

CITY OF SHAWNEE
ORDINANCE NO. 3396

AN ORDINANCE AMENDING PROVISIONS OF TITLE 12 OF THE SHAWNEE MUNICIPAL CODE TO REFLECT CURRENT TRENDS, REMAIN IN COMPLIANCE WITH NEW OR REVISED STATE AND OR FEDERAL LAWS, AND ENSURE INDUSTRY STANDARDS AND BEST PRACTICES ARE BEING FOLLOWED.

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

PARAGRAPH 1. Section 12.06.100 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.100 Definitions.

For purposes of this Chapter, the following words and phrases shall have the meaning given herein:

- A. 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.
- B. Above Ground Utility Structure means any above ground structure or enclosure, utility meter or any other Service appurtenance, which is owned, operated, or used by a Service Provider to provide a Service, that exceeds sixteen (16) square feet in size or three (3) feet in height. Above Ground Utility Structure does not mean a pole or device attached to a pole, traffic or pedestrian control facilities, infrastructure for providing water for fire suppression, safety devices, or temporary structures for emergency services.
- C. Affiliate means any Person controlling, controlled by or under the common control of a "Service Provider".
- D. Applicant means any Person requesting permission to occupy, lease, or operate facilities using the Right-of-Way, or to Excavate the Right-of-Way.
- E. City means the City of Shawnee, Kansas, a municipal corporation and any duly authorized representative.
- F. *City Engineer* means the Kansas licensed professional engineer employed by the City to serve as City Engineer. The term shall also refer to the City Engineer's official designated representative.
- G. Construct or *Construction* means and includes any part of the act or process or an act to install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the Right-of-Way.
- H. Day means calendar day unless otherwise specified.
- I. Director means the Public Works Director, Shawnee, Kansas, or his or her designated representative.
- J. Emergency means a condition that:
 - 1. Poses a clear and immediate danger to life, health, or of a significant loss of property; or
 - 2. Requires immediate Repair or replacement in order to Restore Service to a user.

- K. Excavate or *Excavation* means and includes any cutting, digging, excavating, tunneling, directional drilling, grading, or other alteration of the surface or subsurface material or earth in the Right-of-Way.
- L. FCC means Federal Communications Commission.
- M. Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communications facilities, or other equipment.
- N. Facility Based Service Provider means a Service Provider owning or possessing facilities in the Right-of-Way.
- O. Governing Body means the Mayor and the City Council of the City of Shawnee, Kansas.
- P. 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.
- Q. KCC means the Kansas Corporation Commission.
- R. Landscape Materials means vegetation, groundcover, plants, and trees, whether natural or artificial, and materials or features such as edging, rocks, or mulch, and similar items that accent the overall appearance of property. Landscape Materials shall not include Public Improvements Construction in accordance with written direction of the Director.
- S. Mailbox means a roadside receptacle that is designed solely for the delivery of items bearing postage and delivered by the United States Postal Service, its agents or employees.
- T. Municipal Separate Storm Sewer System means the publicly maintained storm water drainage system within this City, all appurtenances and ancillary structures thereto, conveyance or system or conveyances for storm water, including road drainage systems, Streets, catch basins, detention basins, curbs, gutters, ditches, man-made channels, or storm drains, as well as any system that meets the definition of a Municipal Separate Storm Sewer System or "MS4" as defined by the Environmental Protection Agency in 40 CFR 122.26, or amendments thereto.
- U. Obstruction means any object or item that is placed in the Right-of-Way, and shall not include lawfully operated or parked Vehicles, including ordinary vehicular or pedestrian traffic; Landscaping Materials or Mailboxes maintained in compliance with this Chapter; or any other item specifically permitted by this Chapter.
- V. Oversized/Overweight Vehicle means and includes Vehicles going upon, or using any Street or Right-of-Way in such a manner as to prevent, obstruct, damage, or interfere with its normal use, including, but not limited to, traveling on the Street or Right-of-Way by any Vehicle or combination of Vehicles or any object of dimension, weight, or other characteristic prohibited by law, or having other characteristics capable of damaging the Street. "Oversize" or "Overweight Vehicle" shall not mean the movement of any building or structure otherwise in compliance with Chapter 15.56 of the Shawnee Municipal Code, and shall

- mean any Vehicle that exceeds the weight or size limitation stated in Article 19 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto.
- W. Parkway means the area between the Right-of-Way line and the Street curb, or edge of Pavement on non-curbed Streets. Sometimes called boulevard, tree-shelf, or snow-shelf.
 - X. Pavement means Portland cement concrete Pavement, asphalt concrete Pavement, asphalt treated road surfaces and any aggregate base material.
 - Y. Permit means the Right-of-Way work Permit authorizing work within the Right-of-Way, and if applicable, the Street Excavation Permit authorizing Excavation in the Street.
 - Z. Permittee means any Person to whom a Permit is issued.
 - AA. Person means any individual, association, or entity including, but not limited to, a firm, partnership, a sole proprietorship, joint venture, joint stock company, association, club, company, corporation, business trust, organization, political subdivision, a partnership, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity and shall also mean the manager, lessees, agent, servant, officer or employee of any foregoing.
 - BB. Public Improvement means the Construction, reconstruction, maintenance, or Repair of any public infrastructure directly related to improvements for the health, safety, and welfare of the public, and including without limitation, Streets, alleys, bridges, bikeways, Parkways, Sidewalks, sewers, drainage facilities, traffic control devices, Street lights, public facilities, public buildings or Public Lands.
 - CC. Public Lands means any real property of the City that is not Right-of-Way.
 - DD. Repair means the temporary Construction work necessary to make the Right-of-Way useable.
 - EE. Reseller Service Provider means a Service Provider providing Service within the City that does not have its own facilities in the Right-of-Way, but instead uses the Right-of-Way by interconnecting with or using the network elements of another Service Provider utilizing the Right-of-Way, and/or by leasing excess capacity from a Facility-based Service Provider.
 - FF. Restore or *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, that existed before the commencement of the work.
 - GG. Right-of-Way means the entire area on, below, or above those present and future areas acquired, dedicated, reserved, or maintained for public Street purposes.
 - HH. Routine Maintenance Operation means a work activity that makes no material change to the facilities and does not disrupt traffic for more than one (1) consecutive hour.
 - II. 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 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.

