BACKGROUND

This Policy Statement addresses landscaping in the public rights-of-way and provides guidance to homeowners, associations, service providers, and other users of rights-of-way, pertaining to the placement of landscaping items in the public rights-of-way. This Policy Statement will also address the landowner's responsibility for proper maintenance of landscaping in a public right-of-way and the service provider procedures for landscaping Above Ground Utility Structures as defined in Section 12.06.100 of the Shawnee Municipal Code (SMC) or amendments thereto.

PURPOSE

It is the purpose of this policy to address landscaping in the public right-of-way by providing guidance for enforcing right-of-way provisions found in SMC Chapter 12.06 "Right-of-Way Management" or amendments thereto. The City will not require a Right-of-Way Work Permit to perform landscaping in a public right-of-way; however, all landscaping installed in the public right-of-way after the effective date of this policy must conform to this Policy Statement. A Right-of-Way Work Permit shall be required for the installation of Above Ground Utility Structures within a public right-of-way in accordance with the provisions found in SMC Chapter 12.06 or amendments thereto.

PROCEDURES

A. LANDSCAPE ITEMS NOT REQUIRING A RIGHT-OF-WAY WORK PERMIT

The following are examples of landscape items acceptable to be placed in the right-of-way:

1. Flowers or other vegetation not otherwise prohibited and not exceeding 36 inches in mature height and placed at the proper setback as defined by the Clear Zone and not encroaching on any public streets or sidewalks.

2. Small stones, decorative rocks, mulch, or other edging materials not exceeding six inches in height and placed at the proper setback as defined by the Clear Zone and not encroaching on any public streets or sidewalks.

3. Underground irrigation systems.

4. Underground pet fences.

B. EXAMPLES OF PROHIBITED ITEMS PLACED IN RIGHT-OF-WAY
1. Small stones, decorative rocks, mulch, or other edging material exceeding 6 inches in any dimension and not placed at the proper setback or which encroaches into any street or sidewalk or impedes proper drainage within the Municipal Separate Storm Sewer System.

2. Bird baths, statues, fish pond, fountains, or other ornamental or decorative appurtenances, permanent or temporary, unless part of an approved subdivision entry monument.

3. Wooden or metal posts, ballasts, or poles.

4. Free-standing walls or earth retaining walls unless necessary due to required grade changes that are greater than a 3:1 slope.

5. Gravel or sand beds.

6. Fences.

7. Any item deemed a hazard or nuisance by the City Engineer.

C. CLEAR ZONES AND SIGHT-DISTANCE TRIANGLES

1. The Clear Zone is an area beyond the traveled lane, relatively flat, and used for the recovery of errant vehicles and acts as a snow shelf during snowplow operations. The clear zone distance is to remain free of any permanent above-ground landscape items at all times with the exception of Subsection A2 of this Policy Statement. Clear zones for streets are defined as follows:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Clear Zone Distance (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Curbed Streets – Measured from Back of Curb</td>
<td>2</td>
</tr>
<tr>
<td>Non-Curbed Streets – Measured from Edge of Pavement</td>
<td>4</td>
</tr>
</tbody>
</table>

2. Sight-Distance Triangle is the required setback area at a public street, alley, intersection, or a driveway entrance off a public street or alley where no landscaping materials greater than thirty-six inches in height may be placed. Distance “L” equals twenty-five (25) feet or as defined in SMC Section 5.64.020 or amendments thereto.

![Diagram of Clear Zones and Sight-Distance Triangles]
D. LANDOWNER RESPONSIBILITY

1. Owners of property adjacent to public right-of-way are responsible for maintaining landscaping elements placed within the public right-of-way.

2. Landowners are responsible for ensuring that landscaping does not encroach upon any public street, alley or sidewalk, or the adjacent public right-of-way.

3. Landowners are responsible for ensuring that any decorative vegetation placed within the public right-of-way is healthy.

4. Landowners are responsible for the removal of any item placed within the public right-of-way that is not in compliance with this Policy Statement or the Shawnee Municipal Code.

5. Landowners are responsible for any damages to landscaping elements within the public right-of-way caused by errant vehicles, pedestrian or bike traffic, or snow and ice removal activities.

E. NOTICE TO REMOVE ITEMS

Landowners shall remove any item within the public right-of-way that is deemed a hazard or nuisance by the City or that does not comply with this Policy Statement. Upon written notice from the City, the abutting landowner shall remove such obstructions within 10 days of receipt. The City may remove items if not removed by the abutting landowner.

