



State of Kansas, Montgomery County
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Marilyn Calhoun
 Marilyn Calhoun , Register of Deeds

ORDINANCE NO. 4375

**An Ordinance Addressing Repair
 of Damages Caused by Excavations**

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. City Code Section 94-166, last amended by Ordinance No. 4198, is hereby

amended in its entirety to read as follows:

Sec. 94-166. Permit Required. No person, or such person's agent, employee or subcontractor, shall make or cause to be made any cuts or excavations in, through or under any street, alley, curbing, gutter, parking or public place without a permit issued by the building inspector or other designated agent of the city. Plans or sketches for the replacement fill and repair of the proposed area of excavation shall be required at time of application for the permit and must be approved prior to any excavation being conducted. In all cases, the repaired surface must be at a minimum functionally equivalent to the pre-existing surface.

Section 2. City Code Section 94-168, last amended by Ordinance No. 4198, is hereby

amended in its entirety to read as follows:

Sec. 94-168. Repair of Damage; Costs. The work of replacing and restoring all pavement or other areas cut or damaged by excavation conducted under a permit issued under this ordinance shall be performed in compliance with all applicable laws and ordinances. Any person, or such person's agent, employee or subcontractor, who has caused damage to any street, alley, curbing, gutter, parking or public place, whether with or without a permit, shall be responsible for repairing the same to its functional equivalent prior to the damage occurring pursuant to reasonable requirements and specifications of the building inspector or other designated city agent.

Where adequate compaction cannot be assured using normal

construction methods, flowable fill may be required at the direction of the building inspector. The building inspector may require an inspection of any compacted subgrade or flowable fill used in the repair of the damaged area prior to installation of any final surface material, such as asphalt or concrete. During the process of making the repairs required by this ordinance, such person shall contact the building inspector, or other designated city agent, for final review of all surfaces and other areas restored. If the person, or such person's agent, employee or subcontractor, fails to make the required repairs, the city may undertake the repairs using City employees or other contractors and may charge the person, or such person's agent, employee or subcontractor, the cost of such repairs plus a 25% administrative fee. This ordinance shall also be applicable to situations in which a person, or such person's agent, employee or subcontractor, causes damage to a nearby or adjacent area of public right-of-way under the control of a third party.

All repair work required by this ordinance and performed by a person, or such person's agent, employee or subcontractor, shall be guaranteed by such person for a period of 24 months following its completion. During the 24-month guarantee period, such person may be notified by the city of additional corrective or restorative work needed to be performed so that the area damaged is maintained in a functionally equivalent condition to what it was prior to the damage occurring. Upon such notification, such person shall have no more than 30 days within which to complete the corrective or restorative work. Should such person fail to perform the corrective or restorative work as required, the city may undertake repair of the area and charge such person the cost of repair, plus a 25% administrative fee.

Section 3. This Ordinance shall take effect upon its publication in the official City newspaper.


Adopted by the Governing Body of the City of Independence, Kansas, on the 27th day of October, 2021.



Louis Ysusi

LOUIS YSUSI, Mayor

ATTEST:



DAVID W. SCHWENKER, City Clerk