

ORDINANCE NO. 1811

AN ORDINANCE AMENDING CHAPTER 16 OF THE NEODESHA CITY CODE BY ADDING SECTION 32 REGARDING FEES FOR USE OF CITY RIGHT OF WAY AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT THEREWITH.

WHEREAS, the City of Neodesha, Kansas (“City”) has specifically been granted authority including K.S.A. 17-1902, to establish permitting requirements for structures or equipment in the public Right-of-Way (“ROW”) and the City desires to reaffirm its intent to regulate and enforce permitting requirements for use of its ROW; and

WHEREAS, the City Commission’s legislative findings include that: (a) the ROW is a unique and physically limited resource; (b) the ROW is critical to the travel and transportation of persons and property in the City; (c) the ROW is intended for public uses and must be managed and controlled consistent with that intent and can be partially occupied by facilities and public service entities to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and (d) such findings require adoption of regulations to ensure coordination of users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of a maximum most efficient number of ROW users that will serve the public interest; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of facilities within and using the ROW pursuant to its zoning powers established in K.S.A. 12-753 and additionally, pursuant to its general and specific powers established by the Kansas Constitution Art. 12, § 5, and K.S.A. 12-121; and

WHEREAS, consistent with state and federal law and the City Commission’s legislative findings, the City Commission desires to enact new regulations for use of the ROW.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NEODESHA, KANSAS, AS FOLLOWS:

Section 1. Chapter 16 of the Code of Ordinances, City of Neodesha, Kansas is hereby amended and Section 32 setting fees and charges for use of the city right-of-way is created and enacted therein to read substantially in the form of Exhibit 2, attached hereto and incorporated herein by reference.

Section 3. The provisions of this ordinance are severable and if any provision hereof is declared invalid, unconstitutional, or unenforceable, such determination shall not affect the validity of the remainder of this ordinance.

Section 4. Ordinance 1809 and all ordinances or parts of ordinances in conflict herewith are hereby repealed

Section 5. This ordinance shall be in full force and effect after passage and publication in the official city newspaper.

PASSED BY THE CITY COMMISSION OF THE CITY OF NEODESHA, KANSAS, AND SIGNED BY THE MAYOR THIS 9TH DAY OF OCTOBER 2024.

ATTEST:

/s/ Devin Johnson
Devin Johnson, Mayor

/s/ Stephanie Fyfe
Stephanie Fyfe, City Clerk

EXHIBIT 2

CHAPTER 16

Section 32 – Streets, Sidewalks, and Right-of-Way

In accordance with Chapter 32, Article VI, providing for the City's management of its Right-of-Way ("ROW"), this section incorporates the reasonable fees and charges established in Chapter 32, Article VI, that are necessary for the management and maintenance of the City's ROW. Specifically:

1. Underground facilities wherein the owner does not provide services within the City – An annual linear foot fee of one dollar (\$1.00) per linear foot, or one thousand dollars (\$1,000.00), whichever is greater. (Ordinance No. 32-159.A.1).
2. Underground or aerial facilities wherein the owner does provide services within the City – An annual gross receipts/franchise fee in an amount not to exceed that which is authorized by state law. (Ordinance No. 32-159.A.2).
3. Any person seeking to use the ROW, a one-time, non-refundable, Permit Application/Filing fee as determined by the Public Works Director. (Ordinance No. 32-167.A).
4. Any person seeking to excavate any portion of the ROW, a fee based on the number of square feet of the excavation or one dollar (\$1.00) per square foot, with the fee not to exceed five hundred dollars (\$500.00). (Ordinance No. 32-167.B).
5. All additional management, administrative and inspection fees as may be set from time to time by the Public Works Director, specifically for the purpose of the City recouping the expenses incurred by the use, management, and maintenance of the ROW. (Ordinance No. 32-167.C).