

ORDINANCE NO. 1028

AN ORDINANCE OF THE CITY OF WESTWOOD, KANSAS AMENDING AND/OR ADOPTING THE FOLLOWING ARTICLES AND SECTIONS OF THE WESTWOOD CITY CODE: CHAPTER 4, ARTICLE 11, SECTIONS 4-1101 THROUGH 4-1111.

WHEREAS, the City of Westwood finds it in the City's best interests to update Chapter 4, Article 11 relating to the moving of structures into, out of, and within the City; and

WHEREAS, the City of Westwood finds it in the best interests of the public to ensure safe and proper procedures are created and followed for the moving of structures into, out of, and within the City;

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

SECTION 1: That Chapter 4, Article 11 of the Westwood City Code is hereby amended in its entirety to read as follows:

- 4-1101. PUBLIC WORKS DIRECTOR; AUTHORITY. The Public Works Director or his or her authorized designee shall be responsible for the administration and enforcement of this article and appointment of an inspector in accordance with sections 4-204 through 4-209 of this chapter, which apply in a like manner to this article. (Code 2008)
- 4-1102. PERMIT REQUIRED. No person, firm or corporation shall move, haul, or transport any house, building, derrick, or other structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more or which cannot be moved at a speed of four miles per hour or faster, upon, across or over any street, alley or sidewalk in this city without first obtaining a permit therefor. (K.S.A. 17-1914; Code 2008)
- 4-1103. SAME: APPLICATION FOR PERMIT. All applications for permits required under the provisions of this article shall be made in writing to the city clerk specifying the day and time said moving is to commence and the route through the city's streets over which the house, building, derrick or other structure shall be moved. If the house, building, derrick or other structure is being moved outside the city, notice shall also be sent to the County Clerk for Johnson County, Kansas and the County Clerk for any other Kansas County through which the house, building, derrick or other structure will be moved. Notice shall state whether it will be necessary to cut and move, raise, or in any way interfere with any wires, cables or other aerial equipment of any public or municipally-owned utility, and if

so, the application shall also state the name of the public or municipally-owned utility, and the time and location that the applicant's moving operations shall necessitate the cutting, moving, raising or otherwise interfering with such aerial facilities. Documentation of approved disconnection from each utility provider providing service to the house, building, derrick, or other structure shall be submitted by the applicant to the city clerk . (K.S.A. 17-1915; Code 2008)

4-1104. SAME; BOND, INSURANCE REQUIRED. It shall be the duty of any person at the time of making application for a permit as provided in this article to provide public liability insurance policy issued by an insurance company authorized to do business in the State of Kansas, in the amount of not less than \$1 million. (Code 2008)

4-1105. SAME; FEE. Before any permit to move any house or structure is given under the provisions of this article, the applicant shall pay a fee established administratively to the city clerk; plus any additional costs for the time for any city personnel involved in such moving, including, but not limited to, any public works or law enforcement personnel needed to accomplish the move safely. All said fees shall be paid to the city clerk. (Code 2008)

4-1106. CONTRACTOR; LIABILITY INSURANCE, PERFORMANCE AND MAINTENANCE BOND REQUIREMENT.

(a) The applicants shall provide to the City the name of the contractor who will move the house, building, derrick, or other structure, along with evidence of that contractor's liability insurance with an insurance company licensed to do business in Kansas. The amount of liability insurance will be not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The insurance will protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death, or property damage to the extent caused or alleged to have been caused by the negligent or wrongful acts or omissions of the applicant or the contractor. The contractor shall also have coverage for automobile liability in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The City shall be an additional insured on all policies of permittee, to the extent permitted by law, unless waived in writing by the City. If the contractor is self-insured, it shall provide the City proof of compliance regarding its ability to self insure and proof of its ability to provide coverage in the above amounts, and shall agree to indemnify and hold the City harmless for any losses associated with permittee's activities in the right-of-way. All contractors actually performing work for any permittee hereunder shall be subject to the same insurance requirements set forth herein.

(b) The contractor shall at all times during the term of the permit, and for two years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be \$50,000 or the

value of the restoration, whichever is greater, for a term consistent with the term of the permit plus two additional years, conditioned upon the contractor's faithful performance of the provisions, terms and conditions conferred by this Article. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of the bond the full amount of any loss occasioned.

(c) A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.

4-1107. ROUTE; DUTIES OF PUBLIC WORKS DIRECTOR. The city clerk shall, upon filing of the above application, refer the same to the public works director or his or her authorized designee to check the proposed route and determine if it is practical to move such house or other structure over the route proposed. If it shall appear that such route is not practical and another route may be used equally well with less danger to street and travel, then the public works director may designate such other route as the one to be used and shall notify the applicant of the same. The public works director may also require the planking of any street, bridge or culvert or any part thereof to prevent damage thereto, the cost of which shall be borne by the applicant. It shall also be the duty of the chief building official or his or her authorized designee to inspect the progress of moving any house or other structure to see that the same is being moved in accordance with the provisions of this article. The chief building official is also responsible for ensuring that removal of the house, building, derrick or other structure is performed in a safe manner. The public works director or the designee thereof has the authority to stop or halt the moving of any house or other structure if it is being moved in violation of the plan established therefore or in the interest of public health and safety. (Code 2008)

4-1108. NOTICE TO OWNERS.

(a) Upon issuance of a moving permit the applicant shall give not less than 15 days written notice to any person owning or operating any wires, cables or other aerial equipment along the proposed route of the intent to move the structure, giving the time and location that the applicants moving operation shall necessitate the cutting, moving, raising or interfering of any wires, cables or other aerial equipment.

(b) The notice provision of subsection (a) shall not apply where the person owning or operating any wires, cables or other aerial equipment has waived their right to advance notice.

(c) Should the moving operation be delayed, the applicant shall give the owner or his or her agent not less than 24 hours advance notice of the actual operation. (K.S.A. 17-1916; Code 1993, 4-205)

4-1109. DUTY OF OWNERS.

(a) It shall be the duty of any public or municipally owned utility owning or operating such wires, cables, or other aerial equipment after service of notice as provided herein, to furnish competent lineman or workmen to remove such poles, or raise or cut such wires as will be necessary to facilitate the moving of such house or structure. The necessary expense which is incurred thereby shall be paid by the applicant to each public or municipally owned utility. The public or municipally owned utility may require the applicant to furnish it with appropriate bond or other surety agreement insuring the payment of all expenses incurred as a result of the applicant's moving operations.

(b) The owner of any wires, cables or other aerial equipment shall be liable to the permit holder for damages in an amount not to exceed \$100.00 per day for each day the owner shall fail or refuse to accommodate the permit holder's moving operations. (K.S.A. 17-1917; Code 2008)

4-1110. TREES. If any trees or foliage must be trimmed, cut, or otherwise moved to facilitate the moving operations, the applicant must arrange for an ISA Certified Arborist, or some other licensed arborist service to perform such trimming at the applicant's expense. The applicant must provide notice to the property owner on which any such trees will be trimmed prior to any trimming activities. The public works director shall also be notified of any tree trimming and can require an alternative route if the trimming exceeds what the public works director finds to be reasonable.

4-1110. INTERFERING WITH POLES; WIRES. It shall be unlawful for any person engaged in moving any house or other structure to raise, cut or in any way interfere with any wires or poles bearing wires or any other aerial equipment. (K.S.A. 17-1918; Code 2008)

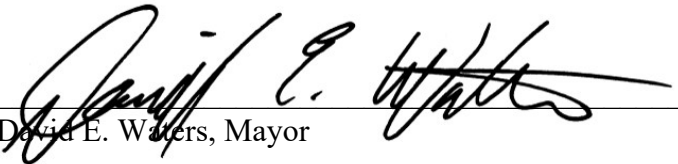
4-1111. DISPLAY OF WARNING LIGHTS. It shall be the duty of any person moving any of the structures mentioned in this article upon or across any street, alley or sidewalk or other public place, in this city, to display warning lights thereon in such a manner as to show the extreme height and width thereof from sunset to sunrise. (Code 2008)

SECTION 2: Any ordinances previously adopted which are inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 3: This Ordinance shall take effect and be in force from and after its passage, approval, and publication in the official city newspaper.

PASSED by the Governing Body this 12th day of May, 2022.

APPROVED by the Mayor this 12th day of May, 2022.




David E. Waters, Mayor

ATTEST:



Leslie Herring, City Clerk

Approved as to form:



Ryan B. Denk, City Attorney

