

1 (Published in the Topeka Metro News July 4, 2007)

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3 **ORDINANCE NO. 18916**

4
5 AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr. concerning
6 streets, sidewalks, and other public places, repealing City of Topeka
7 Code §§ 130-176, 130-177, 130-196 through 130-207, 130-231
8 through 130-238, 130-261 through 130-264, 130-281 through 130-
9 284, 130-301 through 130-310, and 130-331 through 130-333,
10 amending City of Topeka Code Chapter 130, Article IV and §§ 130-
11 156 through 130-165, and repealing said original sections.

12
13 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

14 Section 1. City of Topeka Code Chapter 130, Article IV, Construction Work,
15 Division 1, Generally, is hereby amended to read as follows:

16 Article IV

17 Construction Work in City Right-of-Way

18 ~~Division 1.~~

19 ~~Generally.~~

20 Section 2. City of Topeka Code § 130-156, Filing of maps and plats required, is
21 hereby amended to read as follows:

22 **~~Filing of maps and plats required.~~**

23 ~~Every person contemplating the laying of any underground pipe, main or conduit in~~
24 ~~any of the streets, avenues, alleys or other public grounds in the city for the purpose of~~
25 ~~distributing or furnishing water, gas, oil, hot air, steam, steam heat, electric light, electric~~
26 ~~power, telegraph or telephone service shall file in the office of the city engineer, at least ten~~
27 ~~days before the commencement of the excavation work for the laying of such pipe, main or~~
28 ~~conduit, a map, plat or chart showing the location, size and length of such pipe, main or~~
29 ~~conduit; all connections, branches, cutoffs, lamps, posts, poles, buildings and other~~

30 attachments; the depth of such pipe, main, conduit and connections underground; and the
31 size and dimensions of all buildings and appurtenances aboveground. The person making
32 such map, plat or chart shall attach thereto an oath stating that such map, plat or chart is
33 correct.

34 **Application and Permit Required.**

35 (a) Application.

36 (1) Any person desiring to obtain the City's permission to access the City's
37 right-of-way or easements for the following purposes, including but not limited to:
38 excavation; boring or tunneling; repair, construction or maintenance of a driveway, driveway
39 approach or sidewalk; connection or disconnection with a water line or sewer line; or
40 construction, repair or maintenance of an underground or overhead utility, shall first make
41 application to the Development Services Director or designee and secure a permit
42 therefore.

43 (2) The application shall be on a form supplied by the Development
44 Services Director and shall contain the following:

- 45 1. The specific location by each street address or place at which the work is to
46 be performed;
- 47 2. The purpose for which the work is intended;
- 48 3. The dimensions: Length, breadth and depth thereof;
- 49 4. The time when the work is to be commenced thereon;
- 50 5. The time required to complete the work;
- 51 6. An agreement that the applicant shall hold the City harmless from any and all
52 claims for injury or damages whatsoever to persons or property that may

53 result from the contractor's activities in the right-of-way or easement; and

54 7. An agreement that the applicant shall repair any defective work done by the
55 applicant. Further the applicant shall agree to reimburse the City for any
56 costs incurred by it to repair or replace the defective work should the
57 applicant fail to do so.

58 8. That the applicant holds a current contractor's license under Chapter 26 of
59 this code to do the work for which the permit is sought. Provided however
60 any permit required by this article for the construction, repair or replacement
61 of sidewalk, driveway or driveway approach may be issued to an unlicensed
62 individual provided the work to be done is for work at the applicant's single-
63 family dwelling, including accessory building, used exclusively for living
64 purposes, the individual is the owner of the premises, and occupies such
65 premises. The individual shall be responsible for all materials, labor and
66 obtaining all necessary inspections and shall submit plans that have to be
67 approved prior to the issuance of a permit.

68 (b) Permit.

69 (1) If the application is approved by the Development Services Director
70 under this article, the Development Services Director shall issue the permit applied for upon
71 the payment of a fee as established in a schedule maintained by the Public Works Director
72 or his or her designee, therefore to cover in part the expense of regulating work in the right-
73 of-way and issuing permits therefore, and such fee shall be paid to the Development
74 Services Director.

75 (2) Where any work as set forth in this article, for which a permit is

76 required, is commenced or proceeded with prior to obtaining such permit, the fee specified
77 in this section shall be doubled, but the payment of such double fee shall not relieve any
78 person from fully complying with the requirements of this article in the execution of such
79 work, nor from any penalties prescribed in this article.

80 (3) Permit issued pursuant to this article shall be valid for a period of
81 seven calendar days. The seven-day period shall include an allowance of four days for
82 inclement weather conditions. If work delay due to inclement weather exceeds four days,
83 the Development Services Director may grant an extension of time. In emergency
84 situations where excavation work must be started prior to obtaining a permit, such as during
85 holidays or evenings, the contractor or utility company shall obtain the permit the next
86 working day. If the work is not completed within seven days of the issuance of the permit,
87 the permit may be extended by the Development Services Director for an additional fee
88 equal to the amount of the original permit fee. Where the work is estimated to exceed
89 seven days, not more than four days shall be granted for inclement weather delays.

90 (c) If any person shall persistently fail, refuse or neglect to comply with the
91 provisions of this division, or any reasonable orders and directions of the Development
92 Services Director in reference thereto, the Development Services Director may refuse to
93 issue any further permits to such party.

94 Section 3. City of Topeka Code § 130-157, Reserved, is hereby amended to read
95 as follows:

96 **Insurance Required.**

97 No permit shall be granted under this article unless the applicant shall present to the
98 Development Services Director evidence of a satisfactory, public liability insurance policy

99 covering all operations of three hundred thousand dollars (\$300,000.00) combined single
100 limit for liability and property damage. Such policy may be written to allow no more than
101 one thousand dollars (\$1,000.00) for a paid deductible. Should any policy be cancelled, the
102 City shall be notified of such cancellation at least ten (10) days prior to such cancellation
103 becoming effective, and provisions to that effect placing upon the company writing such
104 policy the duty to give such notice shall be incorporated in such policy. If any such
105 insurance policy at any time fails, in the opinion of the Public Works Director or his or her
106 designee, to comply with the provisions of this section or to afford reasonably satisfactory
107 protection to the persons intended to be protected thereby, he/she shall in writing so notify
108 the applicant and the City Clerk, and failure to maintain the insurance required by this
109 section shall be grounds for revocation of any such permit and refusal to grant any further
110 permit until such insurance requirement is met.

111 Section 4. City of Topeka Code § 130-158, Reserved, is hereby amended to read
112 as follows:

113 **City Engineer, standard plans and specifications, supervision, records.**

114 (a) The City Engineer is authorized to prepare standard plans and specifications
115 for the construction of all improvements as well as any other work within the City's rights-of-
116 way which shall be furnished to any permittee upon application. It shall be the duty of the
117 City Engineer to superintend and inspect all work authorized by a permit. All completed
118 work shall be inspected by the City Engineer and must pass a final inspection.

119 (b) All work specifically including but not limited to excavation; boring or
120 tunneling; repair, construction or maintenance of a driveway, driveway approach or
121 sidewalk; connection or disconnection with a water line or sewer line; or construction, repair

122 or maintenance of an underground or overhead utility shall be done in accordance with the
123 technical specifications. If any person fails to construct the improvement in the right-of-way
124 in conformity with prescribed standards, the City reserves the right to remove and replace
125 the nonconforming work. The cost of removal and replacement shall be levied as a special
126 assessment on the piece of land abutting the improvement.