- JJ. Service means a commodity provided to a Person by means of 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, wireless services, video programming services provided through wireline facilities, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage.
- KK. Service Provider means any Person that is a provider of a Service for or without a fee that has the requisite certifications and authorizations from applicable governmental entities, including the KCC and the FCC, to provide such Service. Service Provider includes both Facility-based Service Providers and Reseller Service Providers.
- LL. Sidewalk means that portion of a Parkway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.
- MM. Small Cell Facility means a wireless facility that meets both of the following qualifications:
1. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and
 2. Primary equipment enclosures that are no larger than seventeen (17) cubic feet in volume, or facilities comprised of such higher limits as the federal communications commission has excluded from review pursuant to 54 U.S.C. § 306108. Associated equipment may be located outside the primary equipment, and if so located, is not to be included in the calculation of equipment volume. Associated equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch and vertical cable runs for the connection of power and other services.
- NN. Street means the Pavement, sub-grade and curb and gutter of a public roadway.
- OO. Substantially Improved Areas means an area of the City in which investments have been made:
1. Placing overhead power lines underground.
 2. Capital Improvement Projects with streetscape Items to maximize aesthetics of an area.
- PP. Vehicle means every device in, or upon which any Person or property is or may be transported on drawn upon a Right-of-Way, and shall include trailers and boats, and shall not include a motorized wheelchair or device moved by human power or used exclusively upon station rails or tracks.

PARAGRAPH 2. Section 12.06.220 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.220 General Regulation and Maintenance of Right-of-Way.

- A. No Person shall permit, place or maintain an Obstruction in the Right-of-Way, unless authorized by and in compliance with a current and valid Permit issued by the Director.
- B. The Obstruction of any portion of the Right-of-Way shall be in compliance with the latest edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices.
- C. No Person shall permit, place or maintain Construction materials or equipment in or upon the Right-of-Way unless authorized and in compliance with a current and valid Permit issued by the Director.
- D. Landscape Materials between the Right-of-Way line and the curb or edge of Pavement of a Street, after the effective date of this Chapter, shall be placed and maintained in compliance with the latest Shawnee Design and Construction Manual and the latest City of Shawnee Policy Statement Code approved by the Governing Body. No Person shall permit, place or maintain rock, gravel, mulch or Landscape Materials, in a manner that permits such material to be deposited or washed into any Street, storm drain, inlet, catch basin, conduit or drainage structure of the Municipal Separate Storm Sewer System or any privately maintained storm sewer system connected thereto.
- E. Drainage Facilities. No Person shall permit, place or maintain private drainage facilities within the right-of-way unless in compliance with the latest Shawnee Design and Construction Manual and the latest City of Shawnee Policy Statement Code approved by the Governing Body or unless part of approved plans accepted and signed by the Director.

PARAGRAPH 3. Section 12.06.302 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.302 Requirements of Service Provider.

- A. By January 1 of every calendar year, each Service Provider using or occupying the Right-of-Way must file an annual registration with the Director on a form provided by the City and, if applicable, must obtain or renew a General Land Disturbance Permit as required by Section 11.20.060 of the Shawnee Municipal Code. No Service Provider may use or occupy the Right-of-Way without first registering with the Director and, if applicable, obtaining a General Land Disturbance Permit as required by Chapter 11.20 Land Disturbance Activities of the Shawnee Municipal Code the requirements for land disturbance as outlined in the Shawnee Design and Construction Manual.
- B. The Service Provider shall report any changes in its registration information within thirty (30) Days of such change.
- C. No Service Provider shall be authorized to utilize the Right-of-Way in any capacity or manner without registering as required by this section; obtaining the necessary Permit from the City; and, if applicable, obtaining or renewing a General Land Disturbance Permit as required by Section 11.20.060 of the Shawnee Municipal Code.
- D. To comply with the registration requirements in this section, each Service Provider must provide the following information related to their use of the Right-of-Way:
 - 1. Identity and legal status of Service Provider, including related affiliates.