F. ABOVE GROUND UTILITY STRUCTURES.

1. Above Ground Utility Structures placed within right-of-way must be screened by the service provider or Permit holder in accordance with the landscaping plan approved by the City Engineer at the time the Right-of-Way Work Permit is issued. Landscaping is only required for above ground utility structures as defined in SMC Chapter 12.06 or amendments thereto.

2. Landscaping shall be provided for all above ground utility structures with a footprint greater than 16 square feet, or a height of 3 feet or greater, or where necessary to substantially screen the structure from public view.

3. Where landscaping is used for screening, a landscape plan signed and sealed by a Kansas licensed landscape architect must be submitted with a Right-of-Way Work Permit application.

4. If multiple locations of similar structures are proposed, then the utility company or service provider may submit a minimum of two typical landscape plans signed and sealed by a Kansas licensed landscape architect for review and approval by the City. The applicant will indicate on the Right-of-Way Permit application the landscape plan to be used. As part of any Right-of-Way Work Permit, landscaping shall be installed in accordance with an
approved plan. Typical landscape plans may have to be altered depending on specific site characteristics. The City Engineer will approve any modifications to the typical landscaping plan submitted by the utility company or service provider.

5. Landscaping plans must be drawn to scale and in accordance with SMC Section 12.06.324 or amendments thereto and shall also include the following additional information:
   a. The name and species of all plantings used for screening purposes.
   b. Plan and profile of the proposed Landscaping Plan to indicate how the Above Ground Utility Structure will be screened.
   c. Approximate dimensions of all plantings at mature height. A specification sheet or letter may be submitted with a landscape plan listing or describing the approximate dimensions of all plantings at mature height. Such submittal must be signed and sealed by a Kansas licensed landscape architect.
   d. Dimensions, size, and type of Above Ground Utility Structure to be placed.

6. Landscaping installations must include all sides of the Above Ground Utility Structures except two sides containing the openings for access to the structures; but, the structures must be screened from the view of the passing public.

7. Landscaping materials must be evergreen and perennial. Landscaping materials must be sufficient to obscure the view of the structure from the passing public within 2 years of planting.

8. All landscaping placed as part of an approved Landscaping Plan must be maintained by the service provider, unless the landowner or Homes Association enters into an agreement to maintain the landscaping. Landowners have the option of signing a maintenance agreement with a utility company or service provider when landscaping is installed in conjunction with the placement of Above Ground Utility Structures. The maintenance agreement will release the utility company or service provider from any responsibility for maintenance of landscaping materials placed at the time the Above Ground Utility Structure is placed and landscaped.

9. The service provider must immediately, upon notice by the City, replace any diseased, damaged, or otherwise unhealthy landscaping at the cost of the service provider, unless the landowner or Homes Association enters into an agreement to maintain the landscaping. Proof of maintenance agreement must be filed with the City.

10. The service provider is responsible for maintaining the Above Ground Utility Structure in accordance with SMC Section 12.06.025 or amendments thereto.
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11. The City Engineer may deny a Permit or Landscape Plan at his or her discretion for any factor listed in SMC Section 12.06.340 or amendment thereto.

12. In instances where Above Ground Utility Structures are placed in areas with pre-existing landscaping, or in instances where the Above Ground Utility Structure is placed behind a fence or in a manner where natural screening exists, the City Engineer may waive the landscaping requirements or limit the requirements so as to ensure the Above Ground Utility Structure is sufficiently screened from public view.

IMPLEMENTATION

This policy shall remain in force until officially changed by the majority of the Council Members present and voting; where the number of the favorable votes is one (1) less than required the Mayor shall have the power to cast the deciding vote in favor of the action.

APPROVAL AND REVISION DATES

February 27, 2006; June 15, 2006; September 25, 2006; April 14, 2014

OTHER REFERENCES

February 27, 2006 City Council Minutes, Agenda Item 13c
September 25, 2006 City Council Minutes, Agenda Item 17
SMC Chapter 08.28 – Trees
SMC Chapter 12.06 – Right-of-Way Management
SMC Chapter 05.64 – Sign Code
April 14, 2014 City Council Minutes, Agenda Item ??

Jeff Meyers, Mayor
Stephen Powell, City Clerk