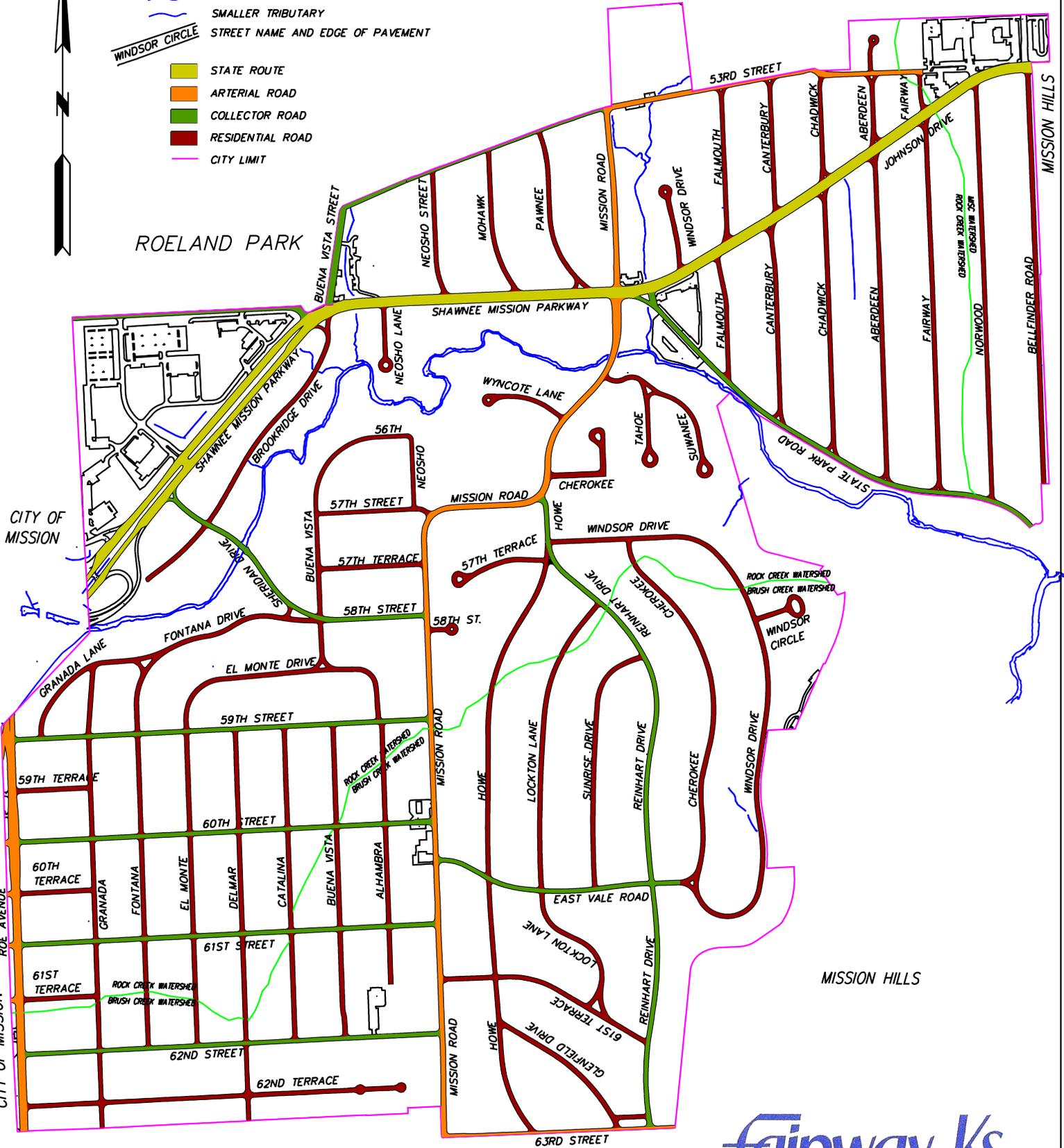
# Appendix A



- KEY:**
- CREEK/LARGER TRIBUTARY
  - SMALLER TRIBUTARY
  - WINDSOR CIRCLE STREET NAME AND EDGE OF PAVEMENT
  - STATE ROUTE
  - ARTERIAL ROAD
  - COLLECTOR ROAD
  - RESIDENTIAL ROAD
  - CITY LIMIT