2. Name, address, telephone number, fax number and email address of officer, agent or employee responsible for the accuracy of the registration statement.
 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.
 4. Name, address, telephone number, fax number and email address for the following areas: right-of-way maintenance, right-of-way construction, administration, and legal.
 5. 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.
 6. Description of the Service Provider's intended use of the Right-of-Way and a nonproprietary description of Service Provider's existing or proposed Facilities within the City.
 7. Information sufficient to determine whether the Service Provider is subject to franchising by Kansas law.
 8. Information sufficient to determine whether the Service Provider has applied for and received any certificate of authority required by the KCC.
 9. Information sufficient to determine that the Service Provider has applied for and received any Permit or other approvals required by the FCC.
 10. Information which identifies Reseller Service Providers as provided hereinafter.
 11. Such other information as may be reasonably required by the City to complete the registration statement.
- E. Each Service Provider shall designate a local Person familiar with the facilities that will act as a local agent for the Service Provider and will be responsible for satisfying information requirements of this Chapter. 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.
- F. 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 Permit as provided hereafter.
- G. 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.
- H. 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 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.

- I. The Service Provider shall furnish maps showing the location of facilities of the Service Provider within the City as provided hereafter.
- J. To the extent allowed by law, the City may limit the number of registrations, based upon, but not necessarily limited to, specific local considerations such as:
 - 1. The capacity of the Right-of-Way to accommodate service facilities;
 - 2. The impact on the community of the volume of facilities in the Right-of-Way;
 - 3. The disruption arising from numerous Excavations of the Right-of-Way;
 - 4. The financial capabilities of the Service Provider and its guaranteed commitment to make necessary investments to erect, maintain and operate the proposed facilities; or
 - 5. Any other consideration based upon the interests of the public safety and welfare.
- K. The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any Service Provider.

PARAGRAPH 4. Section 12.06.308 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.308 Use of Right-of-Way.

- A. 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. 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.
- B. The ROW-User shall coordinate the placement of facilities in a manner that does not interfere with any Public Improvement and does not compromise the public health, safety, or welfare, 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 Improvements and as defined in required by the latest Shawnee Design and Construction Manual available in the office of the Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory.
- C. 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.
- D. 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 planned Public Improvements or the use of the Streets, alleys, Sidewalks or other Public Lands of the City.
- E. 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 Director, shall have the right to consult and review the location, design and nature of the Facility prior to its being installed.

- F. 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 Director at his or her 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 Director, including, but not limited to, requirements regarding location and height. Above ground Facilities shall comply with the latest Shawnee Design and Construction Manual and all applicable zoning regulations, and be located in a manner that does not compromise the public health, safety, or welfare.
- G. No ROW-User shall erect, construct, or install any Facility within the Right-of-Way that exceeds a height of sixty (60) feet.
1. Exceptions.
 - a. Temporary Exceptions. The Director or his or her designee may grant special permission in cases where temporary electrical power or communication service is reasonably required for emergencies or for building construction purposes, or for other temporary purposes, to erect, construct, install, or maintain poles, wires, and other overhead structures for a period not to exceed one hundred twenty (120) days. However, in the event the purpose for which the temporary exception referred to herein as granted cannot be completed within the period herein provided, because of a shortage of material, a natural disaster, strikes, or other circumstances beyond the control of the parties, or by unusual hardships, then the time may be extended an additional temporary period or periods as necessary to allow completion of such construction.
 - b. Permanent Exceptions. The provisions of this section shall not apply to any of the following uses.
 - (1) All electric power lines rated at or above "feeder" line class. For purposes thereof, a "feeder" line is defined as that portion of an electrical circuit which provides power from a power substation and which has a rated capacity of three thousand (3,000) KVA or more;
 - (2) All telecable lines rated at or above "trunk" line class. For purpose hereof, a "trunk" line is defined as that portion of a telecable system's lines that is three-quarters (.750) inches in diameter.
 - (3) Poles used exclusively for street or area lighting or for traffic control facilities.
 - (4) Electric substations and the accompanying equipment and apparatus necessary to provide adequate electric service.
- H. The ROW-User shall meet the following maximum height requirements based on adjacent street classification when erecting, constructing, or installing any new Facility within the Right-of-Way:
1. Residential: Twenty (20) feet.
 2. Collector: Forty (40) feet.
 3. Arterial: Sixty (60) feet.

- I. The ROW-User shall meet the following minimum spacing requirements based on adjacent street classification when erecting, constructing, or installing any new Facility within the Right-of-Way:
 1. Residential: Minimum distance of three hundred fifty (350) feet between newly placed Facility.
 2. Collector: Minimum distance of two hundred fifty (250) feet between newly placed Facility.
 3. Arterial: Minimum distance of two hundred twenty-five (225) feet between newly placed Facility.
- J. 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, except transmission equipment, as defined in 47 CFR 1.40001.
- K. The 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 Director expects will someday be located within the Right-of-Way. All Permits issued by 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 Director for good cause shown, upon consideration of such factors as: the remaining economic life of the facilities, public health, safety, or welfare; user Service needs; and hardship to the ROW-User.
- L. If, in the preparation and planning of a Right-of-Way project, the Director deems it appropriate for a conduit to be constructed along, across or under the Right-of-Way, the 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 Director may require the ROW-User to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-User use of the conduit is reasonable and appropriate under the circumstances.
- M. 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 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 Director may direct the City to make such Repair or replacement and bill the ROW-User for the City cost. The 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.
- N. 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 the Shawnee Design and Construction Manual and all 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 paragraph are minimum standards and the requirements established or referenced in this Chapter 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 Director and having received a Permit for such improvement. The Director may require that any drawings, plans and/or specifications submitted be certified by a Kansas 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.

