

**CHAPTER 909**  
**Use of City Right of Way**

909.01 Revocable Street Privileges	909.04 Revocation or Modification
909.02 Applicants Limited to Abutting Owners	909.05 Liability of Permittee
909.03 No Fences, Signs or Other Unauthorized Use	909.06 Street Restoration
	909.99 Penalty

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**909.01 REVOCABLE STREET PRIVILEGES**

A revocable right-of-way privilege means an authorized or permitted private right in the use of a special part of the right-of-way for a city street, alley or way, separate and distinct from the use of city streets, alleys and ways by the general public as these are regulated by other sections of these Codified Ordinances.

The 'right-of-way' means not only the paved portion of a street which is designed and ordinarily used for vehicular travel by the public but also all unpaved portions of the right-of-way.

Except as otherwise provided by ordinance, the City Manager shall have control of the issuance, supervision and inspection of revocable right-of-way privileges. The decision of the City Manager to issue or deny such a privilege must be reasonable and must be based upon assisting the best interests of the city, together with protection of the public peace, safety and welfare.

The City Manager is authorized to prepare and enforce reasonable rules and regulations to carry out the provisions of this section.

**909.02 APPLICANTS LIMITED TO ABUTTING OWNERS**

Only those persons who are owners of a lot or parcel of real estate abutting a portion of street right-of-way may make application for a revocable right-of-way privilege for that part of the right-of-way. A successful applicant is referred to in this chapter as a Permittee.

**909.03 NO FENCES, SIGNS OR OTHER UNAUTHORIZED USE**

No person, firm or corporation shall establish or maintain a fence, sign or any other unauthorized private use on or of any part of the right-of-way for a public street, alley or way except through a revocable privilege issued in accordance with this chapter.

#### **909.04 REVOCATION OR MODIFICATION**

When the best interests of the city or protection of the public health, safety or welfare shall require or make appropriate the revocation or modification of a revocable right-of-way privilege, the City Manager shall take such action necessary for the public interest.

Every revocable street privilege may be subject to revocation or modification upon 30 days written notice served upon the Permittee personally or mailed to the owner of record.

Whenever a revocable street privilege is terminated, the Permittee shall remove all private construction from the street area, make all required street and sidewalk restoration in accordance with City specifications. In the event there is failure to remove and restore within a reasonable time, the City Manager shall be authorized to cause the removal and restoration and to have the expense thereof charged to the Permittee.

If it is determined by the City Manager that existence of the private construction in the street, alley or way presents no difficulties, the City Manager may waive removal and all private equipment left in any street, alley or way shall thereupon become the property of the City.

A revocable street privilege is required to be modified at the Permittee's expense in connection with a street improvement or authorized location or change of location of utility service lines, pipes, poles or other equipment.

#### **909.05 LIABILITY OF PERMITTEE**

It shall be a condition of the use or enjoyment of any street privilege that the Permittee shall save and hold the City harmless of any and all liability, claims or expenses of any kind caused by, or growing out of, the construction, maintenance, operation, relocation, discontinuance or abandonment of such street privilege. The City Manager is authorized to require a bond to protect against such damage or loss.

#### **909.06 STREET RESTORATION**

The cost of all street and sidewalk restoration, adjustments with the utilities and other lawful users made necessary by the construction, maintenance, operation, relocation, discontinuance or abandonment of a revocable street privilege shall be paid by the Permittee in accordance with City specifications.

#### **909.99 PENALTY**

Whoever violates any of the provisions of this chapter shall be guilty of a minor misdemeanor for the first offense. A second violation of any of the provisions of this chapter by the same person within one year after the first violation, whether of exactly the same section or not, shall constitute a fourth degree misdemeanor.



CITY OF KETTERING  
USE OF RIGHT OF WAY APPLICATION

DATE \_\_\_\_\_

APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_  
(Print)

SIGNATURE \_\_\_\_\_

ADDRESS \_\_\_\_\_ SKETCH ATTACHED Yes \_\_\_\_\_ No \_\_\_\_\_

DESCRIPTION \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The applicant acknowledges that approval of the requested use is subject to the above or attached conditions, required permits, agreements and chapter 909 of the city ordinances.

**THIS SECTION TO BE COMPLETED BY CITY:**

Reviewed by:

\_\_\_\_ Engineering \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_ Planning & Dev. \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_ Transportation \_\_\_\_\_ DATE \_\_\_\_\_  
\_\_\_\_ Other \_\_\_\_\_

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APPROVED BY: \_\_\_\_\_ Date \_\_\_\_\_  
City Manager