File #: 250477, **Version:** 2

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 250477

Sponsor: Councilmember Eric Bunch
COMMITTEE SUBSTITUTE

Amending Code of Ordinances Section 70-39 pertaining to the authority of the Public Works Director to close streets by repealing said section and enacting in lieu thereof a new section of like number and subject matter for the imposition of fees for bike lane closures.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CTIY:

Section 1. That Chapter 70, Traffic and Vehicles, is hereby amended by repealing Section 70-39 and enacting in lieu thereof a new section of like number and subject matter, to read as follows:

Sec. 70-39. Authority of director to close streets, sidewalks and other travelways; authority to establish emergency parking restrictions.

(a) *Definitions.* As used in this section:

Alley means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

Active work zone means where construction, maintenance or utility workers are on the roadway or sidewalk or on the shoulder of the roadway and workers are adjacent to an active travel lane.

Average daily traffic (ADT) means the following expected average daily traffic for the road classifications in the city's major street plan, approved by City Council Ordinance 40346, October 7, 1971 as amended, unless an applicant provides traffic counts obtained under the supervision of a professional engineer, in which case those counts, if approved by the city, may be used in lieu of the values specified herein.

Classification	Expected ADT	ADT to be used
Expressways	At least 15,000 veh. per day	15,000 veh. per day
Primary arterials	At least 10,000 veh. per day	10,000 veh. per day
Secondary arterials	5,000 to 10,000 veh. per day	5,000 veh. per day
Other streets	Less than 5,000 veh. per day	500 veh. per day

Block means a piece or parcel of land entirely surrounded by public highways, streets, streams, railway rights-of-way or parks, or a combination thereof. The director of codes administration shall decide any question regarding the limits or extent of a block. For permitting, a block is referenced as the segment of a street or road

situated between two intersecting streets.

Cycle Track means a path or portion of road specifically designed for bicycles and not motor vehicles.

Detour distance means:

(1) The distance of a lane closure including approaches if only a portion of the public right-of-way is closed so that traffic is diverted to different lanes in the same public right-of-way as determined by a traffic control plan approved by the director of public works; and

(2) The distance of the alternate route as determined by a traffic control plan approved by the director resulting from a complete closure of the public right-of- way.

Director means the director of public works of Kansas City unless otherwise defined herein.

Emergency means a condition that poses a clear and immediate danger to life or health, or a significant loss of property or requires immediate repair or replacement in order to restore service to a customer.

Major street plan means the original document approved by the council by Ordinance No. 40346 on October 7, 1971, as amended from time to time.

Non-roadway area means a paved path for pedestrians located alongside a road.

Person means an individual, firm, association, partnership, limited liability company, corporation or any other organization.

Right-of-way means an area of land designated and reserved for public travel whether vehicular or pedestrian and includes a street, a median, a parkway, pedestrian sidewalk and bikeway.

Traffic control permit fee formula means the basic formula to determine the amount of the fee for closing driving lanes of a road to be applied as follows:

The ADT for the designated classification of the road is multiplied by the number of days for closure of the street or part thereof multiplied by die detour distance in linear miles, multiplied by the unit cost, multiplied by the specified factor for direction of travel, multiplied by the specified factor for driving lanes.

Unit cost (UC) shall be $0.17 per linear mile which shall be adjusted annually to the nearest cent by the director to reflect the change in the consumer price index (all items/all urban consumers/Kansas City, Missouri/Kansas) published by the United States Department of Labor, Bureau of Labor Statistics.

Weekend means the period from Friday evening at 5:00 p.m. through Monday morning at 7:00 a.m.

(b) *Traffic control permits.* The director shall have authority to close or issue a permit to close any street, sidewalk, or any other city maintained public right-of-way or part thereof when, in the director's opinion, the closing is necessary for construction, maintenance, or for the protection of public health or safety or other special condition. Except for an emergency, no street, sidewalk or other city maintained portion of public right-

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of-way shall be closed by any person to traffic for any purpose without first obtaining a traffic control permit from the director of public works. In the event a person causes a closure required by an emergency, such person shall file an application for a traffic control permit and pay the appropriate fees associated therewith the next regular business day after the closure. The director shall have authority to establish reasonable regulations for the issuance, use, revocation and denial of such permits. Nothing in this section shall authorize the use of a public sidewalk for a commercial purpose.