127 (c) The Development Services Director shall keep records pertaining to
128 applications and permits issued and agreements entered into under the provisions of this
129 article.

130 Section 5. City of Topeka Code § 130-159, Reserved, is hereby amended to read
131 as follows:

132 **Barricades and warning devices.**

133 All persons performing work on a public street shall provide barricades, warning
134 devices, and traffic control devices in accordance with the current City approved edition of
135 the Manual for Uniform Traffic Control Devices, as well as such other rules, regulations,
136 and restrictions promulgated by the City Engineer.

137 Section 6. City of Topeka Code § 130-160, Reserved, is hereby amended to read
138 as follows:

139 **Interfering with movement of traffic.**

140 (a) When any cut or excavation is performed on any public street, it shall be
141 properly backfilled to top of pavement or bridged or plated, as approved by the Department
142 of Public Works, Engineering Division, to allow the operation of traffic thereon; except
143 between the hours of 8:30 a.m. to 4:00 p.m., or as provided for under subsection (b).

144 (b) When any cut or excavation is performed on any street, it shall be unlawful,

145 without a traffic disruption permit issued by the Development Services Director and
146 approved by the Traffic Engineering Department, to do any of the following acts:

147 (1) Leave any pavement material, stone and earth or any other material
148 removed from street cuts, openings or excavations on the street before 8:30
149 a.m. or after 4:00 p.m.

150 (2) Perform any work which will require the closing of any lane of moving
151 traffic between the hours of 7:00 a.m. and 8:30 a.m. or from 4:00 p.m. to 6:00
152 p.m.

153 (3) Do or perform any work or operation or to place any material,
154 equipment, barricades or other obstructions in such a manner as to require
155 the closing at any time of more than one lane of moving traffic on any street.

156 Section 7. City of Topeka Code § 130-161, Reserved, is hereby amended to read
157 as follows:

158 **Repair by City; costs.**

159 (a) If the construction of improvements or other work within the City's rights of
160 way is not in conformance with City's technical specifications the provisions of this article,
161 the Department of Public Works shall correct or perform the work.

162 (b) The Department of Public Works shall keep an accurate account of the cost
163 of such operation required under subsection (a), and such cost, plus an administrative fee
164 of seventy-five dollars (\$75.00) to reimburse the City for the administrative costs incurred
165 by the City to oversee the correction to the nonconforming work, shall be charged to the
166 person to whom the permit for such work was issued or in the case when no permit was
167 issued, the owner of the property adjacent to the improvement shall be charged the cost of

168 work and the administration fee. No further permits for work in the City's right-of-way shall
169 be issued to such person until such charges have been paid in full.

170 Section 8. City of Topeka Code § 130-162, Reserved, is hereby amended to read
171 as follows:

172 **Removal when obsolete.**

173 Any existing driveway approach built for a purpose other than its present intended
174 use shall be closed and the parking, curb and gutter restored to its original conditions by
175 the owner of the property for which the building permit is sought.

176 Section 9. City of Topeka Code § 130-163, Reserved, is hereby amended to read
177 as follows:

178 **Prohibited acts.**

179 (a) In addition to the administrative action available to the City, under Topeka City
180 Code § 130-165, Prohibited acts, it shall be unlawful for any person or contractor licensed
181 by the City, its employee, agent or subcontractor to cause, permit or allow the following:

- 182 (1) Fail to obtain the proper permit;
183 (2) Fail to complete all work within the specified permit limits;
184 (3) Fail to restore the right-of-way or easement to the same condition that
185 existed prior to commencement of the work authorized by the permit;
186 (4) Fail to establish traffic control in accordance with the Manual of
187 Uniform Traffic Control, current City approved edition, or such other rules,
188 regulations, or restrictions promulgated by the City Engineer;
189 (5) Fail to notify the City of Topeka, Engineering Division Construction
190 Management, of the commencement of work authorized by the permit; and

- 191 (6) Fail to execute work in accordance with City of Topeka Standard
192 Technical Specifications and Detail Drawings, latest edition;
- 193 (7) To remove or interfere with any traffic control device in the right-of-
194 way;
- 195 (8) To cut, damage or break any curb, gutter or sidewalk unless
196 authorized under a permit issued by the City;
- 197 (9) To interfere with traffic in violation of City of Topeka Code § 130-160.
- 198 (10) To hinder or obstruct the repair or construction of any public
199 improvement or other work in the City's right-of-way pursuant to any permit
200 issued under this article;
- 201 (11) Fail to remove an existing obsolete driveway approach.
- 202 **(b) Any person violating this section may be punished by:**
- 203 (1) A fine of not more than four hundred ninety-nine dollars (\$499.00);
204 (2) Imprisonment in jail for not more than one hundred seventy-nine (179)
205 days; or
- 206 (3) Both such fine and imprisonment not to exceed the limits set out in
207 subsections (c)(1) and (c)(2).
- 208 **(c) Provided however contractors holding a valid license with the City shall be**
209 **given notice of a violation with opportunity to cure in accordance with the**
210 **provisions of Section 10 prior to prosecution under this section.**
- 211 **(d) Provided however entities holding a valid franchise agreement with the City**
212 **shall be given notice of a violation and an opportunity to cure in accordance**
213 **with the franchise agreement prior to prosecution under this section.**

214 Section 10. City of Topeka Code § 130-164, Reserved, is hereby amended to read
215 as follows:

216 **Suspension or revocation of license.**

217 (a) No contractor licensed by the City, its employee, agent or subcontractor shall
218 cause, permit or allow any of the following:

219 (1) Fail to obtain the proper permit;

220 (2) Fail to complete all work within the specified permit limits;

221 (3) Fail to restore the right-of-way or easement to the same condition that
222 existed prior to commencement of the work authorized by the permit;

223 (4) Fail to establish traffic control in accordance with the Manual of
224 Uniform Traffic Control, current City approved edition, or such other rule,
225 regulation, or restriction promulgated by the City Engineer;

226 (5) Fail to notify the City of Topeka, Engineering Division Construction
227 Management, of the commencement of work authorized by the permit;

228 (6) Fail to execute work in accordance with City of Topeka Standard
229 Technical Specifications and Detail Drawings, latest edition;

230 (7) To remove or interfere with any traffic control device in the right-of-
231 way;

232 (8) To cut, damage or break any curb, gutter or sidewalk unless
233 authorized under a permit issued by the City;

234 (9) To interfere with traffic in violation of City of Topeka Code Section 130-
235 160;

236 (10) To hinder or obstruct the repair or construction of any public

237 improvement or other work in the City's right-of-way pursuant to any permit
238 issued under this article; or

239 (11) Fail to remove an existing obsolete driveway approach.

240 (b)(1)(a)In the event that a contractor, its employee, agent or subcontractor, shall
241 cause, permit or allow any acts prohibited in subsection (a), contractor shall
242 be served with a notice of the violation and given a thirty (30) day period in
243 which to remedy the violation or reimburse the City for the cost of repairing
244 the defective condition.

245 (b)(1)(b)Upon receipt of a notice of violation issued by the Public Works Director,
246 the contractor shall have ten (10) days to file a written notice of appeal of the
247 notice of violation with the Public Works Director. An administrative hearing
248 shall be set within ten (10) days of the receipt of the appeal. Any enforcement
249 of the notice shall be stayed until the hearing before the City's administrative
250 hearing officer.