ROELAND PARK

WESTWOOD



CITY OF MISSION

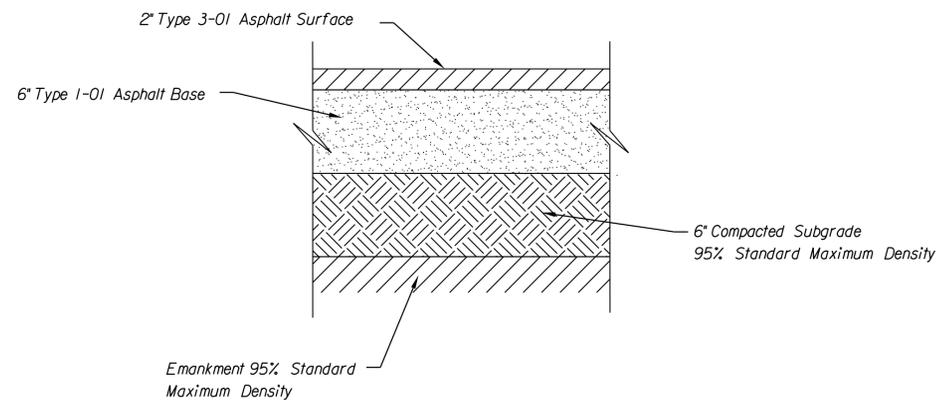
CITY OF MISSION

CITY OF MISSION

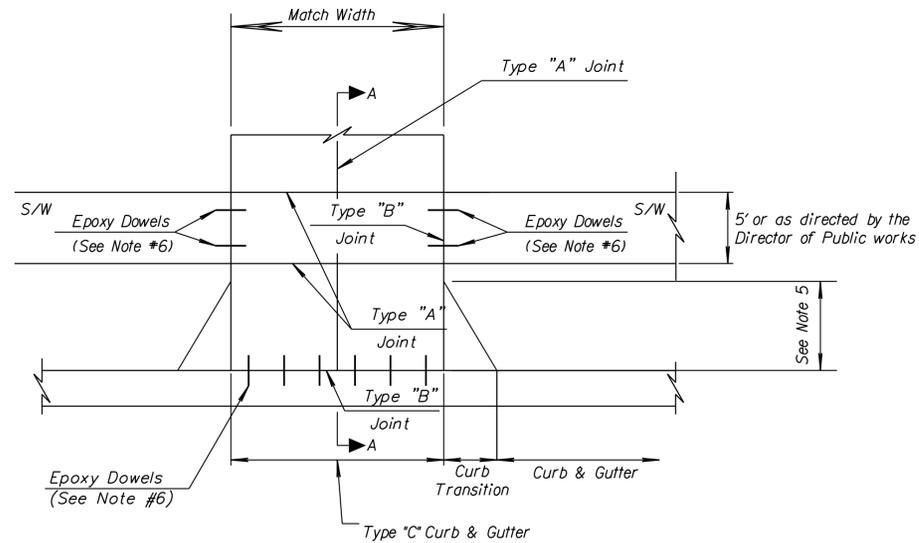


Department of Public Works

# Appendix B



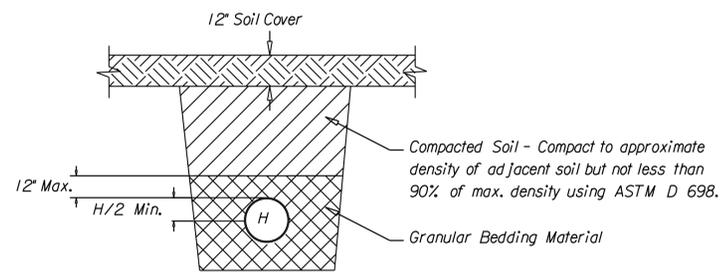
PAVEMENT REPAIR SECTION (NON-TRENCH)  
NOT TO SCALE



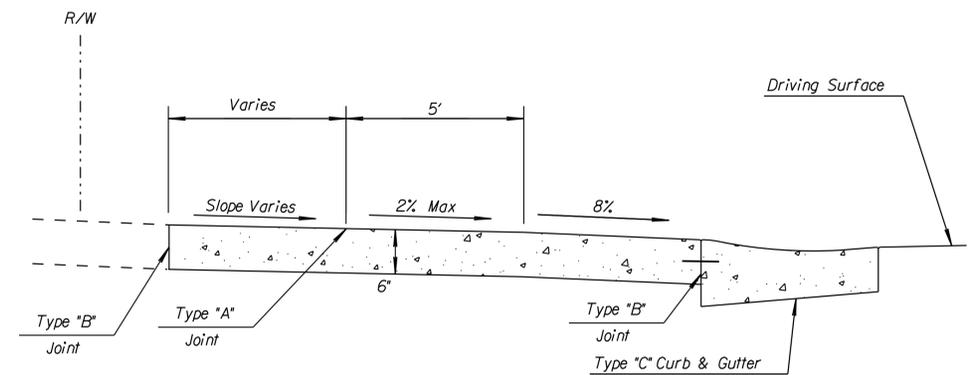
SIDEWALK PLAN WITH GREENSPACE  
NOT TO SCALE