(c) *Application fee.* An application fee of $90.29 shall accompany each application for a traffic control permit the application fee is to defray the various costs incurred by the city in investigating and processing the applications and issuing the permit and inspection of the site of the traffic control. The application fee is not refundable.

(d) *Form of application.* An application for a traffic control permit shall be completed on a form furnished by the director and shall include a detailed traffic control plan.

(e) *Traffic control plan.* A traffic control plan submitted to the director for approval shall comply with the requirements of the Manual of Uniform Traffic Control Devices (MUTCD) in force on the date of the application and shall include a dimensioned drawing that identifies the following:

(1) The location of the right-of-way to be closed, including all approaches.

(2) The location of a detour route.

(3) The location of all traffic control devices required for the closure of the right-of- way and signage for the detour route(s). No traffic control device shall be placed more than 300 feet from an active work zone unless approved by the director prior to the placement of the traffic control device.

(4) If applicant does not provide a traffic control plan, upon request by the applicant, the department of public works will prepare a plan and applicant shall pay the city a nonrefundable fee in the amount of the direct costs and overhead incurred by the department of public works as determined by the director. In no event will such fee be less than $153.90.

(5) The traffic control plan shall anticipate the performance of continuous construction activities. If construction activities are not being continuously performed within the entire active work zone for a period of 48 hours, excluding weekends, the permit holder must immediately restore the work zone and remove traffic control devices unless exempted by the director.

(6) The posted speed limit inside the active work zone shall be reduced by ten miles per hour on roadway classified as expressways, primary arterials, and secondary arterials. The minimum speed limit in an active work zone shall be 25 miles per hour.

(7) If a pedestrian route must be temporarily closed, an alternate protected accessible route must be maintained on the same side of the street. At no time shall the pedestrian route be closed on both sides of the street at the same time or for more than one continuous block. No sidewalk shall be closed for more than fifteen (15) consecutive calendar days. Audible pedestrian warning devices shall be placed and maintained at each end of the closure alerting pedestrians of the closure and

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the detour route.

(f) *Traffic control permit fees.* In addition to the application fee, and a traffic control plan preparation fee if applicable, a traffic control permit fee shall be charged for the closure of the public right-of-way. The amount of the traffic control permit fee shall be the sum of the fees for each direction of travel determined by applying the traffic control fee formula using the following factors:

(1) Factor for direction of travel. For a two-way sheet, the factor for each direction of travel shall be 0.58. For a one-way street, the factor for direction of travel shall be 1.17.

(2) Factor for driving lanes. The factor for driving lanes shall be as set out in the following chart:

Total number of driving lanes for the direction of travel	Number of driving lanes closed for the direction of travel				
	1	2	3	4	5
1 lane	1.15				
2 lanes	0.46	1.17			
3 lanes	023	0.69	1.17		
4 lanes	0.17	0.46	0.75	1.17	
5 lanes	0.12	040	0.64	0.81	1.17

(3) For lane closures between 9:00 a.m. and 4:00 p.m., if the lane is otherwise opened for public travel, the traffic control permit fee shall be reduced by 50 percent. For lane closures between 6:00 p.m. and 7:00 a.m., if the lane is otherwise opened for public travel, the traffic control permit fee shall be reduced by 70 percent if the closure of a lane is limited to Saturday, Sunday or a holiday, the traffic control permit fee shall be reduced by 70 percent.

(4) For each alley within a block, the traffic control permit fee shall be $1.79 per day or portion thereof.

(5) Turn lanes and lanes for bus stops shall be treated as driving lanes.

(6) For intersections, the lanes for each direction of travel of the intersecting street shall be treated separately.