- O. 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 within 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.
- P. The ROW-User shall meet or exceed the following Aesthetic Standards when placing a new Facility or attaching/replacing a City owned Facility for the purposes of a Small Cell Facility within the Right-of-Way. Any Small Cell Facility that does not meet the standards below shall be put on hold and subject to a review by the Director:
 - 1. No new Facility (pole) shall be allowed within the Right-of-Way of Substantially Improved Areas of the City.
 - 2. All attachments to City owned infrastructure shall be allowed on non-decorative poles only.
 - 3. Any Small Cell Facility shall not obstruct:
 - a. Any historic/scenic view.
 - b. Other Facilities (Public or Private).
 - c. Infrastructure related to Public Transportation.
 - 4. Small Cell Facility attached equipment shall be mounted a minimum of eight (8) feet from grade to bottom of equipment. Attachments shall be restricted to the two (2) sides of the pole not adjacent to the Street or Sidewalk.
 - 5. All antennae shall be enclosed to screen the antennae from view and the maximum height of the enclosure shall be ten percent (10%) of the poles height.
 - 6. All cabling associated with a Small Cell Facility shall be hidden inside the pole if possible or at a minimum covered.
 - 7. No additional light sources shall be exposed as part of the attached Small Cell Facility.

8. The ROW User placing a new Facility (pole) within the Right-of-Way for the purposes of a Small Cell Facility must utilize a steel or aluminum pole of similar style and color to an adjacent Facility.
9. Any Facility replaced as part of a Small Cell Facility installation must be replaced with current lighting standards as shown in the latest Shawnee Design and Construction Manual.

PARAGRAPH 5. Section 12.06.320 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.320 Permit Applications.

- A. Application for a Permit shall be submitted to the Director either by the ROW-User or by the Person who will do the work and/or Excavation in the Right-of-Way.
- B. Permit applications for all work in the Right-of-Way, except Small Cell Facilities, shall contain and be considered complete upon receipt of the following:
 1. Proof of registration with the Director, as required by this Chapter and, if applicable, proof of a current General Land Disturbance Permit as required by Chapter 11.20 Land Disturbance Activities of the Shawnee Municipal Code and the Shawnee Design and Construction Manual.
 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;
 3. A traffic control plan;
 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;
 5. Certificate of liability insurance;
 6. Performance and Maintenance Bond;
 7. Any other requirement that the City Engineer deems reasonable to protect the health, safety, and welfare of the traveling public.
- C. Permit applications for Small Cell Facilities shall contain and be considered complete upon receipt of the following:
 1. Compliance with verification of registration;
 2. Submission of a completed Permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project, the location of all existing and proposed Facilities at such location, and the location of other small cell facilities within one thousand (1,000) feet owned by the Applicant;
 3. A traffic control plan to be used during construction, as well as during any future access should the Applicant need to perform maintenance or other work on the Facility;
 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;
5. Completion of structural analysis and submission of said analysis with the application. This analysis shall be stamped by a Kansas registered professional engineer and shall show that the Facility is capable of supporting the additional load presented by Small Cell Facilities attached to the pole. It shall also show that the pole is capable of withstanding standard wind loads for applications of this type;
 6. An inspection schedule that the Applicant will adhere to throughout the life of the Small Cell Facilities. This schedule shall show that the pole will be inspected for structural defects, at minimum, on an annual basis;
 7. Completion and submission of a property owner notification form for every property owner who is adjacent to the proposed installation of the Small Cell Facilities;
 8. Any other requirement that the City Engineer deems reasonable to protect the health, safety, and welfare of the public.
- D. All applications shall be processed within the timeframes required by state and federal law.
- E. If an Applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple Facilities, that Applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple Facilities until the first application has been approved or denied. The Director may waive this provision.
- F. Completed Application; Determination; Tolling.
1. The City shall, within thirty (30) calendar days of receipt of an application for Small Cell Facilities, review the application for completeness. An application is complete if it includes the applicable permit review fee(s) and contains all of the applicable submittal requirements set forth in SMC 12.06.320 paragraph C, unless waived by the City. The determination of completeness shall not preclude the City from requesting additional information or studies either at the time of the determination of completeness or subsequently if new or additional information is required, or substantial changes in the proposed action occur, or the proposed Small Cell Facilities installation or modification is modified by the Applicant, as determined by the City.
 2. The City shall notify the applicant within thirty (30) calendar days of receipt of the application that the application is incomplete. Such notice shall clearly and specifically delineate all missing documents or information.
 3. The application review period begins to run when the application is submitted, and may be tolled when the City determines that the application is incomplete and provides notice as set forth below. The application review period may also be tolled by mutual agreement of the City and the Applicant. The timeframe for review is not tolled by a moratorium on the review of eligible Facility installation or modification applications.
 - a. To toll the timeframe for review for incompleteness, the City shall provide written notice to the Applicant within thirty (30) calendar days of the date of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to submittals set forth in SMC 12.06.320