**DRIVEWAY NOTES:**

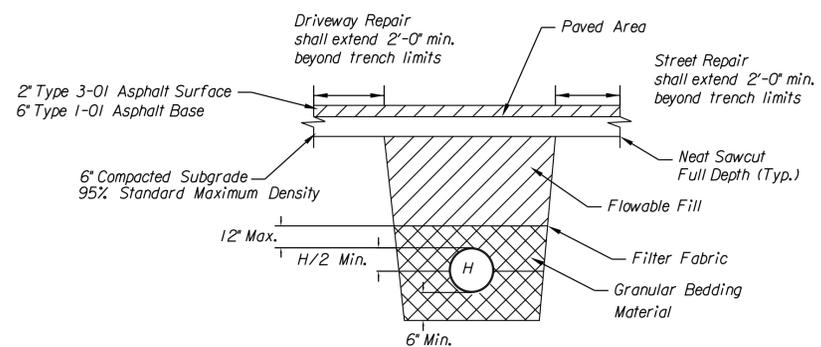
1. Driveways are to be 6" KCMMB 4K concrete. All sidewalk through drives shall be placed 6" deep and paid as 6" driveway. Sidewalks within City right-of-way must be constructed with concrete only. No coloring or stamping is permitted. Driveways within the City right-of-way may be constructed with material other than concrete only if a driveway agreement is obtained from Public Works and signed by all owners of the property.
2. All joints shall be at right angles to the alignment of the curbing and sidewalk unless otherwise noted.
3. The concrete surfaces of curb and gutter, sidewalk and driveways shall be finished with a float and broomed. All flatwork edges shall be finished with a smooth edging tool to give "picture frame" appearance. Sidewalk through a driveway shall be broomed as sidewalk, not driveway.
4. 3 - #4x2' smooth epoxy coated dowels with 1/2" expansion to be placed where new curb matches existing curb.
5. If the offset dimension from the back of curb to sidewalk is less than 5', the width of the wing shall be 3' and the length shall equal the offset dimension. Use type "A" joint as shown. If the offset dimension is greater than or equal to 5', construct driveway with 3'x5' wings with Type "A" joint as shown.
6. Dowels shall be Epoxy coated #4 Bars, 6' Long @ 2' O.C. embedded 3" into curb.
7. See Sidewalk details for of Type "A" and Type "B" joint information.



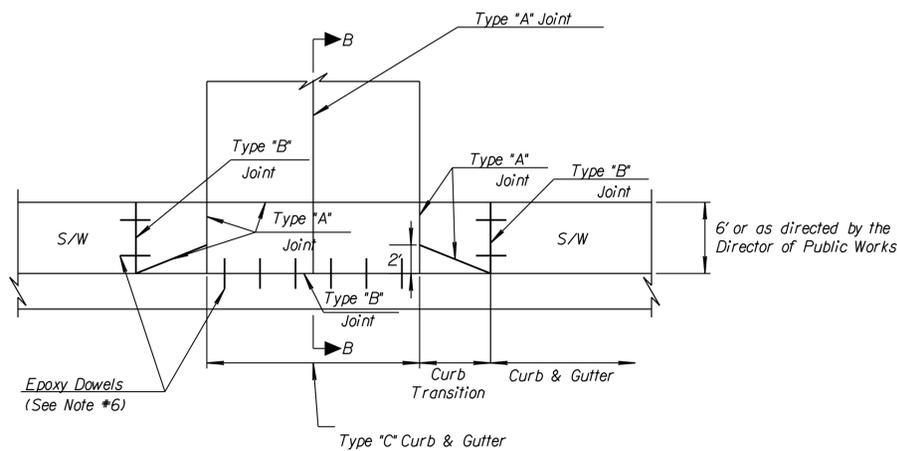
TRENCH DETAIL (NOT UNDER PAVEMENT)  
NOT TO SCALE