(7) The minimum detour distance to be used to calculate the traffic control permit fee shall be 0.0641 miles.

(8) Parking lanes with meters: For parking lanes with meters, the traffic control permit fee shall be $3.56 per meter per day or portion thereof, except for Saturday, Sunday and holidays.

(9) Parking lanes without meters: For regulated parking lanes without meters, the traffic control permit fee shall be $0.65 cents per day or portion thereof for each 20 feet of such right-of-way closed.

(10) A parking lane with designated hours for parking shall be considered a driving lane if it is closed

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during the hours when parking is prohibited.

(11) Sidewalk, non-roadway area, cycle track, and certain trails: For sidewalks, non-roadway areas, cycle tracks, and trails managed by the director of public works, the traffic control permit fee shall be calculated the same as closure of adjacent driving lanes. The ADT for the sidewalks, non-roadway areas, cycle tracks, and trails managed by the director of public works shall be based on the adjacent roadway classification. If sidewalk, non-roadway area, cycle track, or trail managed by the director of public works is closed in conjunction with the adjacent lane closure, the traffic control permit fee for the sidewalk, non-roadway area, cycle track, or trail managed by the director of public works shall be reduced by 50 percent and the amount will be deducted from the street closure fee.

(g) *Annual permits.* In lieu of a traffic control permit issued by the director under the requirements contained in subsections (c), (d), (e), and (f) of this section, the director may issue an annual traffic control permit for each construction or maintenance vehicle used in a partial blockage of a street, sidewalk, or other city maintained public right-of-way to a qualified applicant complying with all of the following conditions:

(1) Those utilities and other companies operating under a franchise agreement with the city, telecommunications companies paying the occupational license taxes required by sections 40-360 and 40-361, Code of Ordinances, city departments, and contractors acting as an agent for same, if experienced in proper traffic control procedures and approved by the director, and the approved agents) for the recognized statewide utility locating network, of which the city is a member, are eligible for annual traffic control permits.

(2) An annual traffic control permit issued for and exclusively assigned to a particular vehicle of the qualified applicant.

(3) An annual traffic control permit shall not apply to more than one right-of-way closure during the same time period.

(4) An annual traffic control permit shall not apply to closures involving more than one-half of the total number of traffic lanes of a street, to closures that extend beyond 500 feet, and closures that include an intersection of two streets.

(5) The annual traffic control permit will only exempt the permit holder from the requirements for an individual traffic control permit if:

a. The reason for the closure is nondestructive work in the public right-of-way; or

b. An excavation including all pavement is completely restored and open for normal traffic flow in the street, sidewalk or other city maintained right-of-way within 72 hours, provided that temporary street surface repairs with cold mix asphalt patching material are acceptable during the months of November through March.

(6) If approved by the director for an annual traffic control permit, payment of the annual traffic control permit fee to the city in the amount of $361.15.

(7) The director is authorized to establish reasonable regulations for the issuance, use, and

revocation of annual traffic control permits.

(h) *Plumbing traffic control permits.* For closure of a street, not identified as a major street in the city's major street plan, required for water/sewer main connections and disconnections performed by a plumber who has obtained a permit to excavate in such right-of- way for making a connection or disconnection of a private water or sewer line to a city main line, such plumber may obtain a plumbing traffic control permit for the life of such excavation permit, by payment of an additional fee of $28.73 per excavation permit.

(i) *Time for restoration of traffic control devices.* All permanent traffic control devices including pavement markings and signs disturbed by work performed pursuant to a traffic control permit shall be restored by the permit holder within 72 hours after completion of the work.

(j) *Festivals.* For closure of a street required by a festival, the applicant shall certify that no less than ten days prior to the proposed festival, all owners or property managers of property adjacent to the street closure have been notified in writing of the (1) name of the event; (2) name of the sponsor organization, if any, including mailing address and telephone number; and (3) date, starting and ending times of the event The applicant is responsible for collecting and managing recyclable materials and trash generated in conjunction with the festival in accordance with procedures established by the director, and for post-event cleanup of the streets, sidewalks and public ways. The applicant for a festival permit shall meet all the requirements set forth in this section including the provisions of the application fee, traffic control plan fee if applicable, and the traffic control permit fee.