- paragraph C and any supplemental information requested by the City that is reasonably related to determining whether the proposed Facilities installation or modification will substantially change the physical dimension of an eligible support structure.
- b. The timeframe for review begins running again when the City is in receipt of Applicant's supplemental submission in response to the City's notice of incompleteness.
 - c. Following a supplemental submission, the City shall have ten (10) calendar days to notify the Applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in SMC 12.06.320F.3.d. Except as may be otherwise agreed to by the Applicant and the City, second or subsequent notices of incompleteness may not specify missing documents or information that was not delineated in the original notice of incompleteness.
 - d. A notice of incompleteness from the City will be deemed received by the Applicant upon the earlier of, personal service upon the authorized person, delivery by electronic mail to the authorized person (if such delivery is authorized for receipt of notice by the authorized person), or three (3) business days from deposit of the notice in the United States Mail, postage prepaid, and in an envelope properly addressed to the authorized person using the address set forth in the application.
- G. In the event that after submittal of the application, or as a result of any subsequent submittals, Applicant modifies the proposed Facilities installation or modification description in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, Applicant and the City may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.
- H. Small Cell Facilities applications shall not be considered submitted until an agreement is in place between the Applicant and the City for use of the public Right-of-Way.

PARAGRAPH 6. Section 12.06.324 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.324 Drawings.

- A. The Permittee shall submit drawings electronically the Permit application indicating the horizontal location and elevation of the proposed work to be completed in the Right-of-Way.
- B. The drawing shall include a north arrow, graphic scale, and Street names. The drawing shall indicate existing surface and underground Construction including, but not limited to, utilities, driveways, Sidewalks, curb and gutter, edge of Pavement, storm sewer pipe, drainage structures, Street light poles,

- and traffic signals. Right-of-Way lines, easements of record, lot lines, and lot numbers shall be shown on the drawing.
- C. Proposed facilities shall be differentiated from existing facilities. Underground facilities shall be differentiated from above-ground or aerial facilities. The drawing shall indicate the locations of all proposed above ground and below ground facilities (poles, manhole covers, pedestals, etc.). The drawing shall clearly differentiate graphically between proposed facilities to be installed by directional drilling methods, and facilities to be installed by open-cut methods.
 - D. Dimensions shall be provided on the drawing indicating the distance from the back of curb, edge of Pavement, or Right-of-Way line, to the centerline of the proposed facilities.
 - E. The drawings shall indicate the size (L x W x H) of all proposed pedestals and structures.
 - F. Utility extensions for new residential subdivisions or commercial developments, shall utilize the Street plans or site plans, respectively, approved by the City as the base map for indicating proposed utility extensions.
 - G. Utility relocation work completed in conjunction with capital improvement projects administered by the City shall use the approved Street plans for the base map for indicating all proposed utility relocations or modifications.

PARAGRAPH 7. Section 12.06.330 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.330 Permitted Work.

- A. No Person shall Excavate in the Right-of-Way unless necessary for Emergency Repairs without first securing the Right-of-Way Work Permit authorizing work within the Right-of-Way, and, if necessary, the Street Excavation Permit authorizing Excavation in the Street.
- B. The Permittee shall document existing conditions at the site by taking pre-construction photographs.
- C. The Permittee shall notify all affected homeowners and businesses forty-eight (48) hours in advance of the work.
- D. The Permittee shall not at any one 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.
- E. 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.
- F. The Permittee shall not permit such an Excavation to remain open longer than is necessary to complete the Repair or installation.
- G. The Permittee shall notify the City no less than three (3) 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 one hour. 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. The Permittee shall comply with the City's policy regarding the complete

closure of a public Street that requires detouring traffic, including the establishment of escrow accounts as a performance guarantee for the timely completion of the work, as required by the latest City of Shawnee Policy Statement Code.

- H. Unless first obtaining prior written consent of the Director, non-emergency work on arterial and collector Streets shall be completed between the hours of 8:30 a.m. and 4:00 p.m. in order to minimize disruption of traffic flow. In all other areas, non-emergency work shall be completed between the hours of 7:00 a.m. and 7:00 p.m.
- I. All work performed in the Right-of-Way or which in any way impacts vehicular or pedestrian traffic shall be properly signed and barricaded as indicated on the traffic control plan, and otherwise protected at the Permittee's expense. Such signage shall be in conformance with the latest edition of the Federal Highway Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.
- J. 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 Evergy, or to the Traffic Operations Section of the Public Works Department with respect to any municipal traffic signal and Street light systems, as appropriate.
- K. 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.
- L. 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 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 Chapter.
- M. 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 accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties.
- N. Following completion of permitted work for new Construction, the Permittee shall keep, maintain and provide to the City records 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 Director may waive this requirement. Such information shall be subject in all

respects and shall have the benefit of protection as set forth in the section entitled "Mapping Requirements of Service Provider" contained herein.

- O. The City may use the as-built records of the Service Provider's facilities in connection with Public Improvements.

PARAGRAPH 8. Section 12.06.332 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.332 Right-of-Way Repair and Restoration.