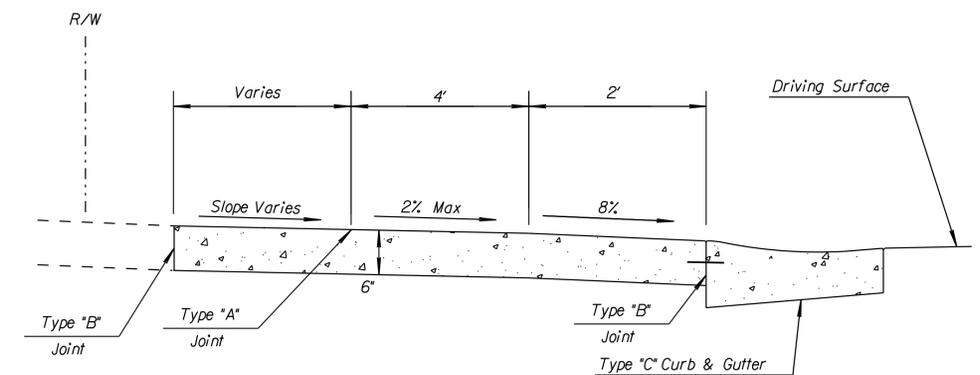
SECTION A-A  
NOT TO SCALE



TRENCH DETAIL UNDER PAVEMENT  
NOT TO SCALE



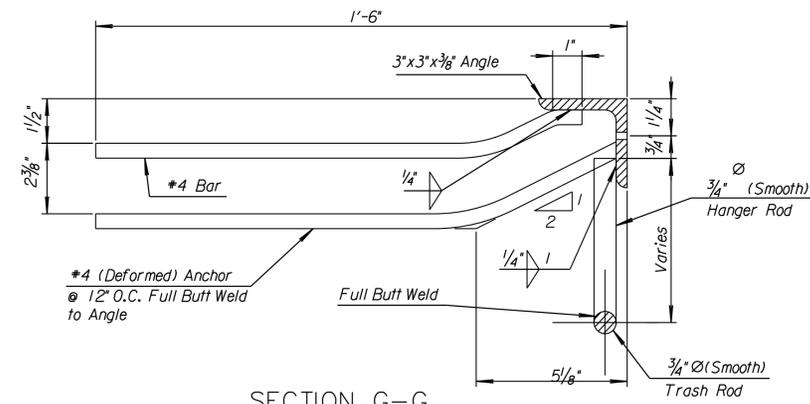
SIDEWALK PLAN ADJACENT TO ROADWAY  
NOT TO SCALE