251 (b)(2)(a)In the event that a contractor, its employee, agent or subcontractor, shall
252 cause, permit or allow any acts prohibited in subsection (a) and fail to remedy
253 the violation, contractor's license shall be suspended as follows:

254 (A) Upon the first (1st) violation of subsection (a), the contractor's license
255 will be suspended by the Public Works Director for one (1) week.

256 (B) Upon the second (2nd) violation of subsection (a), the contractor's
257 license shall be suspended for a period of one (1) month.

258 (C) Upon the third (3rd) violation of subsection (a), the contractor's license
259 shall be suspended for a period of one (1) year.

260 (D) Upon a fourth (4th) or subsequent violation of subsection (a), the
261 contractor's license shall be suspended for a period of five (5) years.

262 (b)(2)(b) Upon receipt of a notice of suspension issued by the Public Works
263 Director, the contractor shall have ten (10) days to file a written notice of
264 appeal of the license suspension with the Public Works Director. An
265 administrative hearing shall be set within ten (10) days of the receipt of the
266 appeal. The suspension of the license shall be stayed until the hearing before
267 the City's administrative hearing officer.

268 (b)(2)(c) During the period of any license suspension, a contractor may not apply for
269 or obtain any building or right-of-way access permit.

270 (b)(2)(d) The contractor whose license is suspended shall only be eligible to apply
271 for or obtain a building or right-of-way access after completion of the term of
272 suspension and correcting the defective condition or reimbursing the City for
273 the cost of repairing the defective condition.

274 (c) Provided however, a contractor performing work for the City under contract shall
275 be given notice of a breach of performance and an opportunity to cure as set
276 forth in the contract documents prior to issuance of a notice of violation and
277 /or suspension of the contractor's license under this subsection.

278 (d) Provided however, entities holding a valid franchise agreement with the City
279 shall be given notice of violation and an opportunity to cure in accordance
280 with franchise agreement prior to enforcement under this section.

281 Section 11. City of Topeka Code § 130-165, Reserved, is hereby amended to read
282 as follows:

283 **Variances.**

284 It is hereby recognized that variance from strict application of this article may be
285 necessary or desirable to better fit existing physical conditions, traffic conditions or land
286 uses. The City Engineer with the concurrence of other applicable agencies is hereby
287 authorized to grant, in writing, as a part of any permit issued by the Development Services
288 Director, variances from the strict application of the provisions of this division, upon
289 determining that any or all of the following conditions are present:

290 (1) The exception or variance desired arises from peculiar physical conditions not
291 ordinarily existing in similar districts in the City or is due to the nature of business and
292 operations on the abutting property.

293 (2) The exception or variance desired is not against the public interest, safety,
294 convenience and general welfare.

295 (3) The granting of the permit for the exception or variance will not adversely
296 affect the right of adjacent property owners or tenants.

297 (4) The strict application of the provisions of this division will work unnecessary
298 hardship on the property owner or tenant.

299 Section 12. City of Topeka Code § 130-176, Permit required; application;
300 investigation; action, is hereby specifically repealed:

301 **Permit required; application; investigation; action.**

302 ~~(a) It shall be unlawful for any person to cut, break or remove or in any manner~~
303 ~~displace or damage any curbing, gutter, street crossing, pavement or sidewalk or any part~~
304 ~~thereof in the city without first securing a permit from the development coordination office.~~

305 ~~(b) An application for a permit under this section shall be made to the development~~

306 ~~coordination office on a form supplied by the development coordination office for that~~
307 ~~purpose. The application shall state the location of the premises by block and lot number~~
308 ~~and the street number, or other sufficient description, the purpose for which the cutting or~~
309 ~~removal is to be done, and the extent of the curb, gutter, sidewalk or pavement to be~~
310 ~~removed, together with a diagram or sketch of the same.~~

311 ~~(c) The development coordination office shall inspect or cause an investigation of~~
312 ~~the application under this section and if it is proposed to cut or remove a curb or gutter for~~
313 ~~the purpose of widening the street by cutting back the parkings on any street abutting upon~~
314 ~~a through street, major or minor trafficway or major thoroughfare.~~

315 Section 13. City of Topeka Code § 130-177, Method of cutting and removing, is
316 hereby specifically repealed:

317 ~~**Method of cutting and removing.**~~

318 ~~Any curb, gutter, sidewalk or pavement required to be cut or removed under a permit~~
319 ~~shall be cut by the use of a concrete saw, unless in the opinion of the department of public~~
320 ~~works, engineering division other means of cutting and removal will not damage the~~
321 ~~remaining portion of the sidewalk, pavement, curbing or guttering.~~

322 Section 14. City of Topeka Code § 130-196, Supervision by city engineer; records,
323 is hereby specifically repealed:

324 ~~**Supervision by city engineer; records.**~~

325 ~~(a) The city engineer shall superintend and inspect all street excavations and work~~
326 ~~done under the provisions of this division, subject to such orders, rules and regulations as~~
327 ~~may be made by the council. The work shall be done to the satisfaction of the city engineer.~~

328 ~~(b) The city engineer shall keep records pertaining to such excavations and permits~~

329 therefor as a part of the records of the engineer's office.

330 Section 15. City of Topeka Code § 130-197, Unlawful acts, is hereby specifically
331 repealed:

332 **~~Unlawful acts.~~**

333 ~~Any person who shall make or attempt to make any excavation or refill an~~
334 ~~excavation, or do or attempt to do any other act in violation of the provisions of this division,~~
335 ~~or any person who shall remove or attempt to remove from the site of the excavation or~~
336 ~~other work any of the barricades, danger signals or lights required by the provisions of this~~
337 ~~division shall be deemed guilty of a misdemeanor.~~

338 Section 16. City of Topeka Code § 130-198, Barricades and warning devices, is
339 hereby specifically repealed:

340 **~~Barricades and warning devices.~~**

341 ~~(a) All persons to whom any permit is issued under this division shall agree to and~~
342 ~~accept the following conditions:~~

343 ~~(1) Enclose all excavations which they may make in the public streets, avenues or~~
344 ~~alleys with adequate barriers and danger signals at all times, and in addition, shall maintain~~
345 ~~adequate warning lights at night. All warning devices shall comply with the manual on~~
346 ~~uniform traffic control devices for streets and highways;~~

347 ~~(2) Install and maintain additional barricades, signs and lights at both ends of the~~
348 ~~block in case the excavation is made between thoroughfare intersections causing restricted~~
349 ~~travel or dead-end conditions;~~

350 ~~(3) Furnish and install cones or signs to channel traffic around a barricaded area to~~
351 ~~maintain safe traffic lanes;~~

352 ~~(4) Erect and maintain a legible sign in a prominent place on the site of operations~~
353 ~~printed with letters and figures of three-inch minimum height displaying the name, city~~
354 ~~address and telephone number of the person responsible for work authorized by the permit;~~
355 ~~and~~

356 ~~(5) Take all necessary precautions to guard the public against all accidents from~~
357 ~~the beginning of the work to the completion of the work.~~

