

OCA# 132019

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ORDINANCE NO. 50-337

AN ORDINANCE AMENDING SECTIONS 10.20.050, 10.20.170 AND 10.20.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCAVATIONS IN THE RIGHT OF WAY AND REPEALING THE ORIGINALS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.20.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Application for permit; fees, issuance.”

Permits required by this Chapter may be issued to any municipally operated utility or public utility corporations having a franchise or agreement to operate in the City, upon application and subject to approval by the City Engineer. Such Person will be invoiced by the City with payment due within thirty-six (36) days of the invoice.

Any other eligible Person, other than those expressly excepted in Section 10.20.030, desiring a permit shall first make application to the City Engineer and shall pay a processing fee per block for cutting a paved surface in City Right of way as listed in Section 10.34.010, plus any repair costs incurred by the City. The City Engineer may require Excavation by trenchless methods.

A surcharge fee is assessed when an Excavation is made in any paved street or alley on which the pavement or resurfaced pavement is less than five (5) years old. The surcharge fee is

five (5) percent of the permit fee plus the repair costs for each un-elapsed month, or fraction thereof, of the five (5) year period.

The permit fee, including any applicable surcharge fee, combined with the costs to the City for permanently repairing the pavement cut, constitutes the total permit fee.

A processing fee as listed in Section 10.34.010 shall be required for a permit to excavate in any unpaved City Right of way for the purpose of laying, repairing, or removing any main pipes, underground wires or other conduits. One permit shall be required for each block or portion of a block if the work is done with continuity. For the purpose of connecting, repairing or removing service pipes, underground pipes, underground wires or other conduits, or for any other purpose not specifically mentioned herein, one permit shall be required for each connection unless such connection is made at the time of laying the main.

Permits are nonrefundable and nontransferable.

SECTION 2. Section 10.20.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Contracting with paving contractor to do work.”

Any Person having a project necessitating an Excavation on any portion of paved City Right of way shall first obtain a pavement cut permit from the City Engineer. Permanent repair of the cut shall be done by the City's contractor under the inspection of the City Engineer, and all material and workmanship will conform to the specifications on file in the office of the City Engineer. The Person making the cuts shall be liable for the cost of repair of such cuts and for maintenance of traffic control as provided in the latest edition of the “Manual on Uniform Traffic Control Devices.” The Person will also comply with all applicable provisions of the Americans with Disabilities Act.

The Person making the cut shall also be liable for a period of ten (10) years for the maintenance of the repair, including its complete removal and replacement if the condition of the repair is such, in the opinion of the City Engineer, as to constitute a threat to the integrity or usability of the paved surface.

The City Engineer may require the Person making the cuts to contract with a paving contractor for repair of such cuts. The repair will be under the inspection of the City Engineer and all material and workmanship will conform to the specifications on file in the office of the City Engineer. The Person making the cuts shall be liable for cost of repair of such cuts, the costs of inspection, and responsible for traffic control as provided in the latest edition of the “Manual on Uniform Traffic Control Devices.” In no case shall any Person at any time or under any circumstance be allowed to perform any permanent repairs of any type or nature with regard to the repair of an Excavation without the written approval of the City Engineer.

SECTION 3. Section 10.20.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Right of City to civil action to recover permit fees.”

In addition to the penalty prescribed in Section 1.04.060, the City may recover in a civil action in any court of competent jurisdiction, the amount of the permit fees, late fees, and charges for any damages. No property of such debtor shall be exempt from forced sale under any process of law such indebtedness, except such exemptions as allowed by the Constitution and the laws of this state.

SECTION 4. The originals of Sections 10.20.050, 10.20.170 and 10.20.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 5. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 11th day of October, 2016.

Jeff Longwell, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Jennifer L. Magaña
City Attorney and Director of Law