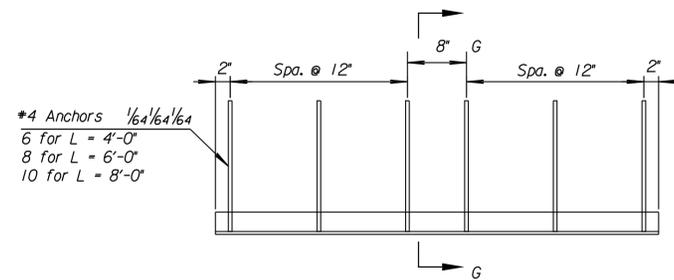
SECTION B-B  
NOT TO SCALE

TRENCHING &  
RESIDENTIAL DRIVEWAY DETAILS

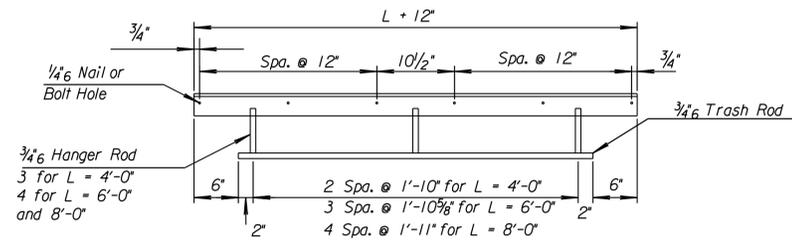
# Appendix C



SECTION G-G  
NOT TO SCALE



PLAN  
NOT TO SCALE



FRONT ELEV.  
NOT TO SCALE

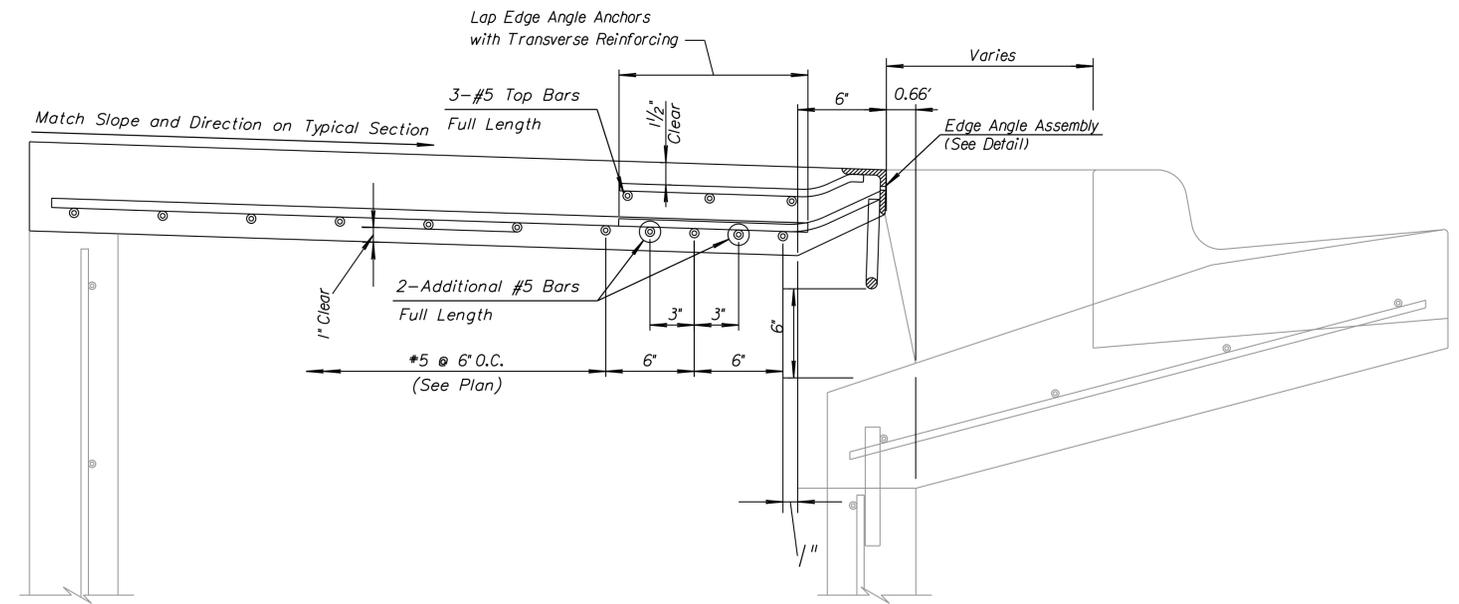
**NOTE:**

Nails or bolts used to anchor Angle to form shall be removed or cut-off flush w/surface of Angle.

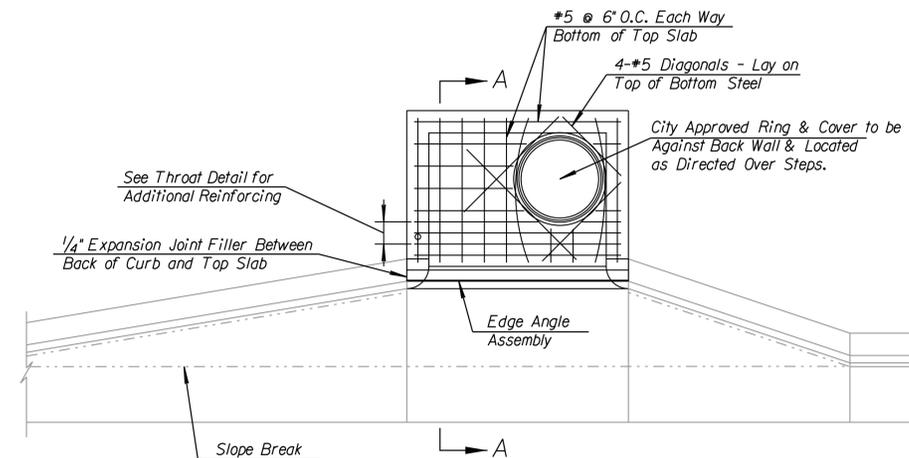
DETAIL OF EDGE ANGLE ASSEMBLY  
NOT TO SCALE

**NOTES:**

1. Structural Steel.
2. Exposed steel surfaces to be finished smooth.
3. Hot Dipped Galvanized Assembly, except that galvanizing is not required on deformed anchors. Chipping not required on anchor welds.
4. NO CENTER SUPPORT ALLOWED.
5. Concrete Fillet shall have 1/2" clearance to end of trash rack.



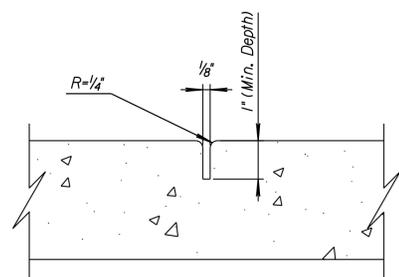
SECTION A-A  
NOT TO SCALE



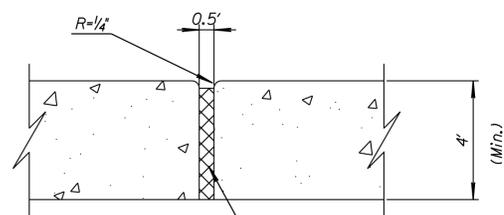
PLAN  
NOT TO SCALE

INLET TOP  
REPLACEMENT DETAILS

# Appendix D



TYPE A

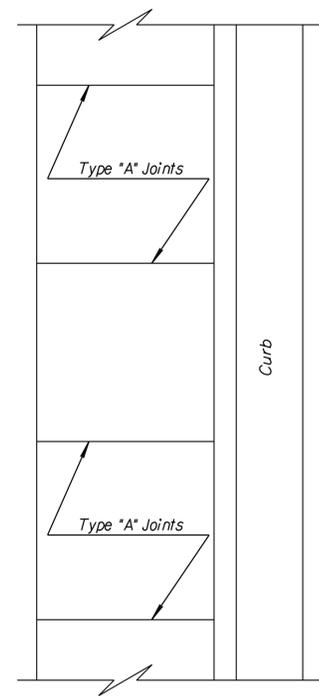


TYPE B

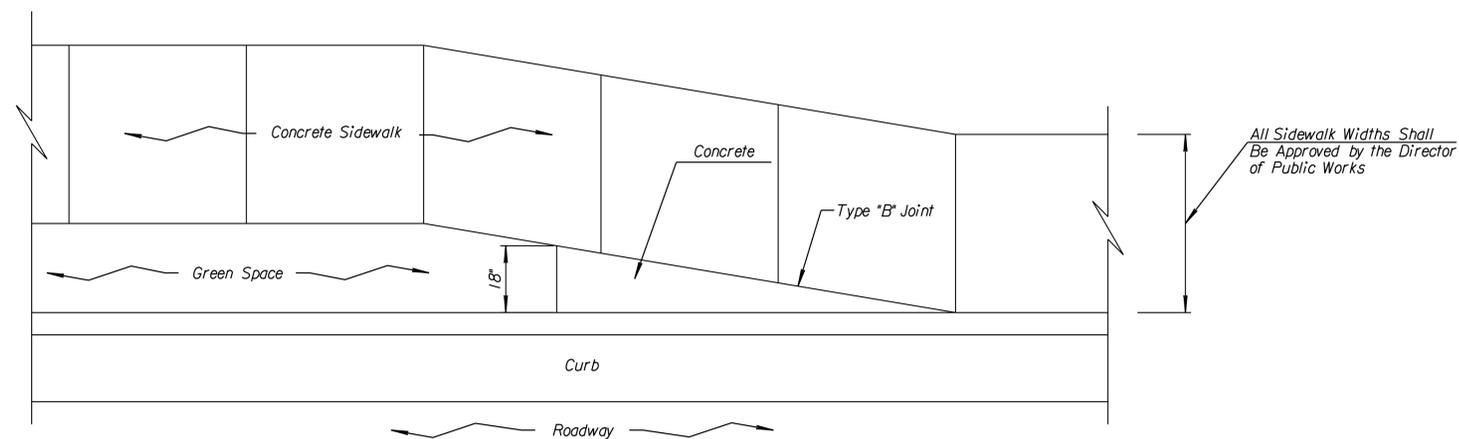
JOINT DETAILS  
NOT TO SCALE

NOTES:

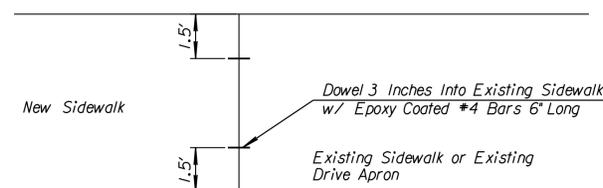
1. Type "A" Joint spacing 4'-0" center to center on width along sidewalk, 5'-0" on 5' wide sidewalks, and 6'-0" on 6' wide sidewalks.
2. Type "B" Joints where walk abuts junction of manholes, poles, and other similar structures.
3. All concrete sidewalks shall be 4" in depth and KCMMB 4K. No substitutes such as colored concrete, asphalt, brick or stone may be made for concrete.
4. The concrete surface of sidewalk shall be finished with a float and broomed. All edges shall be finished with a smooth edging tool to give a "picture frame" appearance.