358 ~~(b) It shall be the duty of every person who shall be in charge of an excavation~~
359 ~~which is accessible to the public for more than 30 days to cause such excavation to be~~
360 ~~securely guarded by a fence at least six feet in height. Further, at the commencement of~~
361 ~~any excavation within 15 feet of a city street, sidewalk or other public way, it shall be the~~
362 ~~duty of the person in charge of the excavation to cause such excavation to be securely~~
363 ~~guarded by a fence at least six feet in height. Any fence constructed under this subsection~~
364 ~~shall comply with all requirements of section 130-7 and appendix C and any subsequent~~
365 ~~provisions relating thereto.~~

366 Section 17. City of Topeka Code § 130-199, Bracing, is hereby specifically
367 repealed:

368 **Bracing.**

369 ~~The sides of all trenches and ditches six feet or more in depth, and of all trenches~~
370 ~~and ditches made in unstable or otherwise treacherous soil, and of all trenches and ditches~~
371 ~~near buildings, shall be so braced as to prevent their caving in or injury to the adjoining~~
372 ~~premises. The party excavating and the bondsman shall be liable to the city for all damages~~
373 ~~arising by reason of neglect or carelessness in this respect.~~

374 Section 18. City of Topeka Code § 130-200, Backfilling; restoration of

375 improvements, is hereby specifically repealed:

376 **~~Backfilling; restoration of improvements.~~**

377 ~~All excavation and backfilling shall be made with such material and in such manner~~
378 ~~as may be directed by the city engineer or an authorized representative, and all~~
379 ~~replacement of pavement, gutters or macadam shall be done by persons who are~~
380 ~~experienced in such work and fully qualified to do such work in a proper and substantial~~
381 ~~manner. No backfilling under curbs, pavement, gutters or macadam shall be performed~~
382 ~~except in the immediate presence of and under the direction of the city engineer or an~~
383 ~~authorized representative. Any directions that may be given, either in writing or orally, by the~~
384 ~~city engineer or an authorized representative to any person engaged in making or~~
385 ~~backfilling any such excavation shall be immediately obeyed. The violation of such~~
386 ~~directions or the failure to perform such work shall be deemed a violation of the provisions~~
387 ~~of this division.~~

388 Section 19. City of Topeka Code § 130-201, Responsibility for adjacent
389 excavations, is hereby specifically repealed:

390 **~~Responsibility for adjacent excavations.~~**

391 ~~When one excavation is made adjacent or contiguous to or merging in or close to~~
392 ~~any other excavation, the party making the last excavation shall take precautions to prevent~~
393 ~~any settlement in the previous excavation or damage to the surface of the street, avenue or~~
394 ~~alley at the intersection of the excavations. Any such settlement or damage shall be~~
395 ~~repaired.~~

396 Section 20. City of Topeka Code § 130-202, Removal of pavement before
397 repaving, is hereby specifically repealed:

398 **~~Removal of pavement before repaving.~~**

399 ~~All persons making excavations through and under the paved streets, avenues or~~
400 ~~alleys of the city shall remove the pavement on each side of any excavation or opening to a~~
401 ~~minimum shoulder width on undisturbed soil of nine inches in order to partially transfer~~
402 ~~traffic loads on the pavement patch to soil adjacent to the excavation.~~

403 Section 21. City of Topeka Code § 130-203, Method and manner of cutting
404 pavement, excavating, is hereby specifically repealed:

405 **~~Method and manner of cutting pavement, excavating.~~**

406 ~~Any person making a street cut or excavation shall make it in the manner designated~~
407 ~~by the city engineer or an authorized representative. Any person making a cut, opening or~~
408 ~~excavation in any public street, alley or other public property shall execute the work in a~~
409 ~~complete and workmanlike manner, utilizing equipment and methods which will cause a~~
410 ~~minimum of damage to the structural elements of the pavement of the street, alley or right-~~
411 ~~of-way. The length and width of the cut or excavation shall be no greater than that~~
412 ~~necessary for doing the work. Whenever the entire width of a street must be traversed, only~~
413 ~~one half of the width of the street, or less, shall be excavated at one time; thus permitting at~~
414 ~~least one full lane of traffic to operate at all times.~~

415 Section 22. City of Topeka Code § 130-204, Interfering with movement of traffic, is
416 hereby specifically repealed:

417 **~~Interfering with movement of traffic.~~**

418 ~~(a) When any cut or excavation is performed on any public street, it shall be~~
419 ~~properly backfilled to top of pavement or bridged or plated, as approved by the department~~
420 ~~of public works engineering division, to allow the operation of traffic thereon; except~~

421 ~~between the hours of 8:30 a.m. to 4:00 p.m., or as provided for under subsection (b).~~

422 ~~(b) When any cut or excavation is performed on any street, it shall be unlawful,~~
423 ~~without a traffic disruption permit issued by the development coordination office and~~
424 ~~approved by the traffic engineering department, to do any of the following acts:~~

425 ~~(1) Leave any pavement material, stone and earth or any other material removed~~
426 ~~from street cuts, openings or excavations on the street before 8:30 a.m. or after 4:00 p.m.~~

427 ~~(2) Perform any work which will require the closing of any lane of moving traffic~~
428 ~~between the hours of 7:00 a.m. and 8:30 a.m. or from 4:00 p.m. to 6:00 p.m.~~

429 ~~(3) Do or perform any work or operation or to place any material, equipment,~~
430 ~~barricades or other obstructions in such a manner as to require the closing at any time of~~
431 ~~more than one lane of moving traffic on any street.~~

432 Section 23. City of Topeka Code § 130-205, Repair by city; costs, is hereby
433 specifically repealed:

434 **~~Repair by city; costs.~~**

435 ~~(a) If the proper backfilling, bridging, plating or paving of a cut or excavation is not~~
436 ~~made or if obstructions are placed in the street not in conformance with the provisions of~~
437 ~~this division, the department of public works shall perform the backfilling, bridging, plating or~~
438 ~~paving and remove such material, equipment, barricades or any other obstructions.~~

439 ~~(b) The department of public works shall keep an accurate account of the cost of~~
440 ~~such operation required under subsection (a), and such cost, plus 100 percent for~~
441 ~~overhead, shall be charged to the person to whom the permit for such work was issued. No~~
442 ~~further excavation permits shall be issued to such person until such charges have been~~
443 ~~paid in full.~~

444 Section 24. City of Topeka Code § 130-206, Interference with work, is hereby
445 specifically repealed:

446 **~~Interference with work.~~**

447 ~~No person shall hinder or obstruct the making or repairing of any hole, ditch or~~
448 ~~excavation in any street, avenue, alley, park or parkings, pavement, sidewalk, crosswalk or~~
449 ~~easement through private property, which is being made or repaired in pursuance to any~~
450 ~~permit issued under this division.~~

451 Section 25. City of Topeka Code § 130-207, Removal of barricades, is hereby
452 specifically repealed:

453 **~~Removal of barricades.~~**

454 ~~It shall be unlawful for any person to break or tear down, remove or interfere with~~
455 ~~any barricade erected by order of the director of public works around any condemned~~
456 ~~sidewalk or areaway or any portion thereof.~~

457 Section 26. City of Topeka Code § 130-231, Required, is hereby specifically
458 repealed:

459 **~~Required.~~**

460 ~~No person shall open, uncover or in any manner make any connection with the~~
461 ~~public sewer system of the city, or lay or construct any sewer, drain, gas, steam, water or~~
462 ~~other pipe or conduit, or dig any hole, ditch or trench, or make any excavation or tunnel in~~
463 ~~or under any street, avenue, alley, park or parkings, pavement, sidewalk, crosswalk or~~
464 ~~easement through private property in the city, without first having taken out a permit and~~
465 ~~paid the fee therefor and given bond as provided in this subdivision. There shall be a~~
466 ~~separate permit for each specified piece of work.~~