- A. The work to be done under the Permit and the Repair and Restoration of the Right-of-Way as required herein must be completed within the dates as specified in the Permit.
- B. All earth, materials, Sidewalks, curb and gutter, paving, grass/sod, bushes, trees, utilities, Public Improvements, 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 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 fourteen (14) Days will be provided to allow for the deficiencies to be corrected.
- C. 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.
- D. If the Permittee fails to Restore the Right-of-Way in the manner and to the condition required by the 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.
- E. 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.
- F. If an Excavation cannot be back-filled 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.
- G. In restoring the Right-of-Way, the Permittee guarantees all Restoration work and shall maintain it for two (2) years following its completion. During the two (2) years the Permittee shall, upon notification from the Director, correct all Restoration work to the extent necessary, using any method as required by the 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 (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 Director shall have the authority to extend the guarantee period for such new Restoration for up to an additional two (2) years from the date of the new Restoration, if the Director determines any overt action by the Permittee not to comply with the conditions of the Permit and any Restoration requirements.

- H. Payment of any fees shall not relieve the Permittee of the obligation to complete the necessary Right-of-Way Restoration.

PARAGRAPH 9. Section 12.06.340 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.340 Denial of a Permit.

- A. The 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, or 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 Director, at his or her discretion, may consider all relevant factors including but not limited to:
1. The extent to which the Right-of-Way space where the Permit is sought is available;
 2. The competing demands for the particular space in the Right-of-Way;
 3. The availability of other portions of the Right-of-Way or in other Right-of-Ways for the facilities of the Applicant;
 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location of or other standards for Facilities in the Right-of-Way;
 5. The degree of compliance of the Applicant with the terms and conditions of its franchise, this Chapter, and other applicable ordinances and regulations;
 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the Right-of-Way;
 7. The condition and age of the Right-of-Way, which was constructed or reconstructed within the preceding five (5) years;
 8. 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;
 9. Whether the Applicant has registered with the Director as required by this Chapter;
 10. Whether the Applicant, if required, maintains a current General Land Disturbance Permit as required by Chapter 11.20 Land Disturbance Activities of the Shawnee Municipal Code and the Shawnee Design and Construction Manual;
 11. Whether the Applicant has failed within the last three (3) years to comply, or is presently not in full compliance with, the requirements of this Chapter;
 12. Whether the Applicant has delinquent debt owed to the City;
 13. Whether the issuance of a 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

- Director shall be guided by the safety and convenience of anticipated travel of the public over the Right-of-Way;
14. Whether the application complies with the Shawnee Design and Construction Manual;
 15. The adverse impact of the Facilities or the Facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Director may in his or her discretion issue a Permit in any case where the Permit is necessary to:
1. Prevent substantial economic hardship to a user of the Applicant's Service;
 2. Allow such user to materially improve the service provided by the Applicant.
- C. The Director shall not issue a Right-of-Way Permit for encroachments in the Right-of-Way for private purposes that create a safety hazard and would be deemed a nuisance pursuant to Chapter 12.06 of the Shawnee Municipal Code.
- D. Any denial of wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing, and supported by substantial evidence contained in a written record issued contemporaneously with said decision.

PARAGRAPH 10. Section 12.06.344 of the Shawnee Municipal Code is hereby amended to read as follows:

12.06.344 Work Requirements and Inspections.

- A. Any Excavation, back filling, Repair and Restoration, and all other work performed in the Right-of-Way shall be done in conformance with the latest Shawnee Design and Construction Manual.
- B. The Permittee shall employ a testing laboratory as approved by the Director, which shall certify the proper back-filling on any Street cut. The Permittee may pay all costs associated with such testing. This provision shall be waived with the advanced written permission of the Director.
- C. Upon completion of the work and Restoration authorized by the Permit, a Permit shall be subject to a written final inspection by the Director. It shall be unlawful for any Permittee to fail to obtain a satisfactory final inspection report prior to the expiration of the Permit.
- D. The Permittee shall notify the Director to schedule an inspection at the start of back filling. Required inspections are listed in the latest Shawnee Design and Construction Manual.
- E. When any corrective actions required have been completed and inspected to the Director's satisfaction, the two-year maintenance period will begin.
- F. In addition to the required scheduled inspections, the 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.
- G. At the time of any inspection, the 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 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.

PARAGRAPH 11. Section 12.12.020 of the Shawnee Municipal Code is hereby amended to read as follows:

12.12.020 Reservation Permit.

All park shelters, sports fields, baseball and softball fields, and soccer fields shall be subject to use by reservation permits issued by the city, and any person or group holding a valid reservation permit shall have the right of usage of the facility designated by the permit over any person or group without such a permit.

PARAGRAPH 12. Section 12.12.060 of the Shawnee Municipal Code is hereby amended to read as follows:

12.12.060 Vehicle Restrictions and Prohibitions.

- A. Motor vehicles are specifically prohibited from operation within any city parks or the cemetery except parking lots, access drives to parking lots, and any other driveways, or areas specifically established by the City Manager or designee for motor vehicle use.
- B. The presence of motor vehicles in parking lots, parking access drives, and park or cemetery streets between 10:00 p.m. and 6:00 a.m. or at other such times that parks and the cemetery may be closed by order of the City Manager or designee is prohibited.

PARAGRAPH 13. Section 12.12.070 of the Shawnee Municipal Code is hereby amended to read as follows:

12.12.070 Campfires and Burning Materials Prohibited—Exception.

No person shall build or attempt to build a fire except in such areas and under such regulations as may be designated by the City Manager or designee. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, or other inflammable material within any park area, cemetery or on the unpaved portion of any street abutting or contiguous thereto.