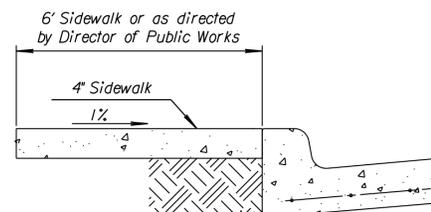
PLAN



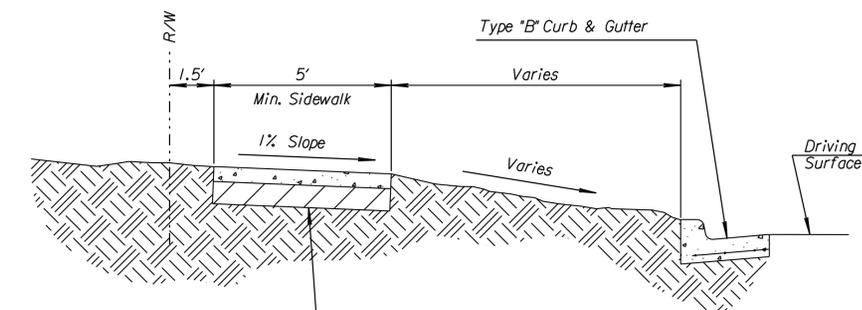
SIDEWALK TRANSITION  
NOT TO SCALE



NEW TO EXISTING SIDEWALK DOWEL CONNECTION  
NOT TO SCALE



PROFILE  
Typical where sidewalk is next to curb.  
NOT TO SCALE



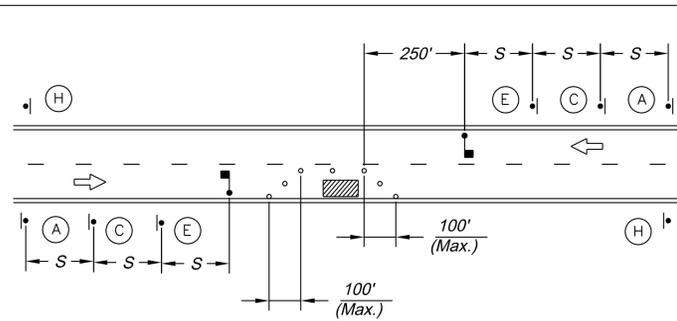
STANDARD SIDEWALK  
NOT TO SCALE

SIDEWALK REPLACEMENT  
& JOINT DETAILS

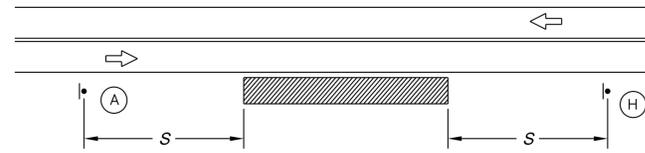
# Appendix E

## SYMBOL LEGEND

- Work Area
- Channelizer
- Sign
- Arrow Panel
- Barricade
- Flagger
- Direction of Travel