(k) *Neighborhood block party permits.*

(1) The neighborhood block party permit authorizes the applicant to barricade a specified portion of a street, not identified as a major street in the city's major street plan, using city approved barricades, denying access to through traffic (except emergency vehicles and residents who reside within the barricaded area) to conduct a neighborhood block party. No fee shall be charged for a neighborhood block party permit.

(2) The applicant must be either a neighborhood resident or the neighborhood homes association group. The applicant shall be made on a form provided by the director at his office in City Hall. The applicant must provide evidence on the application form that all of the residents who live in the blocked off area have been notified in writing of the proposed neighborhood block party and that a minimum of 60 percent of these residents are in favor.

(3) Neighborhood block parties shall be conducted only between the hours of 7:00 a.m. and 10:00 pm. The applicant is responsible for collecting and managing recyclable materials and trash generated in conjunction with the neighborhood block party in accordance with procedures established by the director and for post-event cleanup of the streets, sidewalks and public ways.

(l) *Trailers or dumpsters.* The fee to place a trailer or dumpster in the sidewalk, nonroadway area of the right-of-way or street right-of-way shall consist of an application fee of $60.53 and a traffic control permit fee resulting from that obstruction within the right-of-way. For the placement of a single trailer or dumpster, not in excess of 50 feet in length, used for purposes of construction or demolition work, placed in the sidewalk, non-roadway area of the right-of-way or the curb lane of street right-of-way areas of a street, not identified as a major street in the city's major street plan, an applicant may elect to pay a flat traffic control fee of $12.31 per day or portion thereof instead of the other traffic control permit fees provided in this section, in which case

there shall be no application fee charged.

(m) *Waiver.* Fees set forth in this section shall not apply to the following:

(1) Except for the water services department and the aviation department, city departments and their contractors performing roadway or roadway feature related work, including landscaping, maintenance or repair.

(2) Firms or agencies required by the city to relocate utilities.

(3) Transportation facility improvement projects funded by federal, state or local governments.

(4) When the director finds that it is necessary to close the street for the immediate protection of public safety.

(5) That portion of a project by a private developer that involves improvements to existing infrastructure and facilities in the public right-of-way, including but not limited to utilities, sidewalks, acceleration lanes, deceleration lanes, turn lanes and traffic signals, so long as the increase of the operating capacity or revised geometries of said infrastructure and facilities is not primarily required to serve the development.

(n) *Double fees.* Absent an emergency situation, as defined by the director in rules and regulations which reflect the need for prompt action to protect the public safety, the fees established by this section shall be doubled for any permit and associated inspection if work is commenced prior to obtaining a permit.

(o) *Emergency parking restrictions.* The director may establish emergency parking restrictions or prohibitions upon any street or part thereof upon the request of any responsible applicant when the parking restrictions are necessary for construction or other special conditions. The applicant shall notify the public works department immediately when construction is complete or when any special conditions cease to exist.

(p) *Traffic control devices.* The director may install, allow or require responsible applicants to install, traffic control devices giving notice of the approved emergency parking restrictions or prohibitions permitted under subsection (o) of this section. If an applicant installs traffic control devices, then the applicant shall immediately notify the public works department when the traffic control devices are installed and shall immediately remove the traffic control devices when construction is complete or the special conditions end.

(q) *Use of fees for traffic control purposes.* All fees collected pursuant to this section shall be allocated to the public works department to be used for traffic control purposes.

(r) *Adjustment of fees.* The city manager shall have the authority to adjust the fees listed in this section to reflect the change in the consumer price index (all items/all urban consumers/Midwest urban) published by the United States Department of Labor, Bureau of Labor Statistics. The adjustments, if any, shall be made annually by the director in conjunction with the adoption of the annual budget of the city by filing a notice with the city clerk.

Approved as to form:

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Dustin E. Johnson
Associate City Attorney