PARAGRAPH 14. Section 12.20.090 of the Shawnee Municipal Code is hereby amended to read as follows:

12.20.090 Children Required to be Accompanied by Adult.

All children under the age of nine (9) years shall be accompanied by a person at least sixteen (16) years of age for their safety and conduct while in the main pool.

PARAGRAPH 15. Section 12.26.020 of the Shawnee Municipal Code is hereby amended to read as follows:

12.26.020 Definitions.

- A. Applicant means the person, firm, partnership, joint venture or corporation, including predecessors in interest or ownership that seeks to exercise the privilege of engaging in the business of platting real property in the City by applying for approval of a Plat.
- B. Area means the gross area of the real property included in a Plat for which approval is sought, measured in square feet less the area described below in Section 12.26.040.
- C. City means the City of Shawnee, Kansas.
- D. City Standards means the standards adopted by the City Engineer in the document entitled Shawnee Design and Construction Manual s as it may be amended from time to time.
- E. Construction means the construction or reconstruction of a Major Street to City Standards or the construction or reconstruction of any street classified as a minor collector and above, to City standards, for a least minor collector including grading, pavement, curbs, storm sewers, bike lanes when shown on the City's Bicycle and Recreational Trail Master Plan, sidewalks, and lighting improvements. Provided however, the term shall not include those traffic enhancement and control improvements, such as traffic signals and beacons, acceleration and deceleration lanes, and additional turning and through lanes, which are identified in a traffic impact study, prepared by a Kansas licensed engineer and approved by the City Engineer, and which are required by the City as a condition of approval of a preliminary or final plat.
- F. Director means the Director of Community Development, or his or her designee.
- G. Governmental Entity means the State of Kansas, any city, county, township, school district, or other political or taxing subdivision of the State or any agency, authority, institution or other instrumentality of the State of Kansas.
- H. Major Street means a street intended to provide for major traffic movements between areas of the City and designated as a major arterial, a minor arterial, or a major collector on the Circulation Plan most recently adopted by the Governing Body in the document entitled Comprehensive Plan for the City of Shawnee.
- I. Plat means a recordable final plat giving the location and dimensions of lands as one (1) or more lots, blocks, tracts or parcels, and meeting the requirements of the Shawnee Municipal Code and the Kansas statutes.
- J. Tax means the excise tax levied by the ordinance codified in this chapter.
- K. Tax Rate means the rate of taxation applied to the area expressed in dollars per square foot.

PARAGRAPH 16. Section 12.32.010 of the Shawnee Municipal Code is hereby amended to read as follows:

12.32.010 Findings.

- A. The use of land within the City for the operation and maintenance of a Sanitary Landfill adversely affects and impacts the City and its citizens in numerous ways, including, but not limited to:
 - 1. Increasing use of City streets by heavy truck traffic which results in an increased cost to maintain, repair and reconstruct such streets;
 - 2. An increase in undesirable noise, litter, odors and undesirable aesthetics;
 - 3. Loss to the City of revenue which the City might otherwise derive from the development and improvement of property included in the Sanitary Landfill for other uses that could generate increased and additional revenue for the City.
- B. The impact fee hereinafter set out is roughly proportionate to the cost to the City of offsetting the adverse effects and burdens resulting from the operation or maintenance of a Sanitary Landfill within the City; although, the City recognizes that it is difficult to measure and determine with certainty or exactness the amount of or the economic value of the adverse impacts and effects of the operation or maintenance of a Sanitary Landfill.
- C. The impact fee hereinafter provided for is for the purpose of offsetting the adverse effects and burdens of the operation and maintenance of a Sanitary Landfill within the City and is rationally related to such offsetting and is for the purpose of enhancing the public health, safety and welfare.
- D. At the time of passage of this Ordinance there is one (1) Existing Sanitary Landfill, as that term is hereinafter defined, within the City which Existing Sanitary Landfill operates pursuant to Special Use Permit 13-08-10 (SUP 08) granted and approved by the City on November 10, 2008, covering approximately seven hundred seventy-two (772) acres of land known as the Johnson County Landfill (the "JCL"). SUP 08 was for a term expiring on September 25, 2043. The City recognizes that it is possible that one (1) or more additional Sanitary Landfills may in the future operate in or be maintained within the City.

PARAGRAPH 17. Section 12.32.030 of the Shawnee Municipal Code is hereby amended to read as follows:

12.32.030 Imposition of Sanitary Landfill Impact Fee.

There is hereby imposed a Sanitary Landfill Impact Fee (hereinafter "Impact Fee") on all land within the City included in a Sanitary Landfill. The amount of the Impact Fee is:

- A. For an Existing Sanitary Landfill as defined in foregoing Section 12.32.020.B., for so long as it remains such and is not a Newly Permitted Sanitary Landfill as defined in foregoing Section 12.32.020.C., the Impact Fee is set by a mutually agreed upon Development Agreement;
- B. For a Newly Permitted Sanitary Landfill as defined in Section 12.32.020.C., the Impact Fee for each calendar year shall be approved by the Governing Body and listed in the latest City of Shawnee Policy Statement Code (PS-56).
- C. The Impact Fee on a Newly Permitted Sanitary Landfill shall commence and become due and payable commencing on the first day of the first month following the effective date of this Ordinance, which is at least thirty (30)

days after the date of approval or granting of a Special Use Permit for the Sanitary Landfill, as hereinafter defined. Date of approval or granting of a Special Use Permit shall mean the date on which action of the City approving or granting the Special Use Permit or an order of a court of competent jurisdiction approving or granting the Special Use Permit becomes final and unappealable. The Impact Fee for a Newly Permitted Landfill for the first calendar year shall be an annual fee in the amount calculated as set forth in subsection (B) provided that, there shall be deducted from the annual fee determined pursuant to subsection (B) any amount which has already been paid for the same calendar year as an Impact Fee for an existing landfill if such Impact Fee was based on land included in the Newly Permitted Landfill. The balance due and payable after such deduction shall be divided by the number of months the Newly Permitted Sanitary Landfill is subject to the Impact Fee and shall be payable in equal monthly payments on the first day of each month of the calendar year.