467 Section 27. City of Topeka Code § 130-232, Application, is hereby specifically
468 repealed:

469 **Application.**

470 ~~Any person desiring to make any of the connections, lay any of the pipes or conduits~~
471 ~~or make any of the excavations or tunnels provided for in section 130-231, shall first make~~
472 ~~application to the city engineer for a permit therefor, which application shall contain:~~

473 ~~(1) The location or place at which the work is to be performed;~~

474 ~~(2) The purpose for which the work is intended;~~

475 ~~(3) The dimensions: length, breadth and depth thereof;~~

476 ~~(4) The time when the work is to be commenced thereon; and~~

477 ~~(5) The time required to complete the work.~~

478 Section 28. City of Topeka Code § 130-233, Fee; doubled for failure to obtain
479 permit, is hereby specifically repealed:

480 **Fee; doubled for failure to obtain permit.**

481 ~~(a) If the application is approved by the city engineer under section 130-232, the~~
482 ~~engineer shall issue the permit applied for upon the payment of a fee of \$10.00 therefor, to~~
483 ~~cover in part the expense of regulating street excavations and issuing permits therefor, and~~
484 ~~such fee shall be paid to the city treasurer and the receipt therefor presented to the city~~
485 ~~engineer.~~

486 ~~(b) Where any work as set forth in this division, for which a permit is required, is~~
487 ~~commenced or proceeded with prior to obtaining such permit, the fee specified in this~~
488 ~~section shall be doubled, but the payment of such double fee shall not relieve any person~~
489 ~~from fully complying with the requirements of this division in the execution of such work, nor~~

490 from any penalties prescribed in this division.

491 ~~(c) An excavation permit issued pursuant to this division shall be valid for a period~~
492 ~~of seven calendar days. The seven-day period shall include an allowance of four days for~~
493 ~~inclement weather conditions. If work delay due to inclement weather exceeds four days,~~
494 ~~the development coordination office may grant an extension of time. In emergency~~
495 ~~situations where excavation work must be started prior to obtaining a permit, such as during~~
496 ~~holidays or evenings, the contractor or utility company shall obtain the permit the next~~
497 ~~working day. If the excavation work is not completed within seven days of the issuance of~~
498 ~~the permit, the permit may be extended by the city engineer for an additional fee of \$10.00~~
499 ~~per day. Where the excavation work is estimated to exceed seven days, not more than four~~
500 ~~days shall be granted for inclement weather delay.~~

501 Section 29. City of Topeka Code § 130-234, Grounds for denial, is hereby
502 specifically repealed:

503 **~~Grounds for denial.~~**

504 ~~If any person shall persistently fail, refuse or neglect to comply with the provisions of~~
505 ~~this division, or any reasonable orders and directions of the development coordination office~~
506 ~~in reference thereto, the development coordination office may refuse to issue any further~~
507 ~~permits to such party.~~

508 Section 30. City of Topeka Code § 130-235, Cash deposit required; conditions, is
509 hereby specifically repealed:

510 **~~Cash deposit required; conditions.~~**

511 ~~(a) No permit shall be issued to any person to make any connection with or lay any~~
512 ~~sewer, drain, gas, steam, water or other pipe or conduit or dig any hole, ditch or trench or~~

513 ~~make any excavation or tunnel in or under any street, avenue, alley, pavement, sidewalk or~~
514 ~~crosswalk in the city without first having deposited with the city treasurer the sum of \$25.00~~
515 ~~in cash as a guarantee fund to cover the actual cost of repairing such excavation. Any~~
516 ~~person desiring to do any excavating as aforesaid shall, after depositing the sum of \$25.00~~
517 ~~with the city treasurer, receive the permit therefor as provided in this division, and shall~~
518 ~~replace and renew all curbing, guttering, paving or macadamizing or the surface of any~~
519 ~~street, avenue or alley in the city in as perfect and substantial condition as before being~~
520 ~~disturbed. Such work of repair shall be fully completed within five days after the expiration~~
521 ~~of the time granted in the permit to do such excavating. If the person obtaining such permit~~
522 ~~shall fail to make such repairs of the streets, avenues or alleys within the five days after the~~
523 ~~expiration of the time granted in the permit to do such excavating, as provided in this~~
524 ~~section, then the development coordination office may refuse to grant such person any~~
525 ~~further permits until such repairs are made by such person, or the director of public works~~
526 ~~may require that the city make such repairs and present to the city treasurer an itemized~~
527 ~~statement of the cost thereof, verified under oath that such statement of costs is correct,~~
528 ~~reasonable and just, and the city treasurer shall pay the claims out of the guarantee fund of~~
529 ~~\$25.00. When such guarantee deposit fund of any person has been decreased by~~
530 ~~expenditures for repairs as provided in this division, no further permit shall be granted to~~
531 ~~such person until the person making application for such permit shall deposit with the city~~
532 ~~treasurer an amount sufficient to make up the full sum of \$25.00.~~

533 ~~(b) If a person discontinues excavation work in the city and desires to withdraw the~~
534 ~~deposit of \$25.00, upon application therefor and after the expiration of two years from the~~
535 ~~date of the last work done under permits granted, such sum of \$25.00 or any balance~~

536 remaining in the fund shall be returned to the depositor upon approval of the development
537 coordination office.

538 Section 31. City of Topeka Code § 130-236, Issuance, is hereby specifically
539 repealed:

540 **Issuance.**

541 ~~All permits under this division shall be issued over the name of the city engineer.~~

542 Section 32. City of Topeka Code § 130-237, Bond required, is hereby specifically
543 repealed:

544 **Bond required.**

545 ~~(a) No permit shall be granted under this division unless the applicant gives or has
546 given to the city a bond in the sum of \$5,000.00, to be approved as to sufficiency by the city
547 engineer and to be approved as to form by the city attorney, conditioned that the party will
548 faithfully comply with all the terms and conditions of this division and all rules and
549 regulations made in pursuance thereof, and indemnify and hold the city harmless against all
550 costs, expenses, damages and injuries by the city sustained by reason of the carelessness
551 or negligence of the party in operating under the provisions of this division, or by reason of
552 any failure or neglect to comply with any of its provisions or any rules and regulations made
553 in pursuance thereof.~~

554 ~~(b) No bond issued under this section shall run for a longer period than two years
555 without being renewed, and the bond shall remain in force and effect as to each excavation
556 or piece of work done for two years after such excavation or work has been made or done.~~

557 ~~(c) Any party having given a bond as a plumber or gasfitter under or pursuant to the
558 ordinances of the city regulating the business of plumbing or gasfitting shall not be required~~

559 ~~to give the bond provided for in this section.~~

560 Section 33. City of Topeka Code § 130-238, Hold city harmless, is hereby
561 specifically repealed:

562 ~~**Hold city harmless.**~~

563 ~~The permit holder under this division shall hold the city harmless from any and all
564 claims or damages whatsoever to persons or property that may result from the excavation
565 or for any liability for an accident to persons, animals, vehicles, conduits or property of any
566 kind, where the accident has as its proximate cause the making of such excavation, and
567 such persons shall also be liable to the city on their bond for such claims or damages.~~