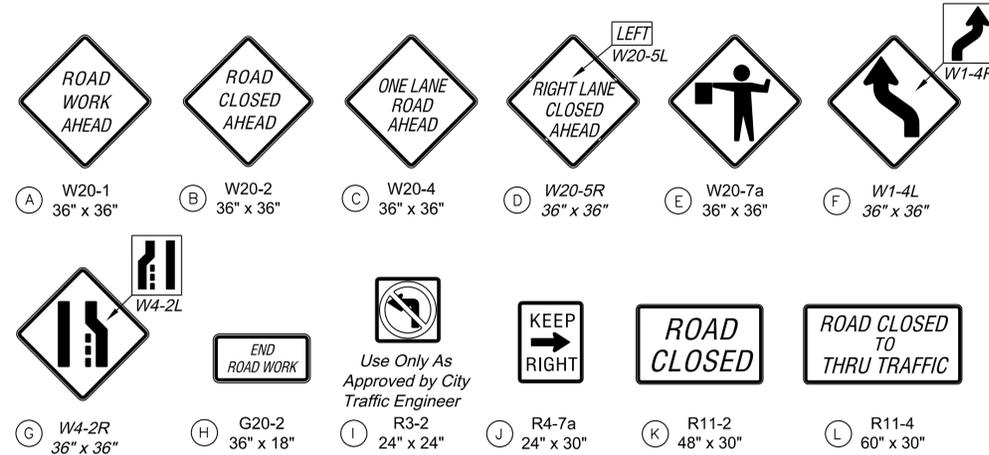


LANE CLOSURE - TWO LANE STREET



TYPICAL SIGNING FOR WORK ADJACENT TO THE STREET

## SIGN LEGEND



## GENERAL NOTES:

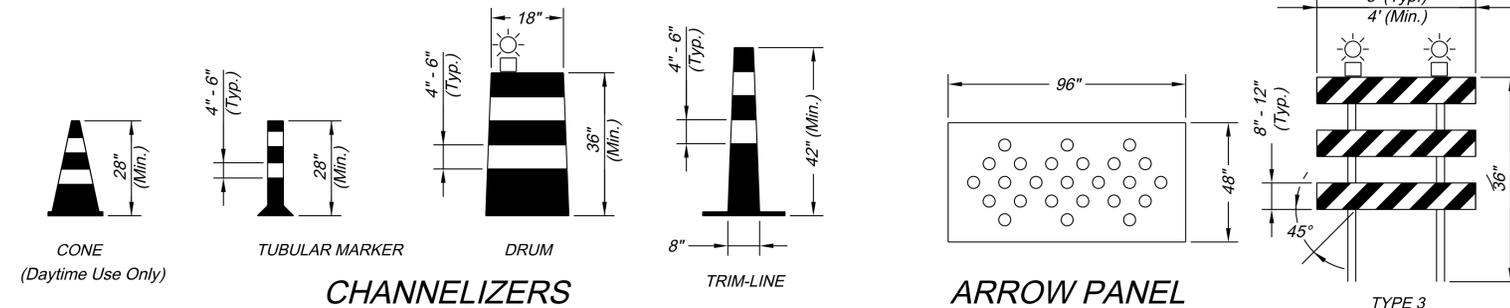
1. All signs, barricades, channelizers, markings and other traffic control devices shall conform to the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD).
2. All traffic control devices shall be standard in size, shape, color, and message, in good condition, and retro-reflectORIZED.
3. Warning lights shall be used on barricades in place at night and on warning signs which alert drivers about a change in alignment, traffic control, lane closure, or road closure.
4. Flaggers shall be used where indicated on the plans, where construction vehicles interact with normal traffic, or where construction activities impose a restriction on traffic, as directed by the City Engineer. Where flaggers are used, advance signing shall be erected as shown in the details or as specified in the MUTCD. Flaggers shall meet the requirements in the MUTCD in regard to character, training, attire, and behavior.
5. Trim-lines are the City's preferred channelizing device. Cones may not be used at nighttime.
6. Traffic control devices not in use or not applicable shall be either covered or removed from the work area.
7. The Contractor shall use barricades, street plates, or fencing as needed to effectively shield pedestrian and vehicular traffic from exposed objects, excavations, and construction activities.
8. Access shall be maintained to all driveways and side streets unless noted otherwise on the plans.
9. No street shall be closed without the approval of the City Engineer. The Contractor shall notify the City Engineer at least 7 days in advance of any street closure. If a detour route around the closure is to be provided, all detour signing shall be as shown on a plan approved by the City Engineer.
10. Construction vehicles parked along streets shall be located within the work area (traffic control) or where otherwise normally permitted. Construction materials, including traffic control and vehicles shall not restrict sight distance for vehicles exiting at streets or drives.
11. Construction materials shall be kept off of sidewalks, consolidated in one location within City right-of-way, and removed daily unless otherwise approved by the Inspector. Dirt, mud, and other construction debris on streets and sidewalks shall be removed immediately.
12. All travel lanes should be at least 11 feet wide unless otherwise authorized by the City Engineer. A "Narrow Lanes" sign shall be installed in advance of a lane width reduction to less than 11 feet.
13. All edge drop-offs of more than 2 inches and less than 4 inches should be protected by a wedge or barrier and all edge drop-offs greater than 4 inches shall have edge protection (see Traffic Control Specifications for edge treatment requirements). No separate payment will be made for Pavement Edge Treatment.
14. The "Workers" symbolic sign (MUTCD No. W21-1a) may be used instead of the "Road Work Ahead" sign for work with a duration of 12 hours or less. The "End Road Work" sign is not required to be installed after the "Workers" sign.
15. The Contractor shall be responsible for maintaining all traffic control devices on an around-the-clock basis, whether or not work is actively being pursued and any deficiencies noted shall be corrected immediately.
16. The traffic control requirements shown on these plans are minimum requirements only and do not attempt to address in depth the variety of situations that may occur once construction has started. In no way do the requirements shown on these plans relieve the Contractor of his responsibility for selecting the proper traffic control devices and implementation procedures that will assure the safety of drivers, pedestrians, and workers at all times.
17. Should the contractor fail to enforce the traffic control plan or fail to clean, replace or otherwise maintain the traffic control devices when directed to do so by the City Engineer or representative, the City may take one or more of the following actions:
  - A) Employ another agency to correct deficiencies in traffic control devices and deduct the cost from the Contractor's pay estimate,
  - B) Stop the work until deficiencies are corrected,
  - C) Suspend all pay estimates until deficiencies are corrected, or
  - D) Place the Contractor in default.
19. Contractor shall limit construction activities to an area no larger than two blocks at any given time.

Sign Spacing "S"	
Speed Limit (mph)	Spacing (Feet)
25	100
30 - 35	250
= 40	350

Speed Limit (mph)	Taper Dimensions (Feet)			Minimum Number of Channelizers
	Minimum Taper Length "L", per Lane Width "W"			
	10	11	12	
25	105	115	125	6
30	150	165	180	7
35	205	225	245	8
40	270	295	320	9
45	450	495	540	13

Guidelines for Length of Longitudinal Buffer Space "B"	
Speed Limit (mph)	Length (Feet)
25	35
30	55
35	85
40	120
45	170

Maximum Channelizer Spacing		
Speed Limit (mph)	Within Taper (Feet)	Outside Taper (Feet)
25	25	50
30	30	60
35	35	70
40	40	80
45	45	90



NOTE: White Bands On Barricades and Channelizers Shall Be Made From High Intensity Sheeting Material.

TRAFFIC CONTROL  
STANDARD DETAILS