- D. The Impact Fee shall be payable until such time as there is delivered to the City a certificate of the Kansas Department of Health and Environment certifying that the depositing of solid waste in any Solid Waste Disposal Area permitted by the Kansas Department of Health and Environment which area is within the Sanitary Landfill has ceased.

PARAGRAPH 18. Upon the effective date of this Ordinance, the previously existing Section 12.06.100, Section 12.06.220, Section 12.06.302, Section 12.06.308, Section 12.06.320, Section 12.06.324, Section 12.06.330, Section 12.06.332, Section 12.06.340, Section 12.06.344, Section 12.12.020, Section 12.12.060, Section 12.12.070, Section 12.20.090, Section 12.26.020, Section 12.32.010, and Section 12.32.030 are hereby repealed.

PARAGRAPH 19. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

PARAGRAPH 20. Savings Clause. Neither the adoption of this Ordinance nor the omission, repeal or amendment of any section or portion thereof shall in any manner affect the prosecution for violation of this Ordinance, or the previously existing provisions of Sections amended by this Ordinance, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under such Ordinance or provision, nor be construed as affecting any of the provisions of such Ordinances or provisions relating to the collection of any such license, fee or penalty, or the penal provisions applicable to the violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any Ordinance, and all rights and obligations there under shall continue in full force and effect.


PARAGRAPH 21. This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED by the Governing Body this 25 day of October, 2021.

APPROVED AND SIGNED by the Mayor this 25 day of October, 2021.



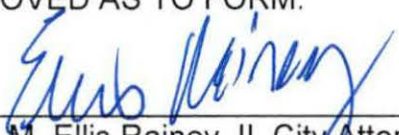
CITY OF SHAWNEE, KANSAS

By: 
Michelle Distler, Mayor

ATTEST:

By: 
Stephanie Zaldivar, City Clerk

APPROVED AS TO FORM:

By: 
M. Ellis Rainey, II, City Attorney

The Legal Record

1701 E. Cedar St., Ste. 111
Olathe, KS 66062-1775
(913) 780-5790

CITY OF SHAWNEE - CITY CLERK
11110 JOHNSON DR
SHAWNEE KS 66203-2750

First published in The Legal Record, Tuesday, November 16, 2021.

CITY OF SHAWNEE Summary of Ordinance No. 3396

On the 25 day of October, 2021, the Governing Body of the City of Shawnee, Kansas passed Ordinance No. 3396, Amending Provisions of Title 12 of the Shawnee Municipal Code to Reflect Current Trends, Remain in Compliance with New or Revised State and or Federal Laws, and Ensure Industry Standards and Best Practices are being followed.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk or at www.cityofshawnee.org.

The undersigned hereby certifies as prescribed by KSA 12-3007 that the foregoing Summary of Ordinance No. 3396 is legally accurate and sufficient.

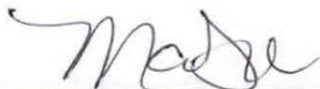
Dated: October 25, 2021

/s/ M. Ellis Rainey, II, City Attorney
11/16

Proof of Publication

STATE OF KANSAS, JOHNSON COUNTY, SS;
Maureen Gillespie, of lawful age, being first duly sworn, deposes and says that she is Legal Notices Clerk for The Legal Record which is a newspaper printed in the State of Kansas, published in and of general paid circulation on a weekly, monthly or yearly basis in Johnson County, Kansas, is not a trade, religious or fraternal publication, is published at least weekly fifty (50) times a year, has been so published continuously and uninterrupted in said County and State for a period of more than one year prior to the first publication of the notice attached, and has been entered at the post office as Periodicals Class mail matter. That a notice was published in all editions of the regular and entire issue for the following subject matter (also identified by the following case number, if any) for 1 consecutive week(s), as follows:

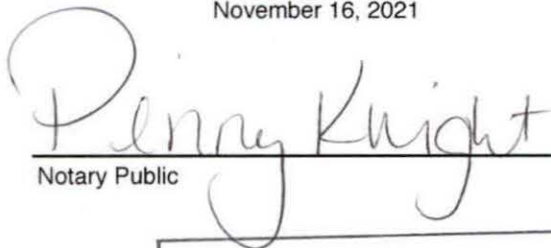
SUMMARY OF ORDINANCE NO. 3396
11/16/21



Maureen Gillespie, Legal Notices Billing Clerk

Subscribed and sworn to before me on this date:

November 16, 2021



Notary Public

PENNY KNIGHT
Notary Public-State of Kansas
My Appt. Expires Dec. 31, 2021

L93980
Publication Fees: \$8.64