568 Section 34. City of Topeka Code § 130-261, Definitions, is hereby specifically
569 repealed:

570 ~~**Definitions.**~~

571 ~~The following words, terms and phrases, when used in this division, shall have the
572 meanings ascribed to them in this section, except where the context clearly indicates a
573 different meaning:~~

574 ~~*Commercial driveway approach* means driveway approaches to property whose
575 land use conforms to the use regulations found in classifications of D multiple-family
576 dwelling and/or higher classifications.~~

577 ~~*Curb opening* means a space to permit the entry or departure of a vehicle from the
578 roadway to the driveway approach. The distance shall be measured between the two points
579 at which the curb returns connect the roadway.~~

580 ~~*Curb return* means that portion of the curbing along the edge of any driveway
581 approach from the roadway curb to the public sidewalk.~~

582 ~~Driveway means a place on private property for the operation of automobiles and~~
583 ~~other vehicles.~~

584 ~~Driveway approach means an area between the roadway and private property~~
585 ~~intended to provide access for vehicles from the roadway to private property.~~

586 ~~Flare means that part of the driveway approach that is wider than the driveway~~
587 ~~width at the property line. Its construction can be on a curve or a straight line.~~

588 ~~Parkings means that portion of any public right-of-way between the curb or lateral~~
589 ~~lines of a roadway and the adjacent property lines not occupied by a public sidewalk.~~

590 ~~Property line means a line dividing two adjacent properties, whether both are private~~
591 ~~properties, one private and the other public, or both are public properties.~~

592 ~~Residential driveway approach means driveway approaches to property whose land~~
593 ~~use conforms to the use regulations found in the following zoning district classifications: R-1~~
594 ~~single family dwelling, R-2 single family dwelling and R-3 two family dwelling.~~

595 ~~Roadway means that portion of any public right-of-way improved and accepted for~~
596 ~~vehicular travel.~~

597 ~~Safety island means that area along the curblines that is between two commercial~~
598 ~~driveway approaches.~~

599 Section 35. City of Topeka Code § 130-262, Standard plans and specifications, is
600 hereby specifically repealed:

601 **Standard plans and specifications.**

602 ~~(a) The city engineer is authorized to prepare standard plans and specifications for~~
603 ~~the construction of driveway approaches, sidewalk crossings and interior curbs which shall~~
604 ~~be furnished to any permittee upon application. It shall be the duty of the city engineer to~~

605 inspect all work authorized by a permit. Upon completion of any such work, the city
606 engineer's approval shall be entered on the permit. The city engineer shall preserve a
607 permanent file of all permits issued and agreements entered into under the provisions of
608 this division.

609 (b) ~~If the permittee under this division fails to construct his driveway, sidewalk or~~
610 ~~interior curb in conformity with prescribed standards, the city reserves the right to remove~~
611 ~~and replace the nonconforming driveway approaches, sidewalk or interior curb. The cost of~~
612 ~~removal and replacement shall be levied as a special assessment on the piece of land~~
613 ~~abutting such driveway, sidewalk or interior curb.~~

614 Section 36. City of Topeka Code § 130-263, Entrance culverts, is hereby
615 specifically repealed:

616 **~~Entrance culverts.~~**

617 (a) ~~"Entrance culvert," for the purpose of this section, means a conduit or drainage~~
618 ~~pipe which is placed in the drainage ditch portion of the street right-of-way between the~~
619 ~~street and abutting property to allow entrance into driveways, while not obstructing the flow~~
620 ~~of water in the drainage ditch.~~

621 (b) ~~All entrance culverts which may be out of repair or found insufficient shall be~~
622 ~~repaired or replaced by the owners of the lots or pieces of land abutting thereon.~~

623 (c) ~~If the owners shall fail to repair, maintain or replace the entrance culverts in~~
624 ~~proper condition to facilitate drainage, then the city council, after having given five days'~~
625 ~~notice to the owner, if known, of the necessity thereof, and without notice if the land is~~
626 ~~unoccupied or the owner is unknown, may order by resolution all necessary repairs at any~~
627 ~~time. Such repairs shall be performed at the direction of the department of public works.~~

628 ~~(d) To pay for the costs of the replacement or repair of entrance culverts, service~~
629 ~~assessments shall be levied on the lots and pieces of land abutting on the culvert. Such~~
630 ~~assessments shall be in accordance with the provisions set out in article IV of chapter 126.~~

631 Section 37. City of Topeka Code § 130-264, Variances, is hereby specifically
632 repealed:

633 **Variances.**

634 ~~It is hereby recognized that variance from strict application of this division may be~~
635 ~~necessary or desirable to better fit existing physical conditions, traffic conditions or land~~
636 ~~uses. The city engineer with the concurrence of other applicable agencies is hereby~~
637 ~~authorized to grant, in writing, as a part of any permit issued by the city engineer, variances~~
638 ~~from the strict application of the provisions of this division, upon determining that any or all~~
639 ~~of the following conditions are present:~~

640 ~~(1) The exception or variance desired arises from peculiar physical conditions not~~
641 ~~ordinarily existing in similar districts in the city or is due to the nature of business and~~
642 ~~operations on the abutting property.~~

643 ~~(2) The exception or variance desired is not against the public interest, safety,~~
644 ~~convenience and general welfare.~~

645 ~~(3) The granting of the permit for the exception or variance will not adversely affect~~
646 ~~the right of adjacent property owners or tenants.~~

647 ~~(4) The strict application of the provisions of this division will work unnecessary~~
648 ~~hardship on the property owner or tenant~~

649 Section 38. City of Topeka Code § 130-281, Crossing, cutting or breaking curbs, is
650 hereby specifically repealed:

651 **Crossing, cutting or breaking curbs.**

652 ~~It shall be unlawful for any person to drive or cause or allow or permit to be driven~~
653 ~~any vehicle or machinery over or across any curb or sidewalk in any street or avenue of the~~
654 ~~city, or to damage, break or cut any curb, gutter or sidewalk, except as may be authorized~~
655 ~~under a permit from the city issued in accordance with division 2 of this article and~~
656 ~~constructed in accordance with the provisions for driveway entrances in this division.~~

657 Section 39. City of Topeka Code § 130-282, Bridging curbs, interference with
658 gutters; exceptions, is hereby specifically repealed:

659 **~~Bridging curbs; interference with gutters; exceptions.~~**

660 ~~(a) It shall be unlawful for any person to bridge across any curb and gutter or fill~~
661 ~~any gutter with concrete, asphalt or other material for the purpose of gaining access to or~~
662 ~~egress from any driveway or private property, or to obstruct or interfere with the drainage of~~
663 ~~any gutter or drain at the edge of a roadway by placing therein any concrete, asphalt,~~
664 ~~planks, stones, earth or other material or substance for such purpose, except by written~~
665 ~~permit of the city engineer.~~

666 ~~(b) Building materials may be stored in or alongside of any curb and gutter or any~~
667 ~~street parkings in accordance with a permit issued by the code enforcement director as~~
668 ~~provided by section 130-43 relating to the encumbering of streets for certain purposes.~~

669 ~~(c) The department of public works may remove any existing material or any~~
670 ~~material placed across any curb or in any gutter or drain in violation of this section.~~

671 Section 40. City of Topeka Code § 130-283, Conditions of permits; cost of
672 construction, is hereby specifically repealed:

673 **~~Conditions of permits; cost of construction.~~**

674 ~~(a) All permits granted for the use of public property under the provisions of this~~
675 ~~subdivision shall be granted on condition that the permits are revocable at the discretion of~~
676 ~~the council, and no such permit shall be deemed to permit or authorize any violation of~~
677 ~~other provisions of this Code or other ordinances of the city. Any permit issued under this~~
678 ~~subdivision shall be granted on the further condition that the permittee or the permittee's~~
679 ~~successors in title will, upon the abandonment of any approach, restore and reconstruct the~~
680 ~~curb to its original condition upon written notice from the director of the department of public~~
681 ~~works. If the permittee fails to construct curb openings or driveway approaches and/or~~
682 ~~abandons existing driveway approaches in compliance with any permit issued pursuant to~~
683 ~~any provision of this division, the city reserves the right to construct driveway approaches~~
684 ~~where appropriate, close any abandoned driveway approach, and reconstruct the curb. Any~~
685 ~~such construction, reconstruction or closing of curbs or driveway approaches shall be~~
686 ~~performed by contract let to the lowest responsible bidder upon invitation by a notice~~
687 ~~published three consecutive days in the official city newspaper.~~

688 ~~(b) The cost of the construction, reconstruction or closing of curbs or driveway~~
689 ~~approaches, including the cost of preparing plans and specifications and providing~~
690 ~~supervision of such work, shall be levied as a special assessment on the lot or piece of land~~
691 ~~abutting such curb or driveway approach.~~

692 Section 41. City of Topeka Code § 130-284, Disqualification for permits, is hereby
693 specifically repealed:

694 **~~Disqualification for permits.~~**

695 ~~Any person who has previously violated any provision of this division shall not be~~
696 ~~granted any permit under this subdivision unless and until the conditions causing the prior~~

697 ~~violations have been remedied.~~

698 Section 42. City of Topeka Code § 130-301, Referral of application to city engineer
699 and traffic engineer in unusual cases, is hereby specifically repealed:

700 ~~**Referral of application to city engineer and traffic engineer in unusual**~~
701 ~~**cases.**~~

702 ~~All applications submitted to the development coordination office for a permit which~~
703 ~~includes or involves unusual driveway approaches or problems shall be referred by the~~
704 ~~code enforcement officer to the city engineer and traffic engineer for their approval before a~~
705 ~~building permit is issued.~~

706 Section 43. City of Topeka Code § 130-302, Unlawful to extend, is hereby
707 specifically repealed:

708 ~~**Unlawful to extend.**~~

709 ~~It shall be unlawful for any person to construct, alter or extend, or permit or cause to~~
710 ~~be constructed, altered or extended, any driveway approach which can be used only as a~~
711 ~~parking space or parking area between the curb and adjacent property line, unless~~
712 ~~specifically approved through a resolution by the council.~~

713 Section 44. City of Topeka Code § 130-303, Construction regulations, is hereby
714 specifically repealed:

715 ~~**Construction regulations.**~~

716 ~~The construction or reconstruction of driveway approaches, including the cutting or~~
717 ~~removal of curbs or gutters, shall be authorized, upon application, in accordance with the~~
718 ~~following requirements:~~

719 ~~(1) A driveway approach must provide access to private property adjacent to the~~

720 city street for some definite purpose such as a driveway, a parking area or a door at least
721 seven feet wide intended and used for the entrance of vehicles, and not for the parking or
722 servicing of vehicles on street rights-of-way.

723 (2) ~~No driveway approach shall be constructed which will interfere with public~~
724 ~~facilities including street light poles, traffic signal standards, signs, catchbasins, hydrants,~~
725 ~~crosswalks, loading zones, utility poles, fire alarm supports, underground pipes or ducts, or~~
726 ~~other necessary street structures without the concurrence in writing of the agency involved~~
727 ~~with the facility.~~

728 (3) ~~Not more than one driveway approach may be constructed for access to one~~
729 ~~parcel of residential land less than 90 feet in width, except that driveway approaches may~~
730 ~~be permitted from each roadway adjacent to a corner lot. Not more than one driveway~~
731 ~~approach may be constructed along commercial property with frontage less than 135 feet.~~
732 ~~Not more than two driveway approaches may be constructed along commercial property~~
733 ~~with frontage less than 250 feet.~~

734 (4) ~~To prevent encroachment on adjacent property, the entire driveway approach,~~
735 ~~including the flared portions for turning purposes, must be constructed on the petitioner's~~
736 ~~property frontage extended. Exceptions may be allowed by written consent of any adjacent~~
737 ~~affected property owners. Extension of property frontage is to be determined by projecting~~
738 ~~lines at right angles from the street centerline to the intersection of the abutting property~~
739 ~~lines with the street right-of-way.~~

740 (5) ~~Adequate drainage structures, as approved by the city engineer, shall be~~
741 ~~provided at driveway or parking lot entrances by the petitioner.~~

742 (6) ~~The placement of unauthorized signs, parked vehicles or any sight obstruction~~

743 on the street right-of-way is unlawful. Landscaping on the street right-of-way is permissible
744 if shrubs are 30 inches or less in height from top of street pavement and all trees are
745 properly trimmed so that sight distance is not restricted.

746 (7) ~~As to the restricted area not on the street right-of-way, as covered by section~~
747 ~~130-552, parked vehicles, sidewalk-type signs or any sight obstructions are prohibited for~~
748 ~~sight distance and safety reasons. Landscaping is permissible if shrubs are 30 inches or~~
749 ~~less in height from top of street pavement and all trees are properly trimmed so that sight~~
750 ~~distance is not restricted.~~

751 (8) ~~Every effort shall be made to select driveway approach locations so maximum~~
752 ~~sight distance is possible. Existing medians will not be opened to accommodate abutting~~
753 ~~property other than crossovers placed by the city as a part of the design plans. No vehicle~~
754 ~~parking areas will be permitted on the right-of-way, and only those signs approved by the~~
755 ~~city shall be erected on the right-of-way.~~

756 (9) ~~Where a driveway approach is serving more than a driveway or door on the~~
757 ~~private property, a nonmountable barrier curb shall be constructed and maintained on~~
758 ~~private property to prevent encroachment of vehicles or equipment upon public property~~
759 ~~except at the driveway approach.~~

760 (10) ~~No driveway approach shall be constructed across any sidewalk unless such~~
761 ~~sidewalk is constructed or reconstructed in accordance with specifications pertaining to the~~
762 ~~construction of sidewalks to be used as driveway approaches.~~

763 (11) ~~Where no sidewalk exists, that portion of the driveway approach adjacent to~~
764 ~~the property line shall be constructed as though a sidewalk did exist.~~

765 (12) ~~No driveway approach shall be constructed in a manner so as to change or~~

766 interfere with the gutter flow line or sidewalk grade where such driveway approach crosses
767 any such gutter or sidewalk.

768 ~~(13) The sidewalk and curb shall, insofar as possible, be cut and removed at the~~
769 ~~nearest joint. Upon replacement and reconstruction of a sidewalk as a driveway approach,~~
770 ~~the construction of the curb return and any pavement in connection with a driveway~~
771 ~~approach, suitable joints shall be provided and all such spaces shall be filled with a~~
772 ~~bituminous fibrous compound in accordance with the specifications of the city. When it is~~
773 ~~not possible to cut and remove at an existing joint, such cutting shall be performed by using~~
774 ~~a concrete saw.~~

775 ~~(14) The cost of construction of all driveway approaches and necessary~~
776 ~~appurtenances thereto shall be borne by the permittee.~~

777 Section 45. City of Topeka Code § 130-304, Width, is hereby specifically repealed:

778 **Width.**

779 ~~(a) Residential driveway approach along nonmajor traffic streets. The width of a~~
780 ~~residential driveway approach along nonmajor traffic streets shall not be less than ten feet~~
781 ~~nor more than 20 feet measured parallel to the centerline of the street at the property lines,~~
782 ~~except for angular drives.~~

783 ~~(b) Residential driveway approach along major traffic streets. The width of a~~
784 ~~residential driveway approach along major traffic streets shall not be less than 12 feet nor~~
785 ~~more than 24 feet measured parallel to the centerline of the street at the property lines.~~

786 ~~(c) Commercial driveway approach along nonmajor traffic streets. The width of a~~
787 ~~commercial driveway approach on nonmajor traffic streets shall not exceed 30 feet nor be~~
788 ~~less than 25 feet measured parallel to the centerline of the street at the property lines of~~

789 ~~two-way driveway approaches and 14 feet maximum if one-way, except in those instances~~
790 ~~involving a substantial volume of large trucks.~~

791 ~~(d) Commercial driveway approach along major traffic streets. The width of a~~
792 ~~commercial driveway approach on major traffic streets shall not exceed 35 feet nor be less~~
793 ~~than 30 feet measured parallel to the centerline of the street at the property lines of two-~~
794 ~~way driveway approaches, and shall be 16 feet maximum if one-way.~~

795 Section 46. City of Topeka Code § 130-305, Angle of entrance, is hereby
796 specifically repealed:

797 **Angle of entrance.**

798 The angular placement of driveway approaches for both residential and commercial
799 properties may vary from 45 degrees to 90 degrees inclusive; provided, however, the flare
800 of the driveway approach shall not encroach onto the 40-foot sight hazard triangle specified
801 in section 130-552. This limitation includes the entire length of the driveway approach. The
802 angle shall be that made by the centerline of the driveway approach with the centerline of
803 the street or the tangent to the centerline at the point of intersection if located on a curve.

804 Section 47. City of Topeka Code § 130-306, Corner and adjacent line offset, is
805 hereby specifically repealed:

806 **Corner and adjacent line offset.**

807 ~~(a) Residential driveway approach. When residential driveway approaches are~~
808 ~~located at or near an intersection, in no case shall the distance from the intersection of~~
809 ~~adjacent street curblines or roadway at a corner be less than 40 feet to the near line of the~~
810 ~~driveway approach, extended to the street curb or pavement edge.~~

811 ~~(b) Commercial driveway approach along nonmajor traffic streets. When~~

812 ~~commercial driveway approaches are located at or near a street intersection, in no case~~
813 ~~shall the distance from the intersecting property corner be less than 30 feet to the near line~~
814 ~~of the nearest driveway approach, as extended to the street curb or pavement edge.~~

815 ~~(c) Commercial driveway approach along major traffic streets. When commercial~~
816 ~~driveway approaches are located at or near a street intersection, in no case shall the~~
817 ~~distance from the intersecting property corner be less than 60 feet to the near line of the~~
818 ~~nearest driveway approach for principal streets, or 50 feet to the near line of the nearest~~
819 ~~driveway approach for secondary streets, depending upon whether they are principal or~~
820 ~~secondary major traffic streets.~~

821 ~~(d) Curb tangent length of commercial driveway approach. No commercial~~
822 ~~driveway approach shall be constructed having a curb tangent length, between the curb~~
823 ~~return and the property line extended, of less than five feet.~~

824 Section 48. City of Topeka Code § 130-307, Safety islands, is hereby specifically
825 repealed:

826 **Safety islands.**

827 ~~The minimum lengths of safety islands between driveway approaches shall be 25~~
828 ~~feet. Length of safety islands is the tangent distance between the turning radii as measured~~
829 ~~along the surface edge or curbline, measured parallel to the centerline of the street.~~

830 Section 49. City of Topeka Code § 130-308, Turning radii, is hereby specifically
831 repealed:

832 **Turning radii.**

833 ~~(a) For residential driveway approaches along nonmajor traffic streets, turning radii~~
834 ~~shall not exceed five feet.~~

835 ~~(b) For residential driveway approaches along major traffic streets, turning radii~~
836 ~~shall not exceed ten feet.~~

837 ~~(c) For commercial driveway approaches along nonmajor traffic streets:~~

838 ~~(1) Safety island radii shall not exceed 20 feet, nor be less than ten feet.~~

839 ~~(2) Approach radii shall not exceed 20 feet on a 90-degree driveway nor be less~~
840 ~~than 15 feet.~~

841 ~~(3) Approach radii shall be no less than 15 feet on driveway approaches less than~~
842 ~~90 degrees.~~

843 ~~(d) For commercial driveway approaches along major traffic streets:~~

844 ~~(1) Safety island radii shall not exceed 20 feet nor be less than ten feet.~~

845 ~~(2) Approach radii shall not exceed 20 feet on a 90-degree driveway approach nor~~
846 ~~be less than 15 feet.~~

847 ~~(3) Approach radii shall be no less than 15 feet on driveway approaches less than~~
848 ~~90 degrees.~~

849 Section 50. City of Topeka Code § 130-309, Curb openings, is hereby specifically
850 repealed:

851 **~~Curb openings.~~**

852 ~~(a) Residential driveway approaches along nonmajor traffic streets. Curb openings~~
853 ~~for residential driveway approaches along nonmajor traffic streets shall not exceed 30 feet.~~

854 ~~(b) Residential driveway approaches along major traffic streets. Curb openings for~~
855 ~~driveway approaches on major traffic streets shall not exceed 44 feet.~~

856 ~~(c) Commercial driveway approaches along nonmajor traffic streets. Curb~~
857 ~~openings for commercial driveway approaches not on major traffic streets shall not exceed~~

858 70 feet.

859 ~~(d) Commercial driveway approaches along major traffic streets. Curb openings for~~
860 ~~commercial driveway approaches on major traffic streets shall not exceed 75 feet.~~

861 Section 51. City of Topeka Code § 130-310, Removal when obsolete, is hereby
862 specifically repealed:

863 **~~Removal when obsolete.~~**

864 ~~Any existing driveway approach built for a purpose other than its present intended~~
865 ~~use shall be closed and the parking, curb and gutter restored to its original conditions by~~
866 ~~the owner of the property for which the building permit is sought.~~

867 Section 52. City of Topeka Code § 130-331, Placement of wires, is hereby
868 specifically repealed:

869 **~~Placement of wires.~~**

870 ~~All persons are hereby prohibited from stringing any wires overhead across any~~
871 ~~bridge owned or under the control of the city, and no wires either singly or in cables shall be~~
872 ~~placed or laid upon or across any of such bridges unless they are placed in proper conduits~~
873 ~~and laid in a careful and proper manner beneath the surface of the bridge and out of public~~
874 ~~view.~~

875 Section 53. City of Topeka Code § 130-332, Placement of pipes, is hereby
876 specifically repealed:

877 **~~Placement of pipes.~~**

878 ~~No gas, water or other mains or pipes shall be laid upon or across any bridge owned~~
879 ~~or under the control of the city unless such mains or pipes are of the most approved~~
880 ~~material and modern pattern and in cement concrete below the surface of the bridge